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Arizona's Lethality Assessment Tool

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PROTECTING VICTIMS OF INTIMATE PARTNER VIOLENCE: Arizona's Emerging Risk Assessment Model

By Neil Websdale, Director, Family Violence Institute (FVI), Northern Arizona University (NAU); Jerald Monahan, Chief, Yavapai College, Arizona; and Greg Giangobbe, Law Enforcement Training Coordinator, FVI, NAU

The diligent patrol officer reported the episode thoughtfully. He had administered the pilot risk assessment carefully, using the new departmental protocol; his training; and his talent for listening, observing, and perceiving potential danger. He reported that the alleged female victim of intimate partner violence (IPV) answered all seven of the “key” risk questions negatively. According to her, the alleged offender had never tried to kill her, strangle or choke her, beat her when she was pregnant, use a weapon or object to threaten or hurt her, increase the frequency or severity of his physical violence, or exhibit violent and constant jealousy, and she did not consider him capable of killing her. So, what, then? No problem? Just another slap or shove during a Friday night argument steeped in booze? Or an episode of disorderly conduct that prompted the neighbors to call the police?

The officer didn't readily accept either of those explanations. He had sensed signs of fear or terror in the victim. Indeed, he reported that the woman had consistently interjected “no” before he had finished asking each risk assessment question. Her seemingly anxious and hasty answers concerned him. Statistically speaking, her “no” responses suggested she was not at “elevated” or “high” risk of severe re-assault within the next seven months. However, the officer's training, intuition, and experience told him the initial assessment might be what risk assessors call “a false negative.” He therefore used his professional judgment to flag the case for further attention. The officer's goals were to protect and serve, to prevent severe re-assault or worse, and to hold offenders accountable.

The Arizona CIRA Trifecta: Statutory Innovation, Criminal Procedure Rule Change, and AZPOST Leadership

The officer in the preceding scenario was piloting an innovative community informed risk assessment (CIRA) tool developed in Yavapai County, Arizona.¹ It was designed to help officers protect and serve victims, refer victims to support services, and educate victims about the possible dangers they face. It later became the template for the development of a statewide uniform risk assessment tool known as the Arizona Intimate Partner Risk Assessment Instrument System (APRAIS). Prior to the final development of the APRAIS tool in 2017, a 2015 statutory amendment required Arizona judicial officers to consider the results of a risk or lethality assessment when setting bail in domestic violence cases.²

In December 2017, the Arizona Supreme Court changed the rules of criminal procedure, recommending the reporting of risk in IPV cases through the APRAIS form, thereby

moving toward standardizing the risk addendum to the law enforcement release questionnaire (charging sheet) presented to the court at the initial arraignment. The legislative changes concerning release on bail in cases involving domestic violence charges were a game changer. The law states the judicial officer “shall take into account ... [t]he results of a risk assessment or lethality assessment in a domestic violence charge presented to the court.”³ The statutory change served as a catalyst for the creation of a statewide uniform risk assessment tool. The idea of such a tool was to create a shared language of risk and to encourage police departments to conduct risk assessments.⁴ The fast-evolving Yavapai tool and protocols, developed through pilot projects at the Prescott and Prescott Valley Police Departments, informed the creation of what eventually became known as the APRAIS tool and protocols. These legislative developments and changes in the rules of criminal procedure significantly impacted law enforcement’s response to IPV in Arizona. The Arizona Peace Officer Standards and Training Board (AZPOST) supported these innovations, and AZPOST and the Family Violence Institute (FVI) at Northern Arizona University (NAU) agreed to work together to provide consistent, uniform training to Arizona police officers in the use of the APRAIS.

The Community and Institutional Origins of APRAIS

Over a period of three years (2014–2017), the pilot project team from the FVI at NAU worked with the Prescott and Prescott Valley Police Departments and other Yavapai County community stakeholders to fashion a CIRA tool and accompanying law enforcement and advocacy protocols. To gain further insights into the complexities of assessing risk, the FVI team analyzed police reports, rode with officers, and talked with numerous community stakeholders. The developmental process was not always harmonious. Particularly in the early stages, individual officer’s attitudes ran the gamut from antagonistic, skeptical, and resigned, to favorably disposed, enthusiastic, and energetic. A few of the negative reactions included statements like, “Why should we spend more time at these scenes? It just increases danger to officers”; “We don’t have time for this”; “The assessment is just one more form to fill out”; “What difference does it make? Prosecutors won’t prosecute anyway because she won’t cooperate, she’ll recant, or even testify on her abuser’s behalf”; and, rather important, “It doesn’t matter because the risk assessment won’t get before the judge to influence bail setting, let alone any trial.”

Despite some officers’ misgivings, the local police chiefs and the county attorney backed the pilot project. Over time, patrol officers incorporated the assessment into

their handling of IPV calls. The 83-member coordinated community response (CCR) team in Yavapai County was consistently positive about developing the risk tool. The CCR, convened largely to confront domestic violence, was diverse, with members including personnel from numerous agencies, community stakeholders, and concerned citizens. Command staff serving on the CCR offered a wealth of insights concerning officer perceptions of danger, time available to conduct risk assessments, and the frustrations officers felt about not knowing the outcome of the IPV cases they worked. A concerned psychologist contributed information about offenders from his perspective as a facilitator of a batterer intervention program. A pastor talked about IPV among faith communities. A couple whose daughter was murdered by her partner offered nuanced insights from yet another angle.

Yavapai County Presiding Judge David Mackey told the FVI team he would not participate in the process of building a CIRA initiative without wide-ranging community input. Of pivotal importance was Judge Mackey’s insistence to involve both defense counsel and prosecution. Judge Mackey’s concerns included adhering to the principles of due process, maintaining the impartiality

of the judiciary, gathering more information to inform the decision-making of the courts in IPV cases, and ultimately reinforcing the rule of law and enhancing the credibility and legitimacy of the criminal justice system. Judge Mackey especially wanted more information about IPV cases to help judicial officers set bail. Making opening remarks at a risk assessment training at Yavapai College in Prescott in July 2017, he mentioned a case he had previously worked where an abuser murdered his female partner. Powerfully, Judge Mackey simply stated the community needed to do more in these complex IPV cases. If it did not, he stressed, people would continue to die.⁵

At one meeting of judges and magistrates, some suggested that IPV risk assessments bordered on being unconstitutional, potentially denying the accused bail because he or she had been deemed a “high risk” on the basis of an imprecise predictive science. Others welcomed the idea of reviewing more risk information in a uniform and systematic manner. Some meeting attendees acknowledged their frustration with the complexity of IPV cases and the seemingly counterintuitive behavior of victims. The mélange of perspectives among the Yavapai County judiciary mirrored the range of viewpoints

APRAIS AT A GLANCE: KEY FACTS

- ✓ The APRAIS community-informed tool and protocol was developed in Yavapai County, Arizona, over a two- to three-year period using extensive feedback from law enforcement, victim advocates, survivors, and other community agencies and stakeholders.
- ✓ The APRAIS philosophy carefully balances respect for victim autonomy, dignity, and informed consent rights, with the constitutional rights of the accused. The APRAIS protocol recommends law enforcement officers inform victims that their participation is voluntary and that anything they share in the assessment is discoverable.
- ✓ The APRAIS tool has 7 Tier 1 mandatory, validated risk questions and 9 optional Tier 2 “contextual” questions. Responses to both provide a nuanced understanding of the case and encourage more detailed police report writing and follow-up.
- ✓ The APRAIS protocol stresses the importance of building rapport with victims, listening to their stories, and respecting their courage. In so doing, APRAIS enhances community policing.
- ✓ Initial outcomes suggest APRAIS educates victims about their potential danger and their options for support services.



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among other local agencies and stakeholders, and these competing concerns would resurface later at the state level, as various interested parties gathered to try to create a uniform statewide risk assessment tool.

The discussions with community stakeholders, which took place across almost two years, resulted in the building of a risk tool with seven mandatory Tier One (T1) questions and nine optional Tier Two (T2) ones.⁶ The community settled on seven questions as the “ideal” number—not too many to make the process burdensome, but sufficient to provide enough discerning information to perhaps identify an intimate partner offender who is more likely to kill or maim the victim. Once victims agreed to participate in the risk assessment, patrol officers were required to ask the T1 (more predictive) questions. T2 questions were to be asked at the officer’s discretion, although over time, officers usually posed those as well, rolling them into their conversations with victims. Dr. Jill Messing, a leading authority on risk assessment in IPV cases, validated the seven T1 questions, confirming them as the seven most predictive behaviors of future severe re-assault within the ensuing seven months.⁷ T2 contained other important questions that, although of lesser predictive value, were nevertheless deemed important by CCR members because they provided valuable contextual information.

Aware of the possible statewide deployment of the tool, CCR members and the FVI team recognized that other Arizona counties interested in the Yavapai risk model might want to fashion their own T2 questions, emphasizing risks peculiar to their locales. As an example, the Yavapai CCR included the question, “Does he or she use illegal drugs or misuse prescription drugs?” Members thought this was important because of the large number of drug treatment facilities in the Prescott community and the significance of addiction to opioids among some victims of IPV. Officers had encountered what they saw as particularly dangerous IPV cases in which abusers supplied victims with heroin or fentanyl and reported that victims would endure heinous violence and abuse just to get their fix.

Then, on December 13, 2017, the Arizona Supreme Court approved the petition and amended Rule 41 of the Arizona Rules of Criminal Procedure.⁸ The court approved the APRAIS tool as the recommended addendum to the law enforcement release questionnaire. The rule change, effective April 2, 2018, permits but does not mandate law enforcement agencies report IPV risk information to the courts through the uniform APRAIS addendum. The APRAIS addendum does not contribute information to the trial or sentencing phase. In other words, the risk data inform judges, commissioners, and magistrates about the potential risks posed



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by the accused to the victim, thus adding information for bail setting purposes. It also provides victims, the police, and victim advocates with more information.

The intricate debates about the criminal justice uses of risk assessments and predictive analytics are of relatively recent origin and of great importance.⁹ Among this discourse are issues directly relevant to the APRAIS tool and law enforcement executives, including the science of the APRAIS; respecting victim choices; building rapport in communities; and initial outcomes and lessons learned.

The Science of APRAIS

The APRAIS tool draws upon at least 40 years of case studies and descriptive statistical research into intimate partner homicide (IPH), 20 years of work by domestic violence fatality review teams, and a number of cross-sectional (one point in time) and prospective (tracking cases over time) risk studies.¹⁰ It makes no claim to predict with any degree of certainty future severe re-assault, near-death incidents, or IPH. Rather, the APRAIS is as much a reconnaissance and referral intervention tool as it is a risk assessment tool. As such, it provides important details about intimate relationships, primarily helping responders distinguish between lower-level, less severe IPV, sometimes referred to as situational couple violence, and intimate terrorism, a course of controlling conduct, domination, degradation, abuse, and violence characterized by more severe offenses such as beating during pregnancy, strangulation, weapons use, chronic violence linked to jealousy, and previous efforts to commit IPH.¹¹ Put simply, the APRAIS seeks to identify cases where the harm to victims, their children, and the community might be greatest.

The APRAIS risk classification includes three levels: (1) risk, (2) elevated risk, and (3) high risk. If the respondent answers "yes" to zero or one of the T1 questions, the case remains in the "risk" category; two to three "yes" responses signify an "elevated risk"; and four or more "yes" answers qualify the situation as a "high-risk" case. Elevated and high-risk cases trigger referrals to victim advocacy services and law enforcement follow-up. Respondents in the elevated risk category have a six-fold greater risk of severe re-assault when compared to those with fewer than two "yes" responses. Those in the high-risk category experience a more than ten-fold greater risk. On the surface, these statements of relative risk (i.e., those in the "elevated" and "high" risk groups compared with the "risk" group) look compelling. However, the APRAIS statisticians were also keen to present a balanced picture by pointing out the "absolute" as well as the "relative" risks.¹² In terms of absolute risk or the true positive rate, among those victims who answer four or more APRAIS questions "yes," approximately 15 percent of them will

actually experience severe re-assault within the next seven months.¹³

Respecting Victim Choices

The APRAIS is not designed to be part of a criminal investigation or to establish probable cause. The risk assessment is administered only after the on-scene investigation is complete. Obviously, some risk information may be shared during the investigation, and it is important that officers reconfirm the presence of previously stated risk factors when they begin the assessment. Participation in the APRAIS is voluntary, and it is important that officers inform victims

of their right to choose whether to answer APRAIS questions.¹⁴ Some risk assessments note whether victims "refused" to answer risk assessment questions. The use of the word "refuse" in IPV cases might have negative implications for victims, making them more likely to be seen as uncooperative; therefore, the APRAIS method uses the language of "declination," not refusal, to avoid this potential problem.

In recognition of the relatively low true positive rate, officers tell victims the APRAIS assesses potential danger. They also notify victims in everyday language that the risk information they share is discoverable. Focus

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groups with survivors in Yavapai County confirmed that upward of 80 percent of victims prefer to be told that their abusers can find out how they answered the risk questions.¹⁵ Importantly, many risk assessment tools do not notify victims of discoverability. According to legal scholar, Professor Margaret Johnson, this failure is an affront to the autonomy and dignity rights of victims that can be easily rectified by obtaining informed consent prior to the assessment.¹⁶

Patrol officers' knowledge of the neighborhoods and communities they work in is an essential element of effective community policing.

It is also important for officers to notify victims about available community services such as victim advocacy. Unless proven otherwise, such notification ought not expressly state or imply that receiving those community advocacy services renders victims safer than not receiving such services. However, explaining that advocacy services may offer emergency shelter, counseling, transitional housing, and legal assistance may be helpful to the victim. The idea is to communicate with victims clearly, while at the same time advising them that they can choose how to proceed. It is also important for officers to acknowledge the predictive limitations of the APRAIS tool. Telling victims in a non-alarmist but honest, clear, and direct way they scored in the high-risk category takes skill and care. The APRAIS approach stresses the importance of building rapport, making appropriate eye contact, showing interest in the victim's responses, and expressing concern rather than checking off items.

Building Rapport in Communities

Patrol officers' knowledge of the neighborhoods and communities they work in is an essential element of effective community policing. Doing good, thorough, professional risk assessments in IPV cases not only provides greater knowledge about victims, it also is one more way of protecting and serving the community and improving community-police relations.

Administering risk assessment tools reminds officers what to look for in abusive relationships. But, in addition to improving officer understanding of victims, other advantages appear likely. Researchers' initial evaluation of one risk assessment tool found that the administration of the tool was associated with an increase in victims taking protective actions and a decrease in the frequency and severity of future violence.¹⁷ An

officer who learns more about the dynamics of IPV is more likely to understand the seemingly counterintuitive behavior of victims. Trauma has a lot to do with victim behavior. Officers who engage with victims in a non-judgmental manner recognize the courage it took for the victims to come forward, listen attentively as they gather risk and other information, and are more likely to improve community-police relations.

Initial Outcomes & Lessons Learned

It will take 5–10 years to evaluate the impact of the APRAIS on IPV recidivism, repeat police calls for service, officer injuries in IPV cases, victim and perpetrator use of support services, and other such effects. Nevertheless, existing lessons learned warrant mention.

Early feedback from law enforcement and victims is encouraging. During the pilot project, one officer suggested that the assessment tool had improved domestic violence reports overall. Officers and victim advocates at the Prescott and Prescott Valley Police Departments report that administering the tool tends to increase officers' understanding of IPV cases and increase victims' perceptions that the officers care. One victim reported,

After taking the questionnaire for a second time, the officer advised me I was at high risk for danger. His concern for me concerned me. I was able to get out of the relationship before it got out of hand.¹⁸

Significantly, victim declination rates appear low. In Prescott, only 10 percent of the victims offered the APRAIS declined to participate. The declination rate in Prescott Valley is around 30 percent. The APRAIS team suspects the relatively low declination rate stems from the strong emphasis on rapport building; the relative simplicity of the form; and the notification of discoverability and its accompanying philosophy of respecting the autonomy, dignity, and informed consent rights of victims.

A significant number of IPV calls resulted in patrol officers deciding not to offer the APRAIS. This may be due to a range of reasons, including situations in which the officers perceived that victims were distraught and unable or unwilling to participate; officers sensed that the victim was intoxicated or otherwise impaired due to substance use; officers were unable to contact the victim at the time of the report; the call involved a third party (e.g., neighbor) and the parties on scene denied any IPV; officers determined that the call was a verbal dispute and that no crime had occurred; and officers were simply unwilling to offer the tool.

IPV is first and foremost a community problem. Law enforcement approaches embedded in the community have considerable potential to effectively confront it. The Arizona (APRAIS) CIRA is one such approach, developed, as noted, through the trifecta of statutory innovation, creative rule change, and law enforcement leadership. ❖

Notes:

¹The project was funded from January 2015 to December 2017 by the Arizona Governor's Office for Youth, Faith and Family using U.S. Department of Justice, Office of Violence Against Women STOP TA monies.

²AZ Rev. Stat. § 13-3967 (2015).

³AZ Rev. Stat. § 13-3967 (B)(5) (2017).

⁴The proposed legislative change came from the Pima County, Tucson area of Arizona.

⁵David Mackey, Opening Remarks (speech, Law Enforcement and Advocacy Training on Intimate Partner Violence Risk Assessments, Prescott, AZ, July 25, 2017).

⁶The questions derive from the work of Dr. Jacqueline Campbell. See for example, Jacqueline Campbell et al., "Risk Factors for Femicide in Abusive Relationships: Results from a Multisite Case Control Study," *American Journal of Public Health* 93, no. 7 (2003): 1089–1097.

⁷Dr. Jill Messing validated the T1 questions by statistically analyzing data generated from the Oklahoma Lethality Assessment Study

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funded by the National Institute of Justice. See Jill T. Messing et al., "The Oklahoma Lethality Assessment Study: A Quasi-Experimental Evaluation of the Lethality Assessment Program," *Social Service Review* 89, no. 3 (2015): 499–530. Additional empirical support for the APRAIS tool came from Campbell et al., "Risk Factors for Femicide in Abusive Relationships" and Carolyn Snider, et al., "Intimate Partner Violence: Development of a Brief Risk Assessment for the Emergency Department," *Academic Emergency Medicine*, no. 16 (2009): 1208–1216.

⁸Arizona Supreme Court No. R-16-0046, filed December 13, 2017, order amending rule 41 to add Form 4(C) to Appendix, Arizona Rules of Criminal Procedure.

⁹See, for example, Liberty Aldrich, "The Use of Risk Assessments in Judicial Decision-Making," *Domestic Violence Report* 21, no. 5 (June/July 2016): 71.; Jamie Balson, "Using Danger Assessment in the Prosecution of Domestic Violence Cases," *Domestic Violence Report* 21, no. 5 (June/July 2016): 75–77; Richard A. Berk, Susan B. Sorenson, and Geoffrey Barnes, "Forecasting Domestic Violence: A Machine Learning Approach to Help Inform Arraignment Decisions," *Journal of Empirical Legal Studies* 13, no. 1 (March 2016): 94–115; Margaret Johnson, "Balancing Liberty, Dignity, and Safety: The Impact of Domestic Violence Lethality Screening," *Cardozo Law Review* 32, no. 2 (2010): 519–580; Julie Saffren, "Using Judicial Knowledge of Lethality Factors in Civil Domestic Violence Matters," *Domestic Violence Report* 21, no. 5 (June/July 2016): 73–75.

¹⁰For an overview, see R. Emerson Dobash and Russell P. Dobash, *When Men Murder Women* (New York, NY: Oxford University Press, 2015); Neil Websdale, *Understanding Domestic Homicide* (Boston, MA: Northeastern University Press, 1999); and Martin Daily and Margo I. Wilson, *Homicide: Foundations of Human Behavior* (New York, NY: Aldine de Gruyter, 1988); See Neil Websdale, Adrienne Celaya, and Stephanie Mayer, "United States," in *Domestic Homicides and Death Reviews: An International Perspective*, ed. Myrna Dawson (London, UK: Palgrave-MacMillan, 2017): 27–57; Campbell et al., "Risk Factors for Femicide in Abusive Relationships"; Messing et al., "The Oklahoma Lethality Assessment Study"; Snider et al., "Intimate Partner Violence."

¹¹Michael Johnson, *A Typology of Domestic Violence* (Boston, MA: Northeastern University Press, 2008).

¹²Dr. Jill Messing, Arizona State University, and Dr. Steven Barger, NAU, serve as the APRAIS statisticians.

¹³The presentation of the APRAIS true positive rate derives from the work of Dr. Jill Messing in the Oklahoma Lethality Assessment Study (2015) and subsequent discussions of the APRAIS research team including Drs. Steven Barger, Kathleen Ferraro, Jill Messing, and Neil Websdale.

¹⁴Specifically, Johnson argues, "there should be full transparency to women subjected to abuse and legal system actors about the benefits and disadvantages of danger assessments... [A]ll administrators of lethality assessments should ensure that they obtain women's informed consent prior to conducting the screening." See Johnson, "Balancing Liberty, Dignity, and Safety," 580.

¹⁵Space precludes addressing the important issue of body cameras and the notification of the discoverability of risk assessment information gleaned after the investigation phase. The batterer that learns from a checked box on a risk assessment that his partner

claims he has tried to kill her in the past may react differently than if he learns this information from a video recording.

¹⁶Johnson, "Balancing Liberty, Dignity, and Safety."

¹⁷Messing et al., "The Oklahoma Lethality Assessment Study."

¹⁸Survey item response from an anonymous victim reported as part of the follow-up on a Victims of Crime Act–funded training grant concerning IPV risk assessment (2017).



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