

# DOMESTIC VIOLENCE RISK FACTOR GUIDE FOR CIVIL COURTS PROJECT IMPLEMENTATION MANUAL

## Introduction

### *Goal of the Domestic Violence Risk Factor Guide for Civil Courts Project*

The goal of the Domestic Violence Risk Factor Guide for Civil Courts Project, an initiative of the Center for Court Innovation, is to increase the capacity of civil judges and self-represented litigants to identify and respond to domestic violence risk factors in civil protective order hearings. With funding from State Justice Institute, the Center has created two risk factor guide templates to address this two fold need: the need of self-represented litigants to have a tool that outlines the domestic violence risk factors and the legal remedies available to them through the civil protective order process; and the need for judges to have clearly articulated risk factors linked to legal sanctions, conditions and mandates.

The Project is designed to assist jurisdictions through the planning and implementation of both guides and to equip courts and stakeholders with skills and knowledge to ensure the ongoing effectiveness of the project. The Center for Court Innovation is dedicated to offering assistance that is responsive to the needs, resources, and challenges of our clients.

With support from SJI, the Center is able to provide a variety of technical assistance services, including:

- Intensive on-site work with individual jurisdictions to plan and implement the Domestic Violence Risk Factor Guides.
- Model documents and evaluation tools.
- Assistance building successful, multi-disciplinary planning teams.

This Implementation Manual was designed as a guide to help courts and communities better understand their current approaches to domestic violence risk assessment and enhance their own domestic violence risk assessment capacity through the use of risk factor guides for civil courts and self-represented litigants. This Manual is a framework to guide assessment, planning, and implementation activities. It is appropriate for audiences with varying levels of domestic violence and court expertise. The materials in this Manual are based upon best practices identified through the Center for Court Innovation's work on risk assessment on both a national and international scale.

## STEP ONE:

## WHAT DOES PLANNING LOOK LIKE?

Engaging in meaningful planning and coordination among community stakeholders is vital to the implementation of an effective risk factor guide project. It is not unusual to spend three to six months working together to implement the risk factor guides to best respond to your court and community needs.

Here is a suggested planning timeline that you can adapt to fit your needs:

### **Three-to-six month timeframe**

The Center for Court Innovation advises the planning team to:

1. Select a point person to lead the planning process.
2. Identify court staff and community partners to participate in the court planning process as your core planning team.
3. Conduct needs assessments to understand your community's current approach to domestic violence risk assessment and identify training needs.
4. Develop and execute training for planning team or stakeholders on domestic violence to address training needs regarding risk factors and risk assessments.
5. Understand your community's current approach to domestic violence risk assessment.
6. Discuss risk assessment information sharing and confidentiality issues regarding domestic violence risk, including information shared between the court and stakeholder agencies.
7. Identify the statutory framework for risk assessment in your jurisdiction, including civil protective order petitions, civil or criminal laws, and civil proceedings.
8. Complete the How To Implement the Domestic Violence Risk Guide for Judges Sheet.
9. Complete the How To Implement the Domestic Violence Risk Guide for Self-Represented Litigants Sheet.
10. Identify judge or judges to pilot the use of the guide.
11. Pilot the guides.
12. Hold ongoing meetings to discuss pilot and plan for larger implementation.
13. Survey judges and litigants on usefulness of the guides.



STEP TWO:

PLANNING TEAM: Who is at the Table?

Collaboration among a diverse group of judicial and non-judicial court personnel, as well as representatives from key stakeholder agencies, is vital to the successful implementation of the guides. Involving agencies at the outset is vital to gaining early political support for the project and to building credibility. Assembling a formal planning team also facilitates cooperation and effective implementation down the road.

***Planning Team for the Domestic Violence Risk Factor Guide for Judges and Self-Represented Litigants***

The Center advises that the planning team, typically comprised of judges and court staff, include representatives from across the jurisdiction. For instance, if you are planning to implement this Guide statewide, include judges from both urban and rural courts to ensure consistent implementation statewide. Including court administration and local court staff will ensure operational issues and concerns are addressed during the planning process.

Some of your planning meetings will include stakeholder representatives, such as civil legal attorneys, family justice center representatives, and community based victim advocates. These agencies can assist the court in identifying current stakeholder assessment of domestic violence risk and ways in which the Self-Represented Litigant Guide can be most effectively implemented.



## **Understanding Current Practice: Who is Assessing Risk in Our Community? What are the Needs of Self-Represented Litigants?**

Understanding which stakeholders are currently assessing for risk and with whom the risk assessment is being shared will help identify how the Risk Guides can provide additional information to the court and how current risk information can be shared with the court during the protective order process.

### ***Creating a System Map***

The Center recommends creating a system map of what risk assessments are being used by whom and to what end, as well as identifying the needs of self-represented litigants. Developing a comprehensive flow chart or system map can be one of the most effective means of identifying gaps in information flow and deepening stakeholders' understanding of each agency's role. A thorough system map will allow you to clearly define the current processes for assessing risk in chart form, identify problem areas such as information flow, capacity issues, points at which self-represented litigants could get information about risk factors, delays in information sharing or resource gaps. Once identified, this knowledge provides a solid basis from which to develop a responsive court plan in which the Risk Guides can facilitate information flow to the court and meet the needs of self-represented litigants.

System mapping involves diagramming all of the steps of the court processes, beginning with either a petition being filed or 911 being called and ending with the case being disposed. In addition to detailing the processing of a case, a system map should include the following pieces of important information:

- The major steps and risk assessments conducted on points in the system.
- The key decision-makers at each point of risk assessment in the system.
- The points at which self-represented litigants receive information about domestic violence risk.
- The points at which risk assessment information is shared with another stakeholder.
- The points at which risk assessment information is shared with the court and with self-represented litigants.
- Confidentiality or legal issues with sharing risk information.

### ***Creating Your Map***

1. Identify the first step in the case-flow process from the time of the domestic violence incident. Place this at the beginning of the map inside the appropriate shape (see key and shape definitions below). We recommend charting both the criminal and civil processes

in order to best understand how risk information is being identified and shared among stakeholder agencies.

2. Continue discussing and drawing each subsequent step (and placing them in the appropriate shape) until the entire process is diagrammed.
3. Draw arrows from one step to the next.
4. Review each point in which risk is assessed on the system map. Identify and list the agency involved at each point on the map.
5. Number each step in the process to ensure clarity. This will allow you to refer to specific steps in the process at a later point.
6. Identify steps in which risk information currently is not or cannot be shared due to confidentiality or legal issues.
7. Make the charts work for you and keep them as simple as you possibly can. The primary objective is to make the chart as clear as possible, so that the process under review can be readily understood and improvements identified by almost anyone, even someone unfamiliar with the process.

This system map can then be used as a planning tool to help guide decisions regarding additional training needs and protocols or policies regarding sharing of risk information. The map can further your needs assessment project by highlighting areas in the civil legal process that require more information gathering, such as: the number of civil protective orders filed by self-represented litigants and outcomes of such orders; and language access needs of self-represented litigants.



## **What is our Statutory Framework for Risk Assessment in Our Jurisdiction?**

Once you have a better understanding of what risk assessments are currently being used in your jurisdictions in domestic violence cases and have identified any additional gaps or needs for both the court and self-represented litigants in identifying risk, it is time to look at your jurisdiction's protective order petition and the laws and statutes that correspond to it.

Questions to consider might be:

- Does your state have laws or statutes that require risk assessment or evaluation at any point in the criminal justice process?
- If so, what do those laws say about how that information is shared with the court?
- Specifically, in your statutes relating to civil protective orders, which statutes allow the court to inquire about or respond to risk? And how does that information inform decision-making?
- In what places on the protective order petition is information about risk being captured?

Through thorough examination of your state's protective order petition and state laws, you will identify how the court is able to include risk information in its decision-making and how it can inform specific protective order conditions.



## **Training**

Crucial to ensuring the ongoing success of your project is a system wide understanding of domestic violence issues, such as: the dynamics of domestic violence, domestic violence lethality and risk factors, emerging research, and national best practices. Integrating training on these topics into your planning and ongoing operations is a key step.

### ***Identifying Need***

Trainings are most successful when they address the specific needs of the audience. One way to understand the training needs of judges, court staff, and stakeholder agencies is to create a training survey. This survey can ask about types of training that have already occurred, the most successful training attended, self-identified training needs, and what type of training(s) would be most effective to meet needs. The Center can assist you in creating a training survey.

### ***Judicial Training***

Providing education on domestic violence lethality and risk factors and how current state laws and statutes allow judges to respond to those risks can provide tools for handling the nuts-and-bolts legal issues of these complex cases. Once you have surveyed judges about their needs and most effective ways to do training, the Center can help you identify potential faculty and provide sample agendas.

### ***Non-Judicial Personnel, Including Court Staff and Security***

Training for court and court stakeholder staff on the unique dynamics of domestic violence and the corresponding risk factors as well as how the Risk Guides can assist judges and litigants alike is essential to successful implementation of the Guides. Court staff may be the first people that litigants encounter and their actions will impact a litigant's overall experience.

Planning teams can take a leadership role to help engage and educate court staff, court stakeholders, and the community at large about domestic violence. A useful approach is to first consult with your local domestic violence service provider(s) who may be able to provide training at no cost. Additionally, the Center for Court Innovation can provide court planning teams with assistance with planning such training opportunities.

### ***Training on the Guides***

Once you have adapted the Guides to your jurisdiction, you will need to consider how to best provide training on how to use the Guides for judges using the judicial guide and for court staff (clerks or others) who may be distributing the self-represented litigant guide. Center staff can assist you in planning such trainings.



## How to Implement the Domestic Violence Risk Factor Guide for Judges

**General Instructions:** This Guide is a template to which you and your stakeholders can add specific language that reflects court process and state laws. Each court should work, where appropriate, with victim services and other impacted stakeholder agencies, to create specific steps for implementation.

Additionally, courts should consider how to disseminate the guide and whether it should be made available electronically, laminated, three-hole punched, or color copied.

Below are areas that should be discussed and specific details that should be outlined to fit the needs of your jurisdiction.

**Civil Protective Order and Civil Court:** This Guide uses the words civil and protective order to refer to courts hearing civil protective orders. This can be changed to reflect your jurisdiction (for example, family court, domestic relations court and refrain from abuse orders, family court order of protection).

**Petitioner and Respondent:** The Guide uses the words Petitioner and Respondent when referring to litigants. These terms should be changed, as needed, to reflect state statutes.

### Three-columned Risk Factor Table:

1. The first column lists both lethality and recidivism risk factors and does not need to be adapted.
2. The second column lists information regarding risk that may be helpful for you in making decisions regarding the order. The third row refers to “Criminal and Family Court History”: This can be changed to reflect your jurisdiction’s court structure and terminology.
3. The third column includes more information about the lethality/risk factors. You should insert your state statutes (civil and criminal that apply to the corresponding risk factor).
  - a. Frequency of Violence: Examples of legal remedies could include reimbursement for medical costs;
  - b. Unemployment: Examples of remedies could include mandating GED, work readiness or workforce development;
  - c. Drug or Alcohol Abuse: Examples of legal remedies could include mandating drug and alcohol screening or treatment, no drinking, mental health evaluation or treatment



- d. Criminal and Family Court History: If your court is not a “family” court, change language to reflect jurisdiction. Examples for legal remedies could include searching court databases for open cases, searching sex offender registry, searching protective order registry for prior protective orders. Does your state allow you to consider prior cases as a risk factor in making decisions?
- e. Relationship Status: Examples for legal remedies could include payment of rent and utilities, confidentiality of new address.
- f. Firearms/Weapons: Examples of legal remedies could include removal of firearm, third party transfer, restricted use of firearm for employment (law enforcement, etc.) Include federal and statutes that apply.
- g. Strangulation: Examples of legal remedies could include making a finding of criminal strangulation.
- h. Threats to Kill/Suicide: Examples of legal remedies could include: mental health evaluation, criminal statutes such as harassment or disorderly conduct.
- i. Sexual Violence: Examples of legal remedies could include making a finding of criminal sexual assault.
- j. Controlling Behavior: Would these constitute stalking in your state laws? If so, include state law. Examples of legal remedies could include court mandating respondent to batterer program to address controlling behavior.
- k. Stalking: Examples of legal remedies could include state statutes for stalking and pet abuse and protection of pet in protective order.
- l. Petitioner Belief: Fear or belief of harm—is this statutory basis for granting a protective order in your jurisdiction? If so, include statute.
- m. Children: Examples of legal remedies could include criminal charges for child abuse, endangering the welfare of a child, issuing temporary child support, supervised visitation or parenting program.
- n. Safety Planning: Do your statutes allow you to give information about attorneys or advocates? If so, include statute or information on how petitioners can access.

### **How to Use the Domestic Violence Risk Factor Guide for Civil Judges Page**

**General Instructions:** Change any language to reflect court process, terminology and statutes.

**At Initial Hearing, Dispositional Hearing, Requests for Modifications:** Change language to reflect court process, terminology and statutes.

## How to Implement the Domestic Violence Risk Factor Guide for Self-Represented Litigants

**General Instructions:** This Guide is a template to which you and your stakeholders can add specific language that reflects court process, potential remedies, and state laws. Each court should work, where appropriate, with victim services and other impacted stakeholder agencies to create specific steps for implementation. Additionally, courts should consider how litigants will access this guide and how it will be distributed.

Below are areas that should be discussed and specific details that should be outlined to fit the needs of your jurisdiction.

**Legal Language:** This Guide uses the words civil and protective order to refer to courts hearing civil protective orders. This can be changed to reflect your jurisdiction (for example, family court, domestic relations court and refrain from abuse orders, family court order of protection).

**Petitioner and Respondent:** The Guide uses the words Petitioner and Respondent when referring to litigants. These terms should be changed, as needed, to reflect state statutes.

### Three-columned Risk Factor Table:

1. The first column lists both lethality and recidivism risk factors.
2. The second column lists information regarding risk that may be helpful for litigants to include in their petitions.
3. The third column includes possible remedies the petitioner can ask for or consider:
  - a. Violence Against You: Examples could include, reimbursement for medical costs, full stay away or no contact.
  - b. Loss of Job: Examples could include requesting GED, work readiness or workforce development.
  - c. Drug or Alcohol Use: Examples could include mandating drug and alcohol screening or treatment
  - d. Criminal and Other Court History: Examples could include asking the court to check to make sure criminal and civil orders are consistent.
  - e. Relationship Status: Examples could include payment of rent and utilities, confidentiality of new address.
  - f. Weapons: Examples could include removal of firearm, third party transfer, restricted use of firearm for employment (law enforcement, etc.)
  - g. Choking: Examples could include criminal charges for strangulation, reimbursement for medical bills if hospitalized.
  - h. Threats to Kill/Suicide: Examples could include mental health evaluation, criminal statutes such as harassment or disorderly conduct, removal of gun if threat included a gun and confidentiality of new address.
  - i. Sexual Violence: Examples could include information on how to file criminal charges for sexual assault, and reimbursement of medical bills if hospitalized.

- j. Controlling Behavior: Would these constitute stalking in your state laws? If so, that should be made clear how to file for additional charges. Examples of remedies could be: requesting batterer program to address controlling behavior.
- k. Stalking: Examples could include information on how to file criminal charges stalking and pet abuse, and requesting pet be protected in the order.
- l. Children: Examples could include information on how to file criminal charges for child abuse, endangering the welfare of a child, issuing temporary child support, supervised visitation, parenting program.

**General Instructions to Petitioners:** Change any language to reflect court process, terminology, and statutes. Fill in appropriate areas on how to access attorneys and interpreters to reflect your jurisdiction and court process.

**Advocates: How they can help and how to speak with one:** Fill in the appropriate area on how to access victim advocates to reflect your jurisdiction and court process.

**At Initial Hearing, Disposition, Requests for Modifications and Violation Hearings:** Change language to reflect court process, terminology and statutes. Make sure to address what can happen at each stage, who will be there (judge, respondent, etc.), whether testimony will be taken, what length of order could be issued. You may want to include information on how to file a modification or violation.



## Understanding What Works

You may want to monitor and assess the usefulness of the Guides once they have been implemented. One way to do that is through a survey of judges and litigants who use the Guides. The Center has developed two short feedback forms for you to use. One is for judges and asks questions pertaining to practicality, how the judges use the Guide, efficiency, and impact on decision-making. The other is for self-represented litigants who use the Guide. It asks similar questions regarding usefulness and impact on petition-writing.

The Center can work with you to decide how best to distribute the forms, and how to evaluate the information gathered.

### **FOR MORE INFORMATION:**

**For more information on training and technical assistance to plan and implement the use of the Risk Factor Guides, please contact Rebecca Thomforde Hauser at [thomforr@courttinnovation.org](mailto:thomforr@courttinnovation.org)**

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