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Intimate Adversaries

Threat Assessment In Domestic Violence Cases

by Heather Gray

Where Do We Begin?

The pivotal question, whether asked by police or prosecutors when it comes to domestic violence cases, is “How can we judge lethality? Was something missed along the way? What were the red flags? What can we do differently?”

The criminal justice system has long struggled with how best to deal with issues of domestic violence and stalking. It was the case of OJ Simpson and Nicole Brown Simpson that thrust the issue of domestic violence into living rooms throughout North America, raising awareness and showing us the often ineffectual response of the criminal justice system and the real absence of what could have, should have and might have happened for a vastly different outcome.

How do we create systems, protocols and screening tools that will allow us to, as objectively as possible, assess domestic violence and stalking cases for lethality factors, contextual issues and pre-incident indicators? How and in what forum can we educate our front-line police responders, our prosecutors and our judges about the dynamics of dangerousness in the context of domestic violence, stalking behaviors, threat assessment theory and case management practice? It is imperative that all layers within the system become indoctrinated in both the theory and practical application of the principles, not to become experts certainly, but so as to deal appropriately with those cases that require special handling, those that are the most likely to escalate.

There is also a great deal of misunderstanding about domestic violence among front-line police officers and others in the criminal justice system that can further impede a victim in pursuing an avenue of safety and in garnering adequate interventions.

Safety Vs. Justice

Realistically, it would serve us well to recognize and accept that we may not achieve both safety and justice in some cases and that the two concepts may, at times, be at cross

purposes with one another. Admittedly, that’s not an easy thing to accept. The law enforcement officer in me, habits ingrained for 20 years, leads me to want to ‘get the bad guy’. However, the more reasoned threat assessment professional in me recognizes that there are many gray areas and we need to become comfortable with the fact that we may not be able to have what we might think is the perfect outcome. Once we can reconcile that within ourselves, we will have a much easier time figuring out how to handle each particular case, with the ultimate end result being the safety of the victim and those around her.

Each case must be evaluated on its own merit. In order to do that, we need to address three fundamental questions:

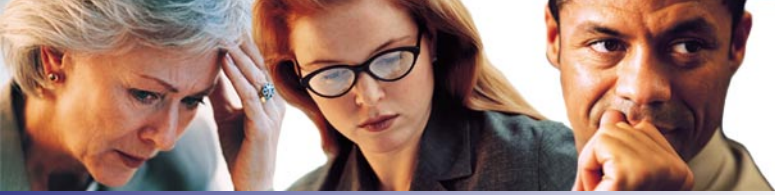
1. What’s the goal here, in this particular situation?
2. Are both concepts (safety, justice) achievable, or are they mutually exclusive, in this case?
3. How do we determine our mandate for this particular case?

The ideal, for those of us conducting threat assessments, doing ongoing case management and formulating contingency plans, is to partner with many or all of the key stakeholders in the case. Stakeholders who may form part of a Crisis Management Team might include but are not limited to, police, prosecutors, physicians, early domestic violence intervention agencies, private security and so on to gather all of the pertinent information about the case, determine the best strategies for proceeding, do safety planning with the victim and develop appropriate intervention strategies for the perpetrator.

TROs (Temporary Restraining Orders)

There are civil and criminal remedies designed to restrain the ability of a perpetrator to have contact with a victim. These remedies typically include an application for a restraining order as part of a family court proceeding or an application by a victim for a peace bond (s. 810 of the Criminal Code, Canada) and police laying criminal charges which can result in an arrest and possible bail hearing (with release by way of bail conditions – such as ‘no contact with the victim’ etc.).

Everyone in the criminal justice system has a duty to know about the nuances of applying the adversarial intervention of a TRO (Temporary Restraining Order) in cases of domestic



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violence and stalking. Restraining orders have traditionally been used in cases as a desperate last resort. Hence, they are most typically utilized when, at best, they are likely to be of little value and, at worst, they will escalate the issue to extremely dangerous levels.

As with the safety vs. justice issue, we need to ask ourselves several key questions:

1. When is a TRO appropriate?
2. How will a TRO help or hinder in this particular situation?
3. What happens to the balance of power when a TRO is introduced?
4. Knowing what we do about this particular perpetrator how is he likely to respond to such an adversarial intervention?
5. What are our other options?

TROs are a prescription that should only be applied in those cases where they will help. More often than not they are applied in all cases regardless of the risk associated with them.

Gavin de Becker is considered one of the world's foremost authorities on predicting violent behavior. Based in Los Angeles, he has handled thousands of celebrity stalking cases, with great success. California pioneered the first stalking legislation in North America upon which most others who followed suit are based. There has been much work done in the last 10 – 15 years to understand the nature and dynamics of stalking, which is a key piece of the dangerousness of spousal or partner homicide.

Gavin de Becker is the creator of Mosaic®, a threat analysis software system, designed to assist those of us doing threat assessment to determine the level of risk associated with a particular set of circumstances. Mosaic® is described later in this article.

Gavin de Becker is of the view, and I agree, that TROs work most effectively when there is little emotional investment on the part of the perpetrator and when there are no significant power, control and violence issues within the relationship. When we track back from spousal homicides we often find a history of TROs and other adversarial interventions.

Accordingly, at the point when TROs put the victim at further risk of harm we must rethink the standard usage of this type of intervention and its efficacy in such cases.

TROs may precipitate a violent response, and they often do in more intractable situations, simply because it represents a significant shift in the balance of power. One must understand that the perpetrator in domestic violence and stalking situations is driven by power and control and rules by whatever means he can to maintain that. Once a victim seeks to leave the relationship and does things to shake up the status quo, the perpetrator will be prompted to try desperately to regain the balance of power. The abuser typically views the implementation and enforcement of a TRO as a 'she won' situation which is completely unpalatable to him. His sensibilities about entitlement have been offended and that alone is enough to provoke a highly negative response.

This is especially the case where it is the victim who has had to initiate proceedings against an abuser by way of a civil restraining order or by a peace bond application. This pits the victim squarely against the perpetrator as the antagonist. This is a significant departure from the much safer dynamic of the police laying criminal charges where those are indicated. This option frees the victim from the role of having been the one who, from the perspective of the perpetrator, caused him significant trouble.

The situation could be likened to having a "pebble in one's shoe". What is it we are driven to do when we get a pebble in our shoe? We desire to get rid of it. When things are out of balance, even when that balance is unhealthy, we seek to right it. And we'll go to great lengths to accomplish that. This is how driven the perpetrator will be to return the relationship to the comfortable centre of control that he is accustomed to. And further, he will feel completely justified in doing so.

As we gain more understanding of the complexities and the predictability of domestic violence and stalking dynamics we are better able to partner with key stakeholders to determine how to successfully manage situations so as to have more consistently safe outcomes. It is the multi-faceted team approach that has the highest level of success.



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Context

In understanding threat assessment we have to understand and evaluate the basic concept of context. By that I mean that we need to determine what other factors are at play in his life at that point in time. There is usually a precipitating event. Has he just been laid off at work or terminated, has he got financial pressures, has he had a humiliation of some sort, a death of significance in his family, etc. Context is one of the foundational factors in the threat assessment process.

As a former police hostage/crisis negotiator I understand well the difficulty in negotiating with a suicidal barricaded subject who had recently lost his job in addition to losing his significant life relationship. Those who have little in the way of positive inhibitors (those things that serve to prevent us from acting out negatively) are more likely to act out of desperation because they feel they don't have much left to lose.

Pre-incident Indicators

Pre-incident indicators (PINS) are those things, whether observable or not, that are preparations that an individual undertakes towards some specific end. For instance, a pre-incident indicator of homicide may be that the person has made comments to others that indicate some intention of harm towards his estranged wife or that he has recently acquired a firearm, that he has put his affairs in order, and so on. What we need to do is find a way to capture all of those little pieces of information in such a way as to form a picture of the situation. Gavin de Becker's MOSAIC® threat analysis system seeks to code cases to establish the overall risk of the presenting situation. There is a MOSAIC® designed specifically for domestic violence and stalking cases and it serves as an invaluable tool in the threat assessment process, playing a key role in a comprehensive threat assessment and case management protocol.

Stalking

Stalking, by its very nature, is a predatory crime. It reduces the victim's status to that of a mere object in the mind of the perpetrator. The same holds true in many domestic violence situations. We need to remember that there will likely be a multitude of stalking behaviors evident in the relationship even before actual, overt violence has surfaced. These are

the seeds of power, control, domination and subjugation. It depersonalizes the victim. What we know about spousal stalkers is that, as a group, they are the most likely to kill.

The perpetrator's focus is one of complete domination in the relationship. Power and domination are the compelling motivators for a perpetrator. The desires of the focus of their domination (spouse, girlfriend) do not enter into the equation. Many domestic violence situations involve stalking behaviors while the couple is still together. In many cases the domination/ownership dynamic was formed very early on in their relationship. The stalking behaviors often intensify and become extremely dangerous at the point where the victim leaves the relationship. The fact that the victim has exercised her autonomy is particularly vexatious to the perpetrator he will feel justifiably indignant.

Case In Point - OJ Simpson

The most famous (or infamous) domestic violence homicide in recent memory has to be that of Nicole Brown Simpson. OJ Simpson's defence team pitched the argument that just because he beat Nicole doesn't necessarily mean that he killed her. Perhaps, but consider this.....after he had broken into her home (invasion of her space - an indication of his sense of entitlement to that property and to her - as his property), threatened her (numerous times and at least once with a gun), terrorized her and stalked her (repeatedly, relentlessly, overtly as well as covertly).....puts him squarely in the center of the predictive circle for spousal murder. Gavin de Becker consulted on this case, both in the criminal case as well as the civil proceeding.

Quote: Scott Gordon, former lead District Attorney and now Chair of the Los Angeles Domestic Violence Council says, "Simpson was killing Nicole for years - she finally died on June 12th".

Relational Model Of Stated Threats

Threatening words are an extremely high predictor in intimate relationships. When we have the presence of actual stated threats in intimate relationships we know that they are far more likely to be acted upon than those issued in casual relationships, even moreso than in boss/subordinate and co-worker/co-worker. These threats may take various forms such as veiled or indirect threats or even third party threats.



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When we are dealing with adults who threaten we need to be aware that this may be one of the only warning signs (pre-incident indicators) that we'll get. It may be the only warning sign we'll get. Adults typically keep their cards close to their chests, far more than teenagers who act out similarly. Adults are far better at keeping their intentions secret and are less likely to tell others of their plans. They may, however, make passing references in the form of one-liners or statements that they could pass off as jokes if pressed about their intent.

Mosaic® Threat Analysis System

Naturally, one of the challenges of determining resource allocation, from a law enforcement perspective and a prosecutorial perspective, is to determine which domestic violence and stalking cases warrant the most attention. It would be most beneficial to take some of the subjectivity out of it in order to sort out which ones have the most probability of escalation. When we leave the decision-making entirely up to the front-line officer responding to domestic violence calls we are allowing a very unscientific approach that will depend on a great many variables falling into place. Not the least of which is the fundamental understanding that the front-line officer should (and likely does not have) of domestic violence and stalking dynamics, what options there are for all involved, how best to proceed and what relevant factors go into conducting a true threat assessment. None of these theories are taught at police colleges and even seasoned police officers have vastly differing, and therefore very subjective opinions, about how to respond to domestic violence and stalking complaints.

In an excerpt from Gavin de Becker's best-selling book "The Gift of Fear" we see an illustration of how easily people's subjective and often differing perspectives make it hard to determine an accurate measurement of the presenting danger:

"The relationship between violence and death is no longer apparent to them. One woman who'd been at a shelter and then returned to her abuser gives us a good example: She called the shelter late one night to ask if she could come back. As always, the first question the counselor asked was "Are you in danger now?" The woman said no. Later in the call the woman added, almost as an aside, that her husband was outside the room with a gun. Hadn't she just a moment

earlier said she wasn't in danger? To her, if she was in the same room with the gun or the gun was being held to her head, then she would be in danger."

Gavin de Becker, one of the world's leading authorities on predicting violent behavior, developed the MOSAIC® system of threat assessment. Simply put, it is a computer-assisted assessment method that organizes and expresses research and expert opinion in such a way that it can be practically applied to individual assessments.

MOSAIC® is comprised of 48 key questions, each carefully weighted depending on its value in the final equation. MOSAIC® calculates the value of the answers selected by the assessor and uses a numeric 1 - 10 scale to express the results. The assessment also receives an IQ score, a value out of a possible 200. This IQ (Information Quotient) indicates the amount of available information that was inputted into the program. The higher the IQ score, the more information that was available and that went into the analysis.

At each point during the assessment, MOSAIC® offers information from an extensive library of research, publications, databases, case histories, and training videos produced by leading experts in threat assessment, behavioral sciences, criminal investigation, law enforcement and psychology.

The MOSAIC® system was designed to enhance the safety and well-being of victims, to discourage over-reaction to threats, to encourage fair and consistent assessments and to bring attention to factors and combinations of factors that might otherwise go unnoticed. MOSAIC® is a threat analysis system that organizes details about a case and helps the assessor compare the present situation to past cases where the outcome is known.

In Conclusion

Our collective challenge is to correctly identify the key escalation points on the way to lethality in domestic violence and stalking cases. The development of effective protocols, which can be administered early on in the criminal justice process, channels high-risk cases towards proper interventions. Doing this puts us well on our way to saving precious lives. Putting our efforts and resources into



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preventive programs rather than responsive and reactionary programs is where we want to focus our attention, for the sake of victims who need never be victims. Effectively developed and administered protocols work to reduce lethality by identifying the nuances of those who pose the highest risk, thus allowing for appropriate intervention.