



Murder rarely happens out of the blue.

Danger management and safety management as methods to prevent severe violence

by Rosa Logar

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Domestic Abuse Intervention Centre Vienna

A-1070 Vienna, Neubaugasse 1/3

Phone: 01 / 585 32 88-20 Email: office@interventionsstelle-wien.at Homepage: www.interventionsstelle-wien.at

Contact: Rosa.Logar@interventionsstelle-wien.at and Katrin.Gleirscher@interventionsstelle-wien.at.

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In May 2012, an 8-year old boy was killed by his father in St. Pölten, Lower Austria. The father had entered the school building, taken the boy and his sister out of class and led them to the cloakroom, where he shot the boy in the head. A few days later, the child died of the consequences of that act. The girl was able to run away and survived unharmed.

Deplorably, such cases of 'family drama', as they are often euphemistically called in the media, are anything but uncommon, also in Austria. Despite all efforts to better protect and support victims, murder and attempted murder, severe and massive violence, even cases of victims held in captivity under torture-like conditions, have dominated the headlines of the media over the past few years.

After such occurrences, we tend to be paralysed by shock and we ask ourselves how such things could happen. Working groups are assigned, and sometimes new laws are created. After the incident at St. Pölten, the instrument of barring orders by the police¹ was extended to schools and childcare facilities (see DAIC Vienna 2013). Before this regulation entered into force in September 2013, the protection of victims was only effective in their homes and their immediate vicinities. The new regulation is extremely important for the protection of children. However, in very dangerous situations, barring orders are not sufficient, as cases have shown in which the victims were killed despite a legally effective barring order or interim injunction (United Nations Committee on the Elimination of Discrimination against Women 2007 a and b).

Following a murder in the family circle, it is often said that such an act of violence cannot be prevented. Is this always true, or are we not, rather, trying to escape our responsibility? The basic question is not whether we can prevent all such cases, but whether, to the best of our knowledge, in an individual case we have done everything to effectively prevent violence.²

My argument is not aimed at finding out who is to blame, but rather at learning from cases of severe violence in order to identify and close potential gaps in the intervention system. As manager of a victims' protection centre I would like to start by saying that such an analysis is not about blaming individual staff members. In many cases, deficiencies and mistakes are identified not at the level of individuals, but rather within the system. What are called for are clear guidelines and instructions for those who work at intervention centres and a comprehensive danger and safety management system.³ Clearly these are tasks that lie in the responsibility of the management, and therefore, it is primarily the level of management that is called upon to review and improve measures for better protection of victims against violence.

Being mindful of what we know

Often we know more about risk factors than we show in our actions for prevention. This is how I would like to describe the situation in which we find ourselves when it comes to preventing severe and repeated cases of domestic violence, according to my own experience. This statement seems to contradict the current boom in instruments available for risk assessment, a rising number of software tools especially designed

¹For a definition please consult the glossary.

²I use 'we' in this context in order to show that no single service or authority can be successful in the prevention of violence; rather, cooperation between the police, the justice system, victims' protection services, probation assistance officers and health and social services, etc., is necessary. Obviously, the actual protection of individuals against violence lies first and foremost in the competence of the police and justice system.

³In this text, the terms danger assessment and danger management are used as synonyms of risk assessment and risk management. As the word "risk" is ambiguous as to whose risk it is, mainly the term danger is used in order to make it clear that the victims of violence are in danger.

for (and sold on) the risk assessment market, questionnaires devised by experts, and seminars on the topic. We get the impression that only through elaborate procedures carried out by experts are we even able to identify risk factors. I consider this development to be problematic and I doubt that it will help to improve the protection of victims. In the worst case, such often lengthy procedures may even lead to delays which result in dangerous situations for those affected. In situations of imminent danger it is a priority to react immediately and offer effective protection to the victims.

Analyses of cases of murder and severe violence have repeatedly shown that violence did not come out of the blue and there were previous incidents known to the authorities. Also in the case of the young boy described above, the police had access to a lot of evidence already. It was known that the boy's mother had been repeatedly abused and threatened by her husband. Just a few days before the murder she filed a report with the police, saying that her husband had beaten her and threatened to kill her and the children. Unfortunately, the authorities did not react immediately, but questioned the perpetrator only two days after the report and let him go free rather than taking him into custody. Therefore the perpetrator had time to buy a weapon and to act on his threat and fulfil part of his intention to kill his wife and his children.⁴

For the prevention of severe violence (and of violence in general), it is therefore extremely important to be mindful of all information that we already have. Collecting more and more data and information is of little use to us, and more importantly, to the victims, if we fail to act accordingly. If, as in the St. Pölten case, there is already evidence pointing to an increased risk of violence, the most urgent task is to act promptly. As experts we should use our knowledge to recognise danger.

As mentioned above, barring orders and interim injunctions are not suitable as protection measures in cases of severe violence, which is a deficiency of the generally effective Austrian legislation concerning the protection against violence (Logar 2012). Police barring orders are often issued by criminal justice authorities as a more lenient measure and alternative to pre-trial custody; this is even explicitly mentioned as a possibility in the Code of Criminal Procedure (CCP Section 173, (5)3). This section of the CCP should be omitted, as it suggests that in cases of a degree of violence for which the law would provide custody,

barring orders are sufficient to prevent further violence. Moreover, no criminal law sanctions will follow if police barring orders are not observed. This means that even though the more lenient measure might not be effective at all, it will still be employed. An example of a more lenient measure of greater effectiveness would be interim probation assistance and a protection order under criminal law (see DAIC Vienna 2013).

The European Court of Human Rights obliges states to actively protect victims

Under international law agreements and national regulations, state authorities are obliged to protect people in cases of imminent danger actively and effectively. The obligation to exert due diligence is also part of several recent decisions of the European Court of Human Rights on cases of violence against women and domestic violence⁵. In the case *Kontrová v Slovakia*, two children were killed by their father, who had repeatedly exercised violence towards their mother. The mother had fled to protect herself from the father's abusive behaviour, but had not been able to take the children with her. The authorities did not take action to protect the children from their evidently violent father and did not even try to take them away from him. The European Court of Human Rights found that the State had violated the two children's rights to protection of their lives, as well as the right to damages paid to the mother, whose complaint had been dismissed (*Kontrová v Slovakia* 2007).

In several of its decisions, the Court has emphasised the obligation of state authorities to not wait until violent acts have been committed, but rather to take appropriate action to safeguard the lives of those within its jurisdiction. The authorities must be held accountable especially if they knew, or ought to have known, about a real and imminent danger to the life of a person and failed to apply measures at their disposal to prevent violent acts (*Kontrová vs. Slovakia* 2007, see also *Tomasic v. Croatia* 2009).⁶

It is a sad truth that the above murder cases brought before the European Court of Human Rights are by no means isolated incidents. They show that the authorities in many countries still fail to assess the dangerous situation of victims. Children are always affected by violence against their mothers. Particularly when a mother tries to separate from her husband, this may result in severe

⁴The mother of the boy who was killed has filed a public liability complaint against the Republic of Austria on account of the fact that the life of the child was not protected. In the case of dismissal, the mother can file a complaint with the European Court of Human Rights, see next section.

⁵For a summary of the cases, see the Fact Sheet of the European Court of Human Rights 2014, http://www.echr.coe.int/Documents/FS_Domestic_violence_ENG.pdf

⁶Original quote: "knew or ought to have known at the time of the existence of a real and immediate risk to the life of an identified individual from the criminal acts of a third party and that they failed to take measures within the scope of their powers which, judged reasonably, might have been expected to avoid that risk" (*Tomasic v Croatia* 2009, Para. 51).

violence against the children, even if there haven't been any previous incidents of physical or psychological abuse against the children before. Even if children 'only' witness violence against their mother and aren't physically abused themselves, this endangers their well-being, according to the new Act on Family Matters (see DAIC Vienna 2013).

Risk assessment and risk management are mandatory under the Council of Europe Convention

The new Council of Europe Convention on preventing and combating violence against women and domestic violence (2011), ratified by Austria in 2013, obliges the member states to take all legislative and other measures necessary to assess the lethality risk, the seriousness of the situation and the risk of repeated violence and to provide corresponding safety measures and support. If required, such measures must be coordinated with other authorities and institutions.

Convention on preventing and combating violence against women and domestic violence

Article 51 – Risk assessment and risk management

1. Parties shall take the necessary legislative or other measures to ensure that an assessment of the lethality risk, the seriousness of the situation and the risk of repeated violence is carried out by all relevant authorities in order to manage the risk and, if necessary, to provide coordinated safety and support.
2. Parties shall take the necessary legislative or other measures to ensure that the assessment referred to in paragraph 1 duly takes into account, at all stages of the investigation and application of protective measures, the fact that perpetrators of acts of violence covered by the scope of this Convention possess or have access to firearms.

Source: Council of Europe, Convention on preventing and combating violence against women and domestic violence (Istanbul Convention, 2011)

This new obligation is a challenge that we in Austria must also face. Close cooperation of all the organisations involved in the issue and a common understanding of risk factors and dangerous situations is necessary. Protection is not provided to the victims if victims' protection services and the police, due to their expertise and direct access to the case, perceive a high risk, while the public prosecutor, who in most cases operates at a great distance from the incident, reaches a different assessment and does not impose pre-trial custody despite a high risk situation. The options offered by the Austrian Criminal Code, such as preliminary probation assistance and protection orders in favour of the victims under criminal law, are rarely used. In order to change this, the Domestic Abuse Intervention Centre Vienna, in cooperation with the association Neustart (probation assistance) and with the Criminal Court of Justice in Vienna, has launched a project on relapse prevention in cases of repeated domestic violence against women and children (see DAIC Vienna 2013).

Effective safety monitoring and safety management

Checklists are not a cure-all, they are no more than tools. What are the major common criteria for assessing risk factors? Over the past few years, instruments for assessing danger have appeared in great abundance on the 'threat management market' (see WAVE 2011). But can checklists really tell us which situations are dangerous, and can we rely on them? According to the experts dealing with this issue within the framework of the DAPHNE project PROTECT (WAVE 2012), it is not meaningful to use a certain method or checklist. Checklists may even be harmful, as they make decisions dependent on the mechanical 'ticking off' of items. However, there is no checklist that can recognise violence; it is always the expert in charge who is responsible for the assessment. Another danger lies in 'downgrading' violence, which often happens when checklists are used. As a certain situation is not assessed as being very dangerous or extremely dangerous according to the tool, the erroneous conclusion is drawn that there is no threat at all. Violence against women and children should always be considered as threatening, because experience has shown a high proportion of repeat offences for this type of criminal behaviour and the danger increases if victims try to separate from the perpetrator. Therefore, our common understanding should be that 'harmless violence' does not exist.

It is necessary to analyse risk factors systematically and to investigate the frequency and severity of violence. Danger assessment should be carried out systematically, starting from the information on risk factors that is already available (see WAVE 2012). Next, the specific information needed should be obtained. To follow a procedure which builds on the existing information and supplementary data and continually monitors the data in order to take the corresponding measures for prevention, is in line with active safety management. It is neither expedient nor justified to collect and store more and more data without acting upon the information obtained and providing more safety for the victims. In almost all cases of violence it is important to gather information about risk factors, because this is the only way to identify cases in which victims are in a particularly threatening situation. Currently not all the services have the possibility of systematically identifying risk factors. This is often due to a lack of (adequate) documentation and data inquiry systems.

One of the aims of the Domestic Abuse Intervention Centre Vienna is to carry out danger assessments and safety planning for all victims, if possible. The method used is Danger Assessment, a tool developed by Jacquelyn Campbell twenty years ago, which has been evaluated several times since (Campbell/ Webster/ Glass 2009).

Danger assessment and safety planning with victims

Importantly, information on the danger situation should, first and foremost, come from the victims rather than the perpetrators. According to experience, information given by perpetrators is influenced by their (legitimate) interest not to risk punishment. Victims may also shy away from making violence public, especially in the field of domestic violence, if they are dependent on the perpetrator, they may fear further abuse or may not want to break the taboo of reporting a family member to the police.

In his long-term study on working with offenders, Gondolf (2002) registered a high significance between the assessment by victims of their risk and repeated incidence of violence. Therefore it is crucial to believe victims. Victims' protection services which have a good relationship of trust with their client and offer further support, have a higher chance of getting information about risk factors. Risk assessment requires that the victims recall the experience of violence; in this process, traumatising events are made conscious, which calls for a particularly sensitive and victim-oriented approach and the application of methods of empowering the victim. Safety planning should always be integrated into danger assessment. Following a risk assessment, it is unprofessional and hazardous to leave victims alone with their problems. If possible, those concerned should not be asked the same questions all over again by various services.

Summary

- Danger assessment is not an end in itself and should always be carried out in combination with safety planning and protection measures.
- Every victim should be supported by an independent service with whom they have developed a relationship of trust. This service should also conduct a danger assessment and safety planning.

Risk factors in the field of domestic violence against women and their children

For systematically recording risk factors, tools or lists describing risk factors can be used, such as the list included in the PROTECT Handbook (WAVE 2011; 2012). The experts' assessment plays a vital role in this process. Danger assessment is not based on exact science; it does not yield predictions about the future, which would also be dangerous. The point is to address and identify risk factors in order to take appropriate measures. Danger assessments for domestic violence cases should never be used to downgrade or make light of violence. Any form of violence is harmful and should not be tolerated, not even so-called 'minor' physical injuries. In less severe cases of violence, relatively lenient measures such as barring orders and protective injunctions under civil law may be appropriate. However, in severe cases of repeated violence, criminal law measures must be applied as well.

Over the past few decades, based on research and practical experience, a number of criteria indicating danger of domestic violence against women and their children¹⁵ have been established, which can be used as a checklist for systematically identifying risk situations. These risk factors were listed and described in the EU project PROTECT (WAVE 2012). A study on homicide offences in Austria cites similar factors indicating dangerous situations (Haller 2011).

In the PROTECT Handbook, risk factors are classified under five categories:

- History of violence
- Forms and patterns of violence
- Risk factors related to perpetrator behaviour
- Victims' perception of risk
- Aggravating factors

The following risk factors were identified and documented by research under the individual categories:

Factors indicating higher risk

History of violence

1. Previous domestic violence against women
2. Violence towards the children or other family members
3. Generally violent behaviour
4. Violation of protective orders (e.g., barring orders)

Forms and patterns of violence

5. Severity and frequency of violent acts
6. Use of/ threats to use weapons
7. Controlling behaviour and isolation
8. Stalking
9. Sexual violence
10. Threats to kill, threats to harm, coercion
11. Strangulation and choking

Risk factors related to perpetrator behaviour

12. Issues related to drug and alcohol use
13. Possessiveness, extreme jealousy and other forms of harmful attitude (such as extremely rigid concepts of honour)
14. Issues related to poor mental health, including threats and attempts to commit suicide
15. Economic stress, unemployment

Victims' perception of risk

16. Fear for themselves and others

Aggravating factors

17. Separation
18. Child contact following separation
19. Step-children living in the family
20. Violence during pregnancy

Other risk factors that should be taken into account are current trigger events (such as an imminent court hearing, the arrival of a court application in the mail, etc.) (WAVE 2012, p. 89f)

To expand on the individual risk factors here would go beyond the scope of this article. As mentioned, they are included and described in detail in the PROTECT Handbook, which is available in English and other languages for free download. As a rule, the greater the number of risk factors registered, the more dangerous the situation. All risk factors should be addressed and countered by effective prevention work. Rather than a static concept, risk is dynamic. The dangerous situation may change and needs to be monitored continuously.

Safety management within an agency

As described above, continuous risk and safety management within one's own agency is the key to the prevention of violence and a prerequisite for cooperating with other organisations. Only if we know precisely what we are doing and monitor whether our services and measures are adequate, are we ready to cooperate with others and to jointly improve the protection of victims against further violence. Within the framework of the EU project PROTECT for the prevention of severe violence, the following good practice criteria for effective risk and safety management in an agency have been identified:

Key features of good practice in an agency managing the risk and safety of women victims of violence

1. Clearly written agency policies and guidelines on how to deal with violence against women and domestic violence. The effective implementation and regular evaluation of such guidelines (including feedback from survivors).
2. Specialist units or staff within the agency, developing expertise and experience in addressing the issue.
3. Established procedures to identify cases of repeat and severe violence, which are consistently applied to ensure all cases are appropriately handled.
4. Risk assessment and safety planning which actively involves all victims as a standard procedure.

⁷ As women and their children are targets of domestic violence in a disproportionately high number of cases, researchers and practitioners in the field of domestic violence have mostly dealt with this type of domestic violence (for a definition see Council of Europe 2011).



Protect Handbook in 11 languages

5. Measures to ensure that the victim's safety is guaranteed when they attend meetings at the agency. (Is it guaranteed that victims can arrive, stay and leave the premises where meetings are held safely?)
6. Safety measures are in place to ensure agency staff are able to engage in their work safely too. (A safety plan for the agency).
7. Reviews of cases of extreme violence, femicide and attempted femicide are routinely held by the agency in order to identify deficiencies and areas for improvement as well as measures to adapt policies and procedures accordingly.
8. Agencies engage in multi-agency partnerships and multi-agency case conferences.

(see WAVE PROTECT Handbook 2012, Handout 2.1a, p. 73f)

Multi-agency case conferences as a method of violence prevention

In multi-agency case conferences, several organisations cooperate to provide better protection for high risk victims. The PROTECT Handbook emphasises that the needs and rights of the survivors should be at the core of multi-agency measures (WAVE 2012, p. 127).

In cooperation with numerous other agencies, the Domestic Abuse Intervention Centre Vienna has established a multi-agency partnership (MARAC). This project will be further developed in 2014, and together with other organisations the Intervention Centre will continue its efforts to improve the safety of victims in high risk situations (see DAIC Vienna 2013).

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Glossary

Barring order (BO)

When the Federal Act on Protection Against Domestic Violence was introduced, the Security Police Act was amended to include barring orders and eviction orders as a protection against violence (Section 38a). Accordingly, police officers are authorised to evict persons constituting a danger from their place of residence and its immediate surroundings and to prohibit their return for 14 days. Persons experiencing violence are thus protected from suffering further violence. If additional protection is required, an application for an interim injunction can be filed, which extends the barring order to a period of four weeks. If children aged under 14 are affected by violence, the barring order may also include kindergartens, schools and other childcare services.

Interim injunction (II)

Victims of violence can contact the competent district court of their place of residence and apply for an interim injunction to extend the protection period covered by the barring order. Under the Act on Enforcement Procedures, three types of interim injunction can be issued as a protection against violence: II in accordance with Section 382b (protection against violence in the home), Section 382e (general protection against violence) and Section 382g (protection against invasion of privacy).

Domestic violence/intimate partner violence/violence in intimate social relationships

The terms “domestic violence” and “intimate partner violence” are used synonymously in this report. In certain cases, the term “violence in intimate social relationships” is used. Violence in intimate social relationships and domestic violence mostly affects women and girls, therefore the term “gender-based violence” is used as well.

This type of violence can be exerted in different forms and includes physical, sexual and psychological violence, such as psychological terror, humiliation, prohibitions and isolation. Any exertion of power, abuse of power, injury or use of force is regarded as violence. Experiencing violence results in various types of limitation for those concerned.

The 2011 Council of Europe Convention on preventing and combating violence against women and domestic violence therefore underlines the importance of gender-sensitive political prevention measures: “Parties shall undertake to include a gender perspective in the implementation and evaluation of the impact of the provisions of this Convention and to promote and effectively implement policies of equality between women and men and the empowerment of women.” (Council of Europe 2011, Article 6)

Perpetrator

The Austrian Security Police Act in fact uses the term “Gefährder” (endangerer) instead of “Täter” (perpetrator). Barring orders can be issued as a preventive measure, i.e. before a person has committed an offence. It is thus not legally correct at that point to refer to the person concerned as a “perpetrator”.

For easier reading, the term “perpetrator” is nevertheless used in the English translation. As 90% of all perpetrators are men, they are referred to with male pronouns. Any women perpetrators are included in this reference.

Violence prevention centres/intervention centres

As a consequence of the Federal Act on Protection Against Violence intervention centres were established for each province to support victims of violence after the issue of barring orders. With the exception of Vienna, all intervention centres have meanwhile been renamed “violence prevention centres”, and the Vorarlberg centre is called “violence protection centre”.

MARAC

The first Multi-Agency Risk Assessment Conferences were established in the United Kingdom. The Domestic Abuse Intervention Centre Vienna adapted this model aimed at preventing severe violence (‘MARAC Vienna’).

Victims

Violence committed in domestic settings is a punishable offence with far-reaching consequences for those experiencing violence. However, victims of violence do not by any means passively endure violence: on the contrary, they try to protect themselves against violence in numerous ways and to cope with a situation that is often next to unbearable.

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Wiener Interventionsstelle gegen Gewalt in der Familie
1070 Wien, Neubaugasse 1/3
Tel.: 01/585 32 88, E-Mail: office@interventionsstelle-wien.at
www.interventionsstelle-wien.at

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