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What You Don't Know *Can* Hurt You: The importance of family violence screening tools for family law practitioners

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Executive Summary

There is no universal family violence (FV) screening tool/procedure designed for family law practitioners (FLPs) in Canada at this time. Individual lawyers, some of whom have received specialized training about FV, and many of whom have not, bring their own approaches to assessing whether or not a client has been subjected to (or has engaged in) abuse within their intimate relationship.

As this research shows, the use of family violence screening tools (FVSTs) is much more common in other fields (particularly the health care and family law mediation fields). Use of such tools assists clients/patients in sharing with professionals important and relevant information about abuse in their relationship -- information many survivors of abuse are reluctant to share on their own initiative. It is important to draw on the experience and knowledge of the sectors that routinely use such screening tools.

FLPs are often the first point of contact for those entering the family justice system. They need to be aware of any abuse history as early in the lawyer-client relationship as possible so that decisions made reflect the best interests of the children, the legal rights of the parties and the safety of FV survivors.

The importance of maintaining a safety focus cannot be overstated. As discussed below, Ontario's Domestic Violence Death Review Committee consistently finds (2003-2016) that a history of domestic violence and pending or recent separation are the first and second highest risk factors for lethality in domestic homicides.

FLPs who are trained in the use and interpretation of a tested screening tool, as well as in how to understand its limitations, will be able to more quickly and accurately identify the presence of FV. With this information, the lawyer is in a better position to discuss appropriate process and outcome options with their client, give legal advice, take instructions, collect evidence and make referrals for corollary services where appropriate. The lawyer will know, early in the professional relationship with the client, whether there are safety concerns that require immediate attention.

This research report recommends the adoption of universal FV screening by FLPs. To support this recommendation, it begins by presenting a definition of FV, then examines common family dynamics where violence is present and the impact of trauma on a family court litigant. Exploration of the relationship between FV and family court and a

discussion of the importance of screening in the family law context further supports the recommendations.

The report also provides an overview of the methodology used to identify and analyze FVSTs, identifies the differences between risk assessment and screening tools, and provides a list and summary of each of the FVSTs included in the review as well as an analysis of commonalities in structure, format, content, delivery, frequency of use and results/outcomes across the FVSTs, analyzed at two levels:

1. across FVSTs used by FLPs, and
2. between FVSTs used by FLPs and those used in other sectors.

Research gaps in and differences between regions and populations served are noted. In particular, a research gap exists on the topic of screening within Indigenous communities.

Best practices are identified for developing, administering and using FVSTs across populations, sectors and specific to FLPs.

The report ends with recommendations to assist the Department of Justice, provincial and territorial law societies and others in implementing universal FV screening for FLPs. These recommendations speak to the need for:

- The development of a common tool that can be adapted for use with diverse clients
- Mandatory training for lawyers before they use the tool
- A two-step screening process
- Legal aid funding to compensate lawyers for the additional time required to implement the tool
- A pilot study to test various models as well as ongoing research to explore specific elements of FVSTs in this context

Setting the Context

Defining Family Violence

No universally shared definition of FV exists. However, as the examples below illustrate, most definitions contain similar key elements: FV is behaviour within the family in which

one family member abuses or neglects another or other member(s) of the family.

> Family violence is considered to be any form of abuse, mistreatment or neglect that a child or adult experiences from a family member, or from someone with whom they have an intimate relationship (Department of Justice, 2017).
>
> Domestic and family violence occurs when someone tries to control their partner or other family members in ways that can intimidate or oppress them (Australian Government, Australian Law Reform Commission, 2011, p. 3).

Canada's Chief Public Health Officer's Report on the State of Public Health in Canada states:

> Family violence is an important public health issue.... Some Canadian families are experiencing unhealthy conflict, abuse and violence that have the potential to affect their health. Known collectively as family violence, it takes many forms, ranges in severity and includes neglect as well as physical, sexual, emotional and financial abuse (Canada's Chief Public Health Officer, 2016, p. 3).

The Government of Canada's National Clearinghouse on Family Violence uses the term "family violence" broadly to encompass various forms of abuse:

> ... within a range of intimate relationships, including those between parent and child; caregiver and client; adult child and parent; siblings; and intimate partners in dating, marital or common law relationships ... (Novac, 2006, p. 1)

to include physical assault, psychological or emotional abuse, sexualized abuse, neglect, deprivation and financial exploitation.

The term "family violence" is often adopted as a broader term to acknowledge the range of people who may experience violence, including children (Murray & Powell, 2009). However, gender neutral language like "family violence" is contested because it does not acknowledge that women (and their children) are the primary victims of these forms of violence (Murray & Powell, 2009). Feminist constructions of family and domestic violence emphasize the role of gender and power in abusive relationships (Berns, 2001; Htun & Weldon, 2012).

The United Nations brings this gendered analysis to its FV definition, focusing on men as perpetrators of violence against girls and women and recognizing that:

> ... violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men (United Nations Children's Fund, 2001, p. 2).

This perspective is evident in a number of United Nations' publications (see *Handbook for Legislation on Violence against Women,* United Nations, 2010; and *Domestic Violence Against Women and Girls*, United Nations Children's Fund, 2001).

Terms such as intimate partner abuse, elder abuse, child abuse or woman abuse are often used as a more specific reference to the kind of relationship between the abuser and the victim of the abuse.

As our understanding of gender and what constitutes a family-like relationship evolves, so does our understanding of what the term "family violence" encapsulates. For example, Statistics Canada (2012), in its publication, *Family Violence in Canada: A Statistical Profile 2010*, for the first time included violence in dating relationships as part of the profile. In the past, this publication had only considered abuse involving spouses (married, common-law, separated and divorced), children and youth under 18, and those aged 65 or older (Statistics Canada, 2012).

This research into FVSTs focuses on intimate partner to intimate partner abuse. Abuse is serious in any form and in every relationship; however, when FLPs are screening adult clients in the context of initial consultations, partner abuse will most often be the focus of the screening. This is because of a recognition that intimate partner violence can continue, and even escalate, after a couple's intimate relationship has dissolved (Laing, 2017).

Even in this context, a FLP may become aware of other forms of abuse (particularly child abuse) as a result of the screening process or because of comments made by the client or due to legal issues that arise (e.g., child protection involvement). At such a point, or if the practitioner has been retained to represent a child, it may be necessary

to turn to tools designed specifically to screen for child abuse. An examination of such tools goes beyond the scope of this research.[1]

Dynamics of Family Violence

Not all FV looks the same. Joan B. Kelly and Michael P. Johnson's (2008) work explores various typologies of intimate partner abuse, ranging from what they call "situational couple violence," where one or both partners engage in negative behaviour towards the other, but there is no fear of either by the other, to "coercive controlling violence," where the abusive behaviour is perpetrated consistently by one partner against the other to such an extent that the victim partner lives in fear of the abusive partner, who holds most or all of the power and control in the relationship. Relationships of coercive controlling violence require the strongest legal interventions, both family and criminal.

Kelly and Johnson's (2008) research shows that some typologies, including situational couple violence, have no particular gender dynamic, with both women and men engaging in this kind of behaviour. However, the coercive controlling typology, which is the one most likely to lead to serious physical injury, death and long-term psychological harm in heterosexual relationships is overwhelming perpetrated by men against women (Kelly & Johnson, 2008).

These findings are supported by the 2016 report of Canada's Chief Public Health Officer:

> In 2014, 131 Canadians died at the hand of a family member and there were 133,920 reported victims of dating or family violence, with the majority of victims being women.... Women are more likely than men to be killed by an intimate partner and more likely to experience sexual abuse, more severe and chronic forms of intimate partner violence (Canada's Chief Public Health Officer, 2016, p. 16).

This research report reflects the gendered reality of FV, particularly the most serious forms of coercive controlling violence and murder. Throughout this report we will use the word "woman" or "she/her" to refer to the person who is being subjected to abuse

[1] For greater discussion on screening for child abuse, see Hoft & Haddad, 2017, which reviews several child abuse screening tools in use in the United States.

and the words “man” or “he/him/his” to refer to the person who is causing the abuse. We acknowledge that men can be survivors of abuse perpetrated by their female partners and that FV occurs in both lesbian and gay male relationships as well (Canada’s Chief Public Health Officer, 2016). If screening tools are to be used universally, they must be designed to work with people (women, men and those who situate themselves elsewhere on the gender identity continuum) in a variety of intimate partnerships and the language used should reflect this diversity.

It is important for FLPs to understand the different typologies of abuse and to know what typology/ies of abuse their client is dealing with so that they can identify appropriate legal remedies and processes that are suited to their client’s situation (Carey, 2011). Likewise, the tactics of abuse can vary from one relationship to another. Common tactics include: physical, sexual, emotional/psychological, social, verbal and financial abuse; but an abuser may also use the partner’s religion, race, ethnicity, age or other characteristics specific to her to intimidate and control her. Most abusers use multiple tactics over time and some of the most serious abuse -- with the longest-lasting effects on the survivor -- is not physical but psychological (Johnson & Dawson, 2011).

The power and control wheel (below), developed by the Duluth Abuse Intervention Program (Pence & Paymar, 2003), provides a helpful visual description of the various tactics of abuse (Domestic Abuse Intervention Programs, n.d).

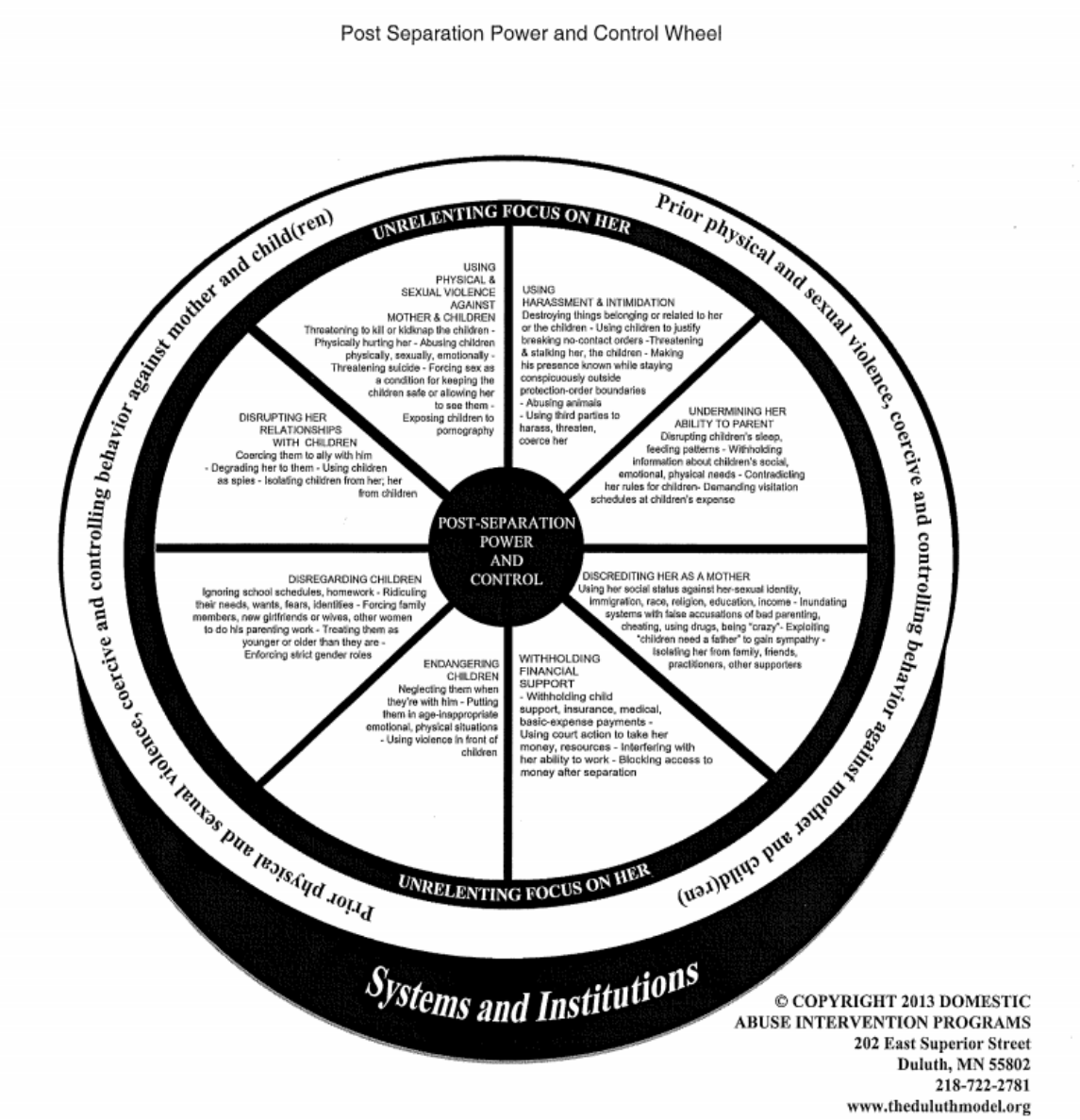
Power and Control Wheel, © Domestic Abuse Intervention Programs[2]

Anyone working with FV survivors, including FLPs, also needs to understand the reality of post-separation abuse (Ornstein & Rickne, 2013). This is important because not only does abuse not end at the point of separation; it often escalates (Zeoli, Rivera, Sullivan & Kubiak, 2013).

The 2016 Annual Report of Ontario's Domestic Violence Death Review Committee identifies, as it has in each previous report since 2003, actual or pending separation as the second highest risk factor for lethality, following closely behind the primary risk factor: a past history of domestic abuse (73%). Sixty-seven percent of the cases reviewed for the 2016 report involved a pending or recent separation (Office of the Chief Coroner Province of Ontario, 2017).

[2] A Power and Control Wheel for lesbian and gay people can be obtained from the website of the National Center on Domestic and Sexual Violence (www.ncdsv.org)

Post-separation abuse involves much more than risk of lethal harm, as the Duluth Abuse Intervention Program Post Separation Power and Control Wheel (below) illustrates (Domestic Abuse Intervention Programs, n.d).



Most abusers seek ways to reassert their power and control after their partner leaves them (Brownridge, 2006). Some believe they need to punish the woman for leaving. Others hope, on some level, that making life difficult for their former partner may drive her back to the relationship. The ex-partner's motivation(s) will shape the kind(s) of abuse he engages in. For instance, an abuser who wants to reassert power and control is likely to engage in coercive behaviours. An abuser who wants to punish his former

partner may be physically abusive. One who seeks to have his partner return may use financial abuse.

Further, specific tactics may change. Because the abuser no longer has access to his partner in the privacy of the home, he may not be able to engage in physical abuse as frequently as before. Instead, stalking and criminal harassment increase and threats become more common. The abuser may focus on the woman's workplace -- somewhere he knows he can find her (Showalter, 2016). He may begin to focus on the children and emotionally manipulate them to take his side (Fotheringham, Dunbar & Hensley, 2013; Zeoli, et al., 2013).

As noted in the work of the Interdisciplinary Research Centre on Family Violence and Violence Against Women at Universite Laval, abuse after separation can have a serious impact -- physical, psychological and financial -- on both the woman and her children (Dubé et al., 2008).

Battered Women's Support Services of Vancouver has explored the relationship between post-separation abuse and family court proceedings, noting a number of tactics an abuser might use to maintain his power and control over his former partner (Law, 2014).

Common legal bullying tactics include:

- Refusing to file court documents, filing documents late and filing incomplete or inaccurate documents, particularly with respect to financial information
- Self-representing when not necessary
- Bringing vexatious motions
- Refusing to follow court orders
- Delaying proceedings by seeking repeated adjournments or changing lawyers repeatedly
- Refusing to negotiate
- Drawing the children into the family law case
- Threatening and/or physically assaulting the woman during the family court process

(Abshoff & Lanthier, 2008; Bemiller, 2008; Coy, Scott, Tweedale, Perks, 2015; Martinson & Jackson, 2017).

The Role of Trauma

Judith Herman introduced the concept of ongoing trauma in situations of violence against women in her groundbreaking 1992 book, *Trauma and Recovery: the aftermath of violence from domestic abuse to political terror* (Herman, 1992). In the 25 years since, her work has been further developed and expanded upon by other researchers and by practitioners (Moulding, 2016; Wilson, Fauci, Goodman, Mcleigh, & Spaulding, 2015). Of particular note in Canada is the work of Dr. Lori Haskell, who is a clinical psychologist in private practice as well as an associate professor in the psychiatry department at the University of Toronto (see Haskell & Randall, 2009).

Many FV survivors experience ongoing trauma, which can have a significant impact on their ability to engage effectively with their family law case (Bemiller, 2008). They may be reluctant to share the fact of their past abuse, unable to concentrate, struggle to understand and retain legal information and concepts, and find it challenging to make decisions about important matters such as custody and financial issues. It is not uncommon for someone dealing with trauma to either under- or over-identify risk of harm. High levels of emotion can also present challenges for a family court litigant. Ongoing trauma can interfere with the person's ability to engage in effective negotiation, as is required when alternative dispute resolution processes, such as mediation, are used. This does not mean that these processes should not be used, just that attention needs to be paid to the impact of trauma.

As more is learned about trauma in cases of violence against women, many professionals have developed what has come to be called a "trauma-informed approach" to their practice (Learning Network, n.d.) Adopting Trauma-Informed Care (TIC) in the family violence context has involved reframing many essential practices engaged in by organizations/individuals working within the domestic violence sphere (e.g., empowerment, peer support) within a trauma-informed framework. It has also meant integrating new concepts (e.g., historical trauma) and approaches (e.g., psychoeducation) that attempt to support the trauma-related mental health needs of survivors (Wilson et al., 2015).

Relationship Between Family Violence and Family Court

Lawyers report that FV is an issue in 21.7% of their cases on average and judges say that it is an issue in 25.3% of the cases coming in front of them (Bertrand, Paetsch, Boyd, & Bala, 2016).

Because of its long-term impact, the prevalence of post-separation abuse and the trauma experienced by many survivors, FV must be understood and acknowledged throughout the family court process. In particular, coercive controlling violence needs to be identified. Whether or not violence within the family proves determinative to all of the legal issues at play, its presence will affect the parties, their children and others more peripheral to the situation (Araji, 2012).

Particularly when there are children, the court needs to know about violence within the family to make appropriate orders about child-related decision-making by the parents, where the children will live, how the parents will exchange and communicate about the children, and what supports may be necessary for the family (Cross, 2016; Zeoli et al., 2013).

Safety concerns, both present and future, cannot be addressed if the court does not know about past and ongoing abuse (Abshoff & Lanthier, 2008; Araji, 2012; Croll, 2015; Coy et al., 2015; Dalton, 2013).

Why Screening is Important for Family Law Practitioners

Many FV survivors do not readily disclose their history of abuse to anyone, particularly people they do not know, including lawyers (Bingham, Beldin, & Dendinger, 2014; Cattaneo, Stuewig, Goodman, Kaltman & Dutton, 2007).

A survivor may feel shame, be afraid she will not be believed or that there will be reprisals by the abuser, be in denial about the seriousness of the abuse, not realize it has any relevance to her family law case, still care about her partner or be afraid that disclosing abuse will lead to the involvement of child protection authorities (Cross, 2016).

The use of an appropriate screening tool can help create an atmosphere that feels safer for disclosure, particularly when the practitioner introduces the tool by explaining that

s/he uses it with all clients and that the client is free to answer the questions in any way that is comfortable for them (Decker et al., 2017).

Information collected using a screening tool can assist a FLP in many ways. S/he can identify safety concerns and refer the client to appropriate resources for safety planning. The lawyer can consider what abuse-specific legal options to present to the client and can implement a trauma-informed approach to working with the client. Knowing about abuse may affect what process the lawyer considers; in particular, whether it is mediation, other forms of dispute resolution, or litigation that is more appropriate.

If the tool identifies the client as a perpetrator of abuse, this information can also be very important to the lawyer in determining the appropriate course of action, advising the client with respect to their behaviour and, if necessary, putting safety mechanisms in place.[3]

Differences Between Risk Assessment and Screening Tools

Both risk assessment and screening are important components of a systemic response to FV; however, they are quite different from one another and should not be blurred into one entity. The analysis in this report is focused on screening tools.

Risk assessment is a (mostly) objective examination of both static factors (i.e., fixed and unchangeable, such as demographic information and childhood history) and dynamic factors (i.e., factors that can change and influence risk, such as substance abuse) that are present in a family violence situation to assist in determining what is likely to happen in the future. It has been defined as a decision-making process through which we gather information about people to determine the best course of action by estimating, identifying, qualifying, or quantifying risk (Nicholls, Pritchard, Reeves & Hilterman, 2013; Northcott, 2013). A comprehensive risk assessment will review factors related to both the perpetrator and the victim as well as external variables that may have an impact on the two people. Once key risk factors have been identified, a plan (often called a safety plan) can be developed to minimize the likelihood of further violence.

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[3] For example, the lawyer could advise the client not to engage in legal bullying, point out what actions could result in criminal charges, encourage the client to enter into counselling, help the client engage positively with the children and so on. With respect to safety, the lawyer may wish to put measures in place to protect her/himself as well as her/his staff in the event the client becomes aggressive or threatening.

The safety plan may seek to control certain behaviours of the abuser (e.g., conditions that he remain away from his partner/former partner) as well as containing steps the victim can take to protect herself from further violence by the abuser (e.g., changing the locks on the house). It may include a plan for what survivors will do during new acts of violence, a plan for leaving the relationship, for staying safe after exiting the relationship, and for keeping children safe (Sudderth, 2017).

There are many risk assessment tools in use in Canada at this time (see Millar, Code & Ha, 2013). Some are focused on lethality only; others look at recidivism on the part of the abuser; others are focused on general abuse and violence. Many, but not all, are used within the criminal law system. Some require professionals to receive formal training in how to use the tool. Likewise, there are many different approaches to safety planning.

Screening for FV is quite different. Screening is intended to allow the professional (e.g., a doctor, nurse, lawyer, or mediator) dealing with an individual (or, in the case of mediation, a former couple) to gather information to determine if there is a history of FV. As Todahl & Walters (2011) explain:

> IPV [intimate partner violence] universal screening and assessment, in particular, is a procedure that involves directly questioning -- in writing and orally -- every adult client, regardless of the presenting issue(s), about current and previous IPV victimization (p. 375).

This information can then be used by the professional to choose an appropriate response and course of action for the client as well as to make appropriate referrals to other services and supports.

In the mediation context, the identification of FV through the use of a screening tool allows the parties to consider and decide whether or not they wish to mediate, which is especially important for the person who has been the victim of the abuse. It also enables the mediator to craft an approach that will be safer and will level the playing field as much as possible by reducing any power imbalance between the two parties; or the mediator may, based on this information, decide that mediation is not appropriate (Davis, 2006). As well, the identification of FV through the use of a screening tool creates an opportunity for the professional to discuss safety planning with the survivor and to ensure she is aware of support services in the community (Ellis & Stuckless,

2006)[4]. The mediator can also use the findings from the screening to discuss counselling and other supports with the abuser.

By using a FVST in the family law context, a lawyer might learn that the client is being stalked after having left the abuser. The lawyer could then suggest that the client seek a restraining order or contact the police about possible criminal charges (Kerr & Jaffe, 1999). Depending on the nature of the FV that is identified, the lawyer may suggest that joint custody is not appropriate (Shaffer, 2004). Further, if the family is co-engaged with criminal, child protection and/or immigration proceedings, the information about FV gathered by the FLP through use of a screening tool can assist in those contexts as well (Mosher, 2015).[5]

[4] This article discusses safety planning incorporated into the DOVE risk assessment and management instrument in the context of mediation.

[5] This resource discusses experiences a client leaving an abusive relationship may have with other legal systems. See also Wong (1999) in relation to the immigration context.

Methodology

FVST Working Group

In order to draw on the expertise of a broad base of professionals, an *FVST Working Group* was assembled to support the research, analysis and development of recommendations. Members of the Working Group included lawyers, health care professionals, mediators, academics and violence against women advocates. This group collaborated with the research team to provide contextual knowledge and experience and to broker access to FVSTs previously or currently being used in practice. These members also provided feedback on the report. A list of the Working Group members appears in Appendix A.

Identification of Screening Tools

Following receipt of screening tools identified by the Department of Justice, we conducted an academic and grey literature search for additional FVSTs used in family law, mediation, legal aid, health care, violence against women, child welfare, domestic violence research, and other relevant sectors and settings. Key search terms (Figure 1) and relevant search parameters (Table 1) were developed to ensure a comprehensive review of available tools. Academic databases and search engines were selected to ensure coverage across disciplines and professions (e.g., PsycINFO, ProQuest, Medline, WestlawNext, Lexis Advance Quicklaw, Google, Google Scholar). A total of 86 screening tools were included in the analysis.[6]

Data sources for the identification of FVSTs included:

- Academic peer-reviewed literature (including development and psychometric evaluation of tools; empirical studies using a screening tool)
- Grey literature (including tools used by organizations such as law firms and governments; unpublished tools)
- Reference lists of published articles included in review
- Informational interviews with Working Group members

[6] The Relationship Behaviour Rating Scale (Beck et al., 2007) was not included in the analysis because the researchers were unable to access the copyrighted scale until after the analysis was completed. The RBRS asks parents to rate the frequency of 41 behaviours experienced in their relationship with the other parent in the past 12 months (e.g., resolved things peacefully with me, told me I was ugly, threw objects at me).

Figure 1. Academic and Grey Literature Search Terms

Table 1. FVST Search Parameters

FVST Search Parameters		
	Inclusion Criteria	**Exclusion Criteria**
Year	Published between 1985 and 2017	Published before 1985
Country	Canada, US, UK/Western Europe, Australia	Country other than Canada, US, UK/Western Europe, Australia
Language & Accessibility	Published in English and accessible/available	Published in language other than English or not accessible/available
Focus	The purpose of the tool is to screen for family violence (i.e., domestic or intimate partner violence against an adult)	The purpose of the tool is to screen for abuse outside of family context or intimate relationship; or only child/adolescent/elder abuse Tool is focused solely on risk assessment or safety planning

Analysis of Screening Tools and Literature

A mixed-method analysis of the screening tools and accompanying literature (when available) identified qualitative similarities and differences between the FVSTs (e.g., question order, format/style of tool) and quantitative differences (e.g., content frequency counts).

A research tool was developed to pull out the pertinent information from each screening tool in a systematic and consistent way. The research tool was set up in Microsoft Excel (Supplementary Document) and each FVST was recorded in a separate row. The tool included columns for:

1. Administrative information (document ID, coder ID)
2. FVST information (FVST name, authors, country affiliations)
3. FVST sector (family law, mediation, health care, VAW (violence against women), child welfare, unspecified, other)
4. FVST evaluation (was the tool statistically validated? (i.e., assessed for degree of validity and reliability); what the measures of statistical validation were used)
5. FVST administration (client-administered, practitioner-administered, either, unclear, other)
6. FVST content (total number of questions and what questions were asked)
7. FVST question format (multiple choice/checklist, yes/no, Likert-type scale (e.g., rating on 5-point scale from strongly disagree to strongly agree), open-ended, image, short answer, other)
8. FVST scoring and interpretation
9. Additional pertinent information not captured elsewhere in abstraction tool

Based the search parameters, 86 FVSTs were selected. Two of the authors (KM and SC) examined 43 tools each, pulling out relevant information.

For FVSTs that included in-depth protocols and frameworks (e.g., in-depth mediation protocols), only the questions specific to FV identification (including intimate partner violence and child abuse) were analyzed. Safety and risk assessment tools included as part of a larger protocol or framework were considered beyond the scope of the current research and the questions in these tools were not analyzed.[7]

Following the examination of the FVSTs, the specific screening questions pulled from each tool were analyzed. The purpose of this analysis was to examine the content of each FVST question to determine the type and range of questions being asked during screening. Forty-nine categories reflecting the different content of FVST questions were identified. These categories were created as the authors reviewed the questions taken

[7] For example, the Spousal Assault Risk Assessment Guide (SARA), the Ontario Domestic Assault Risk Assessment (ODARA) and the Campbell Danger Assessment were excluded because, although they are sometimes used as screening tools, they are risk assessment tools.

from each tool one at a time and developed new content categories (i.e., themes) as needed.

A content analysis was conducted on the FVST questions. This is a common research method for analyzing text data (Cavanagh, 1997; Hsieh & Shannon, 2005). It allows researchers to quantify and make meaning out of patterns in qualitative data, such as screening tool questions. Each FVST was coded for the presence or absence (0 = no, 1 = yes) of each content category. Examples of question content categories include:

- Police involvement
- Threats of harm to client or others
- Abuse or fear of abuse against children
- Physical abuse, psychological abuse
- Stalking behaviours
- Partner forbade/interfered with employment
- Denial of access to/control of money (see Supplementary Document, themes tab, for full list)

A total score (0 to 49) representing the number of question content categories represented in each tool was calculated. See Table 2 for a list of the most and least comprehensive FVSTs based on the total number of question content categories.

Frequency counts (i.e., number of times something occurs) and percentages were generated for additional information identified from the FVSTs, including country affiliation, sector, type of administration, question format, etc.

To supplement the analysis described above, the research team conducted 17 informational interviews[8] with FLPs (lawyers, judges, and mediators), violence against women experts, and healthcare researchers to assess awareness of and frequency of screening tool use by family law lawyers. Interviews were brief, ranging from 5-20 minutes, and asked practitioners to identify known FVSTs and to describe the process of FV screening used in their own practice, including if they use a tool and, if so, which tool and how it is administered, and at what point in the interaction they screen for FV. Non-legal practitioners (i.e., VAW experts and researchers) were asked more generally

[8] Informational interviews aim to discover first-hand information about an industry or organization (Plakhotnik, 2017).

about their familiarity with screening tools, what tools they were aware of, and who they knew these tools to be used by.

Findings

Family Violence Screening Tools Literature Review

Overview

This literature review outlines some of the most common and recommended practices related to FV[9] screening to inform the development of a FVST for FLPs in Canada. The literature reviewed includes the tools themselves and their accompanying research articles and/or administration instructions (if either was available). This review serves as a supplement to the screening tool analysis by summarizing key research findings and common organizational practices relevant to FV screening. This is not intended to be a comprehensive review of all relevant and available literature. For additional information on FVSTs see: Costa & Barros (2016); Haggerty, et al. (2011); Hussain, et al. (2015); Paterno & Draughon (2016); Rabin, Jennings, Campbell, & Bair-Merritt (2009).

Importantly, how a screening tool for family law lawyers is designed and implemented will be largely determined by the context as well as the purpose and goal(s) of the screening tool. For example, in health care settings (such as emergency departments), the purpose of FV screening is quite different from the purpose of FV screening in mediation. In health care settings, screening is often used to make a quick determination of abuse that will inform the plan of care, impact duty to report requirements (in cases of suspected child abuse) and affect the provision of referrals. In mediation, screening is primarily used to determine whether or not mediation is appropriate. These differences in the context and purpose of screening influence the optimal structure and design of the tools (e.g., length of tool, breadth and depth of questions, administration format). A screening tool for use in an emergency room, where patients have only a few minutes with the physician or nurse, will likely be much shorter than a screening tool used by a mediator who has significantly more time to spend with a client. Given this, an important preliminary step in developing a new FV screening tool for family law lawyers is to identify the specific context and objectives of the tool.

Background on FV Screening

There are a significant number of screening tools that have been created to identify FV. The majority of these tools were developed for research purposes and for screening in

[9] We are using the term *family violence (FV),* but this is commonly referred to in the literature as intimate partner violence (IPV) and domestic violence (DV).

health care settings. However, there are a number of FV screening tools and protocols/frameworks developed for the legal sector (e.g., Davis, Frederick & Ver Steegh, 2015), most of which have been developed specifically for mediation.

Research on FV screening in the context of family law and mediation has identified several limitations within existing FV screening tools (e.g., DOVE, Ellis & Stuckless, 2006; MASIC, Holtzworth-Munroe, Beck, & Applegate, 2010; Conflicts Tactics Scale-2 (CTS-2), Straus, Hamby, Boney-McCloy, & Sugarman, 1996; CAP, Girdner, 1990). Taken together, these limitations include:

- A focus on certain types of abuse, such as physical abuse
- Narrow definitions of what constitutes risk (both with respect to definition of risk and risk for victimization and perpetration)
- A failure to screen for coercive controlling behaviours
- A lack of behaviourally-specific questions (i.e., they assess subjective experience)
- Not being specific to separating couples
- A failure to address issues of comorbidity (e.g, substance abuse, mental illness) or contextual factors (e.g., lack of social support, religious significance)
- Not being designed for universal screening (i.e., not broad or inclusive enough)
- Not screening for both victims and perpetrators
- Requirement for intensive training (Beck, Menke, & Figuerdo, 2013; McIntosh, Wells, & Lee, 2016)

Similarly, in clinical contexts such as health care settings, FV screening tools have been critiqued for emphasizing severe physical violence without giving adequate attention to emotional abuse, sexual abuse, and less severe forms of physical maltreatment (Todahl & Walters, 2009).

Despite these limitations, the use of standard protocols for FV screening is recommended, particularly in the health care sector, by major medical associations and organizations (e.g., Canadian Nurses Association, US Department of Health and Human Services, American College of Nurse-Midwives, American Academic of Family Physicians, Family Violence Prevention Fund, among others). In fact, routine screening for FV by health care providers is legally mandated in some US states. For example, the California State screening law (Business and Professions Code 2091.2, Health & Safety Code sections 1233.5 and 1259.5) requires: i) doctors, nurses, and mental health professionals to document training in detection and treatment of domestic violence; and ii) licensed clinics and hospitals to have written policies and procedures for screening,

documentation and referral of domestic violence (Contra County Health Services, 1995; Stanford Medicine, 2018).

There is some literature on FV screening practices among law practitioners. A common research finding is that family law lawyers (as well as other legal personnel) do not tend to be knowledgeable about FV. This lack of awareness may result in women's experiences of FV being ignored in family law cases. This, in turn, can have negative effects for women and their children in determining custody, relocation, parenting time, distribution of assets, whether or not to participate in mediation or other forms of alternative dispute resolution, and the type of parent education that is needed (Araji, 2012; Abshoff and Lanthier, 2008; Bemiller, 2008; Davis et al., 2015; Laing, 2017). Screening every client for FV helps lawyers provide competent and effective representation (Chewter, 2003; Minnesota State Bar, 2013; Sussman & Carter, 2007).

Particularly relevant to family law, research consistently shows that post-separation is one of the most dangerous times for victims of FV (Brownridge, 2006; Campbell et al., 2009; Hardesty, 2002). This is recognized in some FV screening protocols and tools developed for a legal context (e.g., McIntosh et al., 2016; Minnesota State Bar, 2013; Sussman & Carter, 2007). In one study of the efficacy of FV screening in the child welfare sector, practitioners saw a 300% increase in the number of abused women identified during the intake process with the introduction of FV screening questions (Magen, Conroy, & Del Tufo, 1997). The authors of this study concluded that asking about FV clearly leads to clients disclosing FV.

Women are unlikely to voluntarily disclose abuse in health care settings, such as emergency departments or clinical therapeutic settings, unless asked directly (Sohal, Eldridge, & Felder, 2007). Chewter suggests that women who are subjected to abuse may be reluctant to disclose this to their family law lawyer unless asked directly (2003). Parker and McFarlane (1991) found that routine FV screening increases the probability of identifying FV when the screening is conducted privately and face-to-face. Reasons for women's reluctance to disclose abuse may include a belief that the violence is not relevant or they may feel unsafe about disclosing (Stith, Rosen, Barasch, & Wilson, 1991). The impacts of trauma may influence how much a woman initially discloses, her capacity to recall events, the consistency in the details of her disclosure, and her affect (Neilson, 2013). In addition, interpretation and application of family law and divorce legislation often appears to assume that shared parenting is always in the best interest of the child. Mothers may be discouraged from bringing up allegations of violence

because it can be interpreted by judges and lawyers as trying to limit fathers' access to their children (Dragiewicz, 2014).

In the legal sector, there is further evidence to support the use of screening measures for detection of FV in mediation. Ballard, et al. (2011) found that 66.7% of the mediation cases reported physical partner abuse on the behaviourally-specific screen (asked about specific behaviours indicative of abuse, such as "has the other partner ever hit or kicked you?") while mediators using the standard screening tool used by the clinic (which examined court records and asked about history of conflict and comfort with mediating) reported IPV in only 21.3% of the cases. While screening for FV is a secondary intervention for women experiencing abuse, it can also be considered a primary intervention because it creates a space for discussing and creating awareness about FV (Jory, 2004; McFarlane, Greenberg, Weltge, & Watson, 1995; Thurston, Tutty, & Eisener, 2004) and, as a result, may have positive, unintended consequences (e.g., women using the referral and resource information they received in the future or to help another woman) (Contra County Health Services, 1995; Sherman et al., 2017).[10]

Discussed in greater detail below, there exist a number of screening protocols that describe procedures for conducting FV screening in both the health care and legal sectors. These protocols provide pertinent instruction about how to think about and approach screening that goes beyond the mere provision of questions to ask a client. For example, the Domestic Abuse Committee of the Family Law Section of the Minnesota State Bar (2013) provides a list of tips for family law lawyers to "apply the lens of domestic violence to existing interviewing processes."

Research on FV screening consistently shows that practitioners (in the health, child welfare, and legal sectors) are concerned that asking questions about FV may be interpreted as intrusive or offensive. However, research on women's experiences being screened for FV shows that most women supported FV screening (Magen et al., 1997; Sethi, Watts, Zwi, Watson, McCarthy, 2004; Todahl & Walters, 2011) and reported feeling better able to protect themselves and their children as a result of being asked questions about their abuse experiences (Magen et al., 1997). A lack of knowledge about and comfort discussing FV and/or using a screening tool, as well as a lack of understanding about the importance of screening for FV, are commonly cited barriers to

[10] Primary interventions prevent family violence from occurring while secondary interventions address the needs of survivors.

routinely FV screening, particularly in the health care sector (e.g., Furbee et al., 1997; Sherman et al., 2017; Thurston et al., 2004).

The purpose of the information provided below is to inform the development of a screening tool for FLPs by highlighting key issues and important considerations found in the FV screening literature.

1. Purpose of the Screening Tool

Different screening tools provide practitioners with different types of information. While, by their nature, they universally seek to understand more about a client's history of FV, the specific purpose of the tools varies as a function of the types of information it solicits from a client. For example, tools developed for research and surveillance purposes (e.g., CTS-2, Straus et al., 1996; CAS, Hegarty et al., 1999; SES, Koss et al., 2007) were not developed specifically for use as clinical tools, although they are often used in clinical practice. Other tools, such as the HARK (Sohal et al., 2007), HITS (Sherin et al., 1998), AAS (Parker & McFarlane, 1991), OAS (Weiss et al., 2003), and DOVE (Ellis & Stuckless, 2006), among many others, were developed specifically for the purpose of identifying FV in individual patients/clients. As a result, the tools' questions and accompanying instructions and procedures may differ.

a) Existence of Abuse/Violence

Some tools, particularly those that are brief, typically seek to answer the question, "Is my client experiencing abuse by an intimate partner?" (e.g., AAS, Parker & McFarlane, 1991; HARK, Sohal et al., 2007; Intimate Justice Scale, Jory, 2004; Multi-Door Screen, Rossi et al., 2015). Other tools, particularly those that are in-depth and include open-ended questions, can answer additional questions such as: "Is the abuse current or in the past?", "How long has the abuse been happening?", "How often does the abuse occur?", "What specific types of abuse has my client experienced?", and "What are the impacts of the abuse?" (e.g., DOORS, McIntosh et al., 2016; HITS, Sherin et al., 1998; IPV-SAT, Todahl & Walters, 2005; all tools developed for mediation).

b) Context and Impact of Abuse/Violence

Some tools, such as the IPV-SAT (Todahl & Walters, 2009), include a multi-stage assessment that first screens for the existence of FV in the client's life (i.e., "Has my client experienced abuse?") and then engages in a more detailed assessment to determine if violence may be a factor. This assessment stage seeks to answer questions including: "What occurred or is occurring?", "When did this occur?", "What is the impact

of this behaviour?", and "Where does the violence fall on a continuum of coercion and control?"

The Battered Women's Justice Project (Davis et al., 2015) offers another example of a multi-stage screening assessment through a framework for identifying, understanding, and accounting for abuse, developed specifically for the family law/court context. Similar to Todahl and Walters (2009), the first step of the framework is to identify if abuse may be an issue in the case. Davis and colleagues argue that identifying abuse is an important first step, but that it is necessary to understand the nature and context of abuse in order to make informed decisions and action. In family law, understanding how the abuse is related to parenting, the wellbeing and safety of children, and the parent experiencing abuse is particularly important.

2. Screening Tool Structure and Form

a) Verbal or Written (i.e., practitioner versus self-administered)

Previous research has compared verbal format (i.e., practitioner-administered questions) to written formats (i.e., patient or client self-report measures), and in general, research on FV screening in the context of health care settings shows mixed findings on the efficacy of self-administered tools to detect FV (Decker et al., 2017; Sherman et al., 2017). For example, verbal screening resulted in higher disclosure rates among pregnant woman administered the AAS (29% compared to 7%) (Trabold, 2007). However, written self-administered screens have been shown to lead to fewer missing data than verbal (i.e, face-to-face) screens (MacMillan et al., 2006). MacMillan and colleagues (2006) also reported that the face-to-face approach was least preferred by clients in a health care setting compared to self-administered approaches, such as written or computer-administered. Studies have shown that patient self-administered or computerized screenings are as effective as clinician interviewing in terms of disclosure, comfort and time spent screening (Chen et al., 2007; Glass, Dearwater, & Campbell, 2001).

There does not appear to be any research studying the effectiveness of practitioner versus self-administered FV screening in a family law setting. However, of the screening tools and protocols included in this review that were developed specifically for use in the legal sector, many are practitioner-administered because they are integrated into the interview/intake process. The BC Family Justice Services Centre (BC Ministry of Justice, 2013) takes a hybrid approach whereby the intake/assessment process is facilitated by the Family Justice Counsellor but the client is responsible for completing

the assessment form, which includes questions about family dynamics and violence, prior to the intake meeting.

b) Length of Screening Tool

In general, single-question tools may not be adequate for identifying FV (Sohal et al., 2007). Abuse is complex and multi-dimensional, and a single question may not be sensitive enough to detect it. For example, if the question asks about physical violence but a woman has experienced emotional violence, her experience with abuse may not be detected by the tool. However, a balance must be struck between the length of the tool and its ability to effectively identify FV. Shorter screening tools (e.g., tools with few questions) may not capture a wide enough range of abusive behaviours to detect FV. While longer, more comprehensive tools may have greater validity, reliability and efficacy, they may also be less useful in time-constrained settings (e.g., Straus et al., 1996; Hinsliff-Smith & McGarry, 2017). As discussed above, the purpose of the tool will ultimately influence the length of the tool. Tools and protocols that seek to gain an in-depth and nuanced understanding of a client's abuse experience will ultimately be longer and more complex than tools that more simply seek to determine whether or not violence is a factor in a client's life.

c) Degree of Standardization

The extent to which FV screening tools and protocols are standardized varies. "Standardization" refers to the presence of uniform instructions and scoring procedures and the inclusion of statistical analysis that test the reliability and validity of the tool to adequately detect FV. Our review of screening tools and relevant literature suggests that FV screening protocols, which include screening questions but offer a more comprehensive approach, are more often found in the mediation and legal sectors compared to the health care sector and are typically less standardized than brief screening questionnaires. For example, the BC Family Justice Services Centre's protocol says that counsellors conducting the assessment (which includes but is not limited to FV screening):

> [W]ill rely on their professional judgement, analytical skills and critical thinking as well as observation of non-verbal cues. For example, it is possible that the client might answer in the low end of the scale on the family violence questions, but you detect a discomfort either through comments made or body language that makes you think otherwise. Naturally you are going to probe more deeply at this point (BC Ministry of Justice, 2013).

The Consumer Rights for Domestic Violence Survivors Initiative for Consumer Lawyers (Sussman & Carter, 2007) provides a list of possible screening questions, but reiterates that it is not intended to be a script and does not recommend asking all of the questions on the list. Rather, lawyers are encouraged to use their "interviewing acumen and judgement to determine how to inject these screening questions in [their] practice".

In contrast, FVSTs developed primarily for research purposes (e.g., CTS-2, Straus et al., 1996; CAS, Hegarty et al., 1999; SES, Koss et al., 2007) and brief screening tools typically used in health care settings (e.g., HARK, Sohal et al., 2007) typically include cut-off criteria to help practitioners categorize women as victims of FV. Cut-off criteria are most relevant for screening tools that are standardized and have been assessed for reliability and validity.

d) Gender-Neutral Language

There is some indication that gender-neutral language, such as "intimate partner violence" (IPV), is used during screening to ensure that individuals in non-heterosexual relationships do not feel marginalized during screening (e.g., Contra County Health Services, 1995). Some scales, such as the Intimate Justice Scale (Jory, 2004), intentionally use gender-neutral language to ensure that the tool can be appropriately used with same-sex couples. Of course, the use of gender-neutral language also allows the tool to be used with male victims of abuse in heterosexual relationships. The American Bar Association (n.d.) recommends that lawyers conducting FV screening have an awareness that, while women make up the majority of FV victims, men can also be victims and that FV can occur in all types of relationships.

e) Conceptualization of Family Violence

Research shows that behaviourally-specific, detailed screening tools with more items inquiring about different violent behaviours uncover higher rates of violence than broader screens with fewer items (Rossi et al., 2015). Behaviourally-specific items can be useful in educating clients about the behavioural aspects of abuse and may help them to reconceptualize their own experiences (Jory, 2004). Documenting specific behaviours may also be useful for police records or court proceedings (Jory, 2004). However, specific acts of physical violence do not exclusively define FV and do not identify patterns of abuse (Hegarty, Bush, & Sheehan, 2005). Furthermore, research on FV demonstrates that physical violence is often the least damaging to women and it is,

instead, the psychological abuse and coercive control that are most harmful (Hegarty et al., 2005).

While violence in intimate relationships may be mutual, there is overwhelming evidence that FV is a gendered phenomenon. Research suggests that, at least in a clinical setting, questioning women about their own aggressive behaviour (as is done with the CTS-2) or suggesting that the abuse may be mutual in any way may result in women remaining in violent situations (Jory & Anderson, 2000; Jory, 2004). There is currently little that is known about mutual violence in the context of family law (Kelly & Johnson, 2008) or the impact that questioning about mutual violence may have for women working with family law practitioners. From the practitioner's viewpoint, it has been suggested that there may be disagreement among clients about the degree of mutuality in the violence and that this must be taken into consideration when deciding on a course of action (Bickerdike, 2007).

3. Practitioners' Approach to Screening

a) The Importance of Attending to Context and Knowledge of Abuse Dynamics

Screening for FV is a more complex process than simply asking a list of questions. In the legal sector, it has been recommended that screening occur in the context of a conversation with the client (Minnesota State Bar, 2013; Sussman & Carter, 2007). A number of in-depth protocols for FV screening exist (within which the screening questions are included) that outline additional considerations for the screening process. For example, the Contra Costa County Health Services Department (1995) protocol includes a section on working with diverse populations that encourages physicians to consider, among other factors, issues of racial oppression, language barriers, family and community values, the role of shame, a woman's body language and her age, disability status, sexual orientation and history of substance abuse as factors in her experience of abuse and disclosure.

Failure to attend to contextual factors such as these or to develop a rapport with the patient/client may reduce screening efficacy by making women feel unsafe and unwilling to disclose (Contra County Health Services, 1995; Minnesota State Bar, 2013). Research conducted by the Transition House Association of Nova Scotia (2000) demonstrated that women frequently did not disclose abuse to mediators because they were uncomfortable.

The Domestic Abuse Committee of the Family Law Section of the Minnesota State Bar (2013) and the BC Family Justice Services Centre (BC Ministry of Justice, 2013) further

acknowledge the importance of attending to context when considering acts of violence within intimate relationships, including: i) the intent of the offender; ii) the meaning of the violence to the victim; and iii) the effect of the violence on the victim (from the research of Frederick and Tilley, 2001).

They also highlight the importance of considering other relevant factors including the "particulars of the incident, and how much violence, coercion, or intimidation accompanied the violent event" because this will influence the course of action for the lawyer and the case. Sussman and Carter (2007), in their screening protocol for consumer law lawyers, similarly suggest that "context is key" and lawyers must attend to their client's individual situation and social location (e.g., age, economic class, sexuality). Thus, it is necessary for practitioners, particularly in the legal sector, to have sufficient awareness and knowledge about FV in order to effectively carry out screening procedures. The importance of practitioner knowledge about abuse (e.g., different types of abuse including coercion, control, and emotional abuse) was demonstrated in a study on abuse screening among mediators undertaken in 2000 by the Transition House Association of Nova Scotia (THANS, 2000).

b) Framing Screening as Routine and Universal

In the health care sector, emphasis is placed on the routine and universal nature of FV screening. Many of the screening protocols and tools reviewed included an opening statement to inform women that FV screening was a routine measure carried out with all female patients (e.g., ACOG, 2012; Contra County Health Services, 1995).

c) Practitioners' Use of Language

The language used in screening tools is important. In the health care sector, the American College of Gynecologists (ACOG, 2012) recommends providers avoid questions that have the potential to be stigmatizing, such as "abuse," "rape," "battered," or "violence." The Minnesota State Bar (2013) similarly recommends to refrain from using the term "domestic violence" because clients may not identify with it. In a legal context, it is also important to avoid legal acronyms and jargon (Minnesota State Bar, 2013). Furthermore, the ACOG (2012) recommends the use of culturally relevant language.

d) Approaching Screening in a Direct, Sensitive, and Safe Way

The manner in which the topic of FV is approached and the screening questions are delivered is important. It has been recommended that screening be approached in a

straightforward, or “matter of fact,” way (King County, 2015). For example, the screening protocol outlined by the Contra County Health Services recommends that health care practitioners ask direct questions about FV in a non-threatening way and that they maintain direct eye contact when speaking to the patient about abuse (when culturally appropriate). It is further recommended by researchers and professional health organizations that providers approach screening in a way that does not convey judgement or disbelief in any way (ACOG, 2012; Furbee et al., 1999). Practitioners are also instructed to “encourage but do not badger” the patient/client to respond to screening questions, recognizing that victims of abuse will share their experiences in their own time and terms and that a level of trust and rapport must first be established (Contra County Health Services, 1995; Minnesota State Bar, 2013; Sussman & Carter, 2007).

In further recognition that women may not disclose FV in the first meeting or interview, several organizations recommend that service providers across different sectors screen women for FV periodically (e.g., ACOG, 2012; Davis et al., 2015; King County, 2015; Michigan Supreme Court, 2006; Minnesota State Bar, 2013; North Dakota Supreme Court, 2017). Additionally, women who have received services from the same agency in the past should be rescreened so that the practitioner has the most up-to-date and accurate information about the client’s situation (King County, 2015).

Some screening tools use a graduated approach to asking about violence. For example, the Domestic Violence Questionnaire (Magen et al., 1997) moves from asking questions about “normal” relationship conflict to questions about abusive behaviour. The Family Civil Intake Screen (Salem, Kulak, & Deutsch, 2007) begins with the most factual -- and therefore least likely to give rise to defensiveness -- questions (e.g., information about parties).

It has been recommended that practitioners ensure they are promoting “safe and informed disclosures of domestic abuse” (Davis et al., 2015). FLPs should explain the purpose of FV screening (i.e., why you are asking questions about abuse), how the information they provide will be used, who will have access to it, and how it may be used in the family court process (Davis et al., 2015). Similar recommendations have been made for FV screening in the health care context (e.g., Todahl & Walters, 2009).

4. Recommended Practices for Positive Screens

The literature points to three recommended practices following a positive screen: i) risk assessment and/or safety planning; ii) provision of resources and referrals; and iii) affirmation and validation.

If FV has been identified, much of the literature recommends that practitioners immediately assess the client's level of risk and/or develop a safety plan for her and her children (e.g., CDC, 2007; Futures without Violence, 2004).

Providing informational resources and referrals to relevant services, including domestic violence agencies and shelters, legal centres and mental health services, is a frequently recommended practice. Some agencies and organizations, such as Contra County Health Services (1995), recommend that health care providers offer to connect the woman directly with domestic violence services and, should she refuse, provide her with informational resources. Other organizations, such as the ACOG (2012), emphasize the importance of not forcing a woman to accept resources and referrals.

In addition to assessing risk, safety planning, and providing resources and referrals to women, some FVSTs recommend affirming and validating women's disclosures. For example, following a positive screen, the Conflict Assessment Protocol recommends that mediators use statements such as, "I know it has been difficult to talk about this. I am glad you were able to tell me, because now I am better able to help you" and "I want to say that this should not have happened to you and it is not your fault" (Girdner, 1999, p. 3). Relatedly, and somewhat unique to a legal context, the American Bar Association (n.d.) emphasizes the importance of having all of the pertinent information, so that lawyers are in the best position to effectively represent their clients and recommends that practitioners emphasize this during screening to encourage disclosure.

5. Developing a Screening Tool

A common practice in the literature reviewed was to develop a FVST in consultation with interprofessional experts, including local, national, and international practitioners, researchers, and consultants (Brief Inpatient Screen, Laurie et al., 2012; New South Wales Dept. of Health Survey, Ramdsen & Bonner, 2002; DOORS, McIntosh et al., 2016). FVSTs developed in the legal sector have also included specific consultation with family court lawyers, judges, and other legal professionals (e.g., Salem et al., 2007; Minnesota State Bar, 2003). Women with and without a history of abuse represent another group of key stakeholders that can be included in the process of developing

FVSTs (e.g., Relationship Chart, Wasson et al., 2000; New South Wales Dept. of Health Survey, Ramdsen & Bonner, 2002).

Piloting and evaluating a newly developed tool is important for ensuring an appropriate, reliable, valid and effective screening tool. For example, the tool developers for the Intimate Justice Scale (Jory, 2004) conducted an exploratory study with marriage and family therapists from which the screening questions were developed. The therapists then rated the items developed out of the interviews based on whether the item would be a good predictor of physical violence and/or psychological abuse, and whether the item would apply to all, some, or none of their clients.

Analysis of Screening Tools

Summary of Screening Tools

Eighty-six (86) FVSTs were examined. Given the large number of tools reviewed, the tool statistics and content are best summarized by the research tool that was created to track and analyze tools. See Supplementary Document.

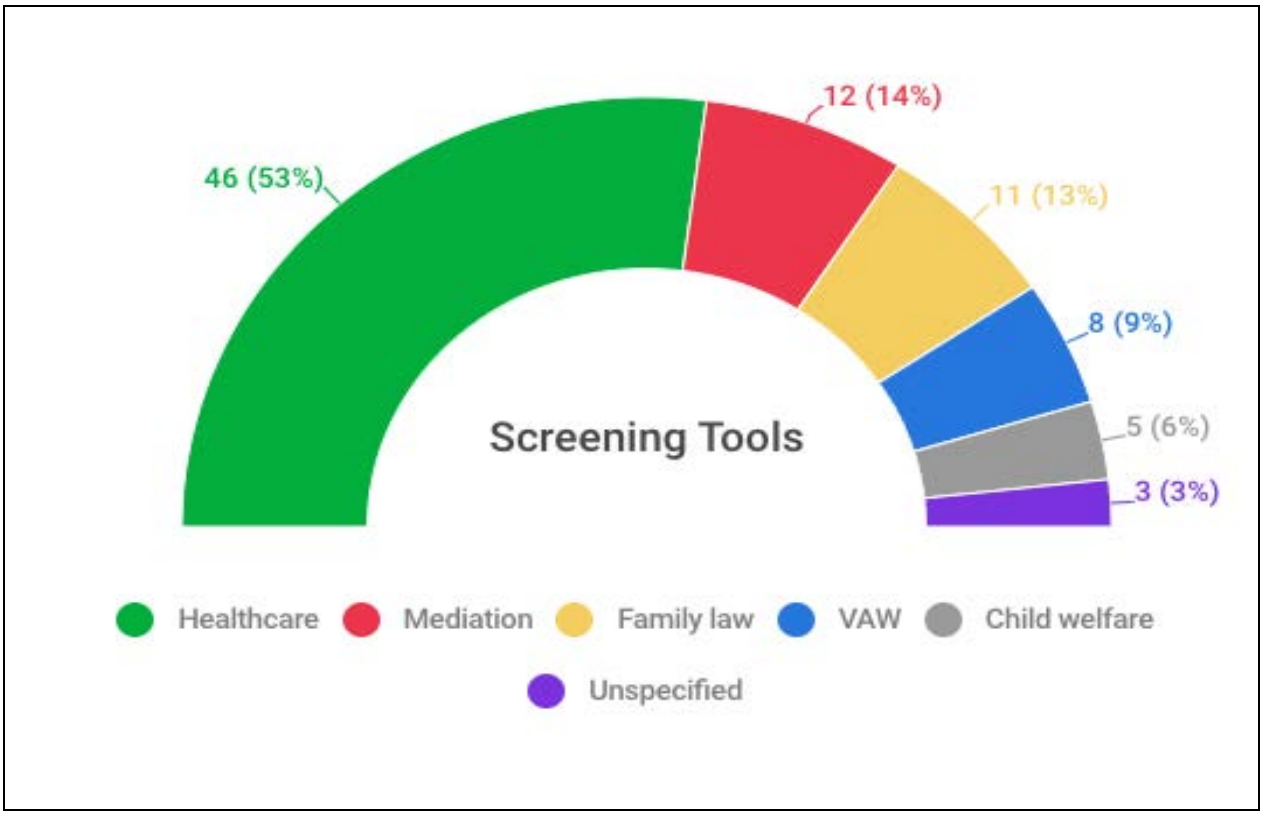
Use of FVSTs across Sectors and Settings

More than half of the FVSTs included in this review were developed for use in the health care sector (Figure 2). Approximately one-quarter of the tools were developed for use in family law and mediation; the remaining tools were developed for use in other sectors and settings.

Fifty-three (62%) of the tools are intended to be administered by the practitioner, 26 (30%) are intended to be self-administered, and four (5%) can be either practitioner- or self-administered.

There is an average of 11 questions per tool, with some containing 70 or more and some as few as one. Frequency counts for the number of questions in each tool were limited to primary questions that would be asked of everyone being screened, regardless of FV history or disclosure. Follow-up questions (i.e., those asked only if the client responded affirmatively to a previous question and therefore not necessarily asked of everyone being screened) were not included in the final count and therefore the total number of questions refers to the minimum number of questions that a client/patient could be asked specific to FV.

Figure 2. Number of FVST tools developed for use by sector

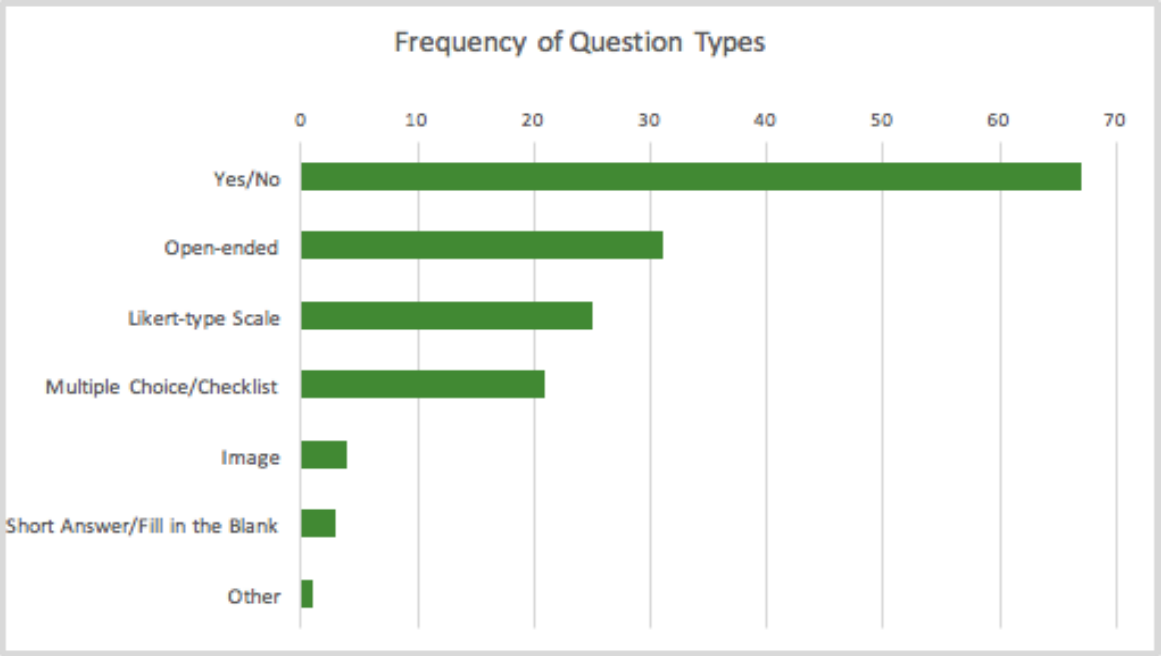


Note: VAW (violence against women) includes screening tools developed for identifying and assessing FV in practice (e.g., in clinical settings such as shelters and VAW support services) and measuring FV for research purposes.

Question Type

Across all tools, the most common format for asking screening questions was to use yes/no questions (67 tools, 78%). The next most common format was to use open-ended questions (31 tools, 36%) and Likert-type rating scales (e.g., strongly disagree, disagree, neither agree nor disagree, agree, strongly agree) (25 tools, 29%). Most tools included multiple question types, ranging from one to five different question types. Tools used by mediators and, less commonly, lawyers most often used a combination of yes/no and open-ended questions.

Figure 3. Frequency of Question Type

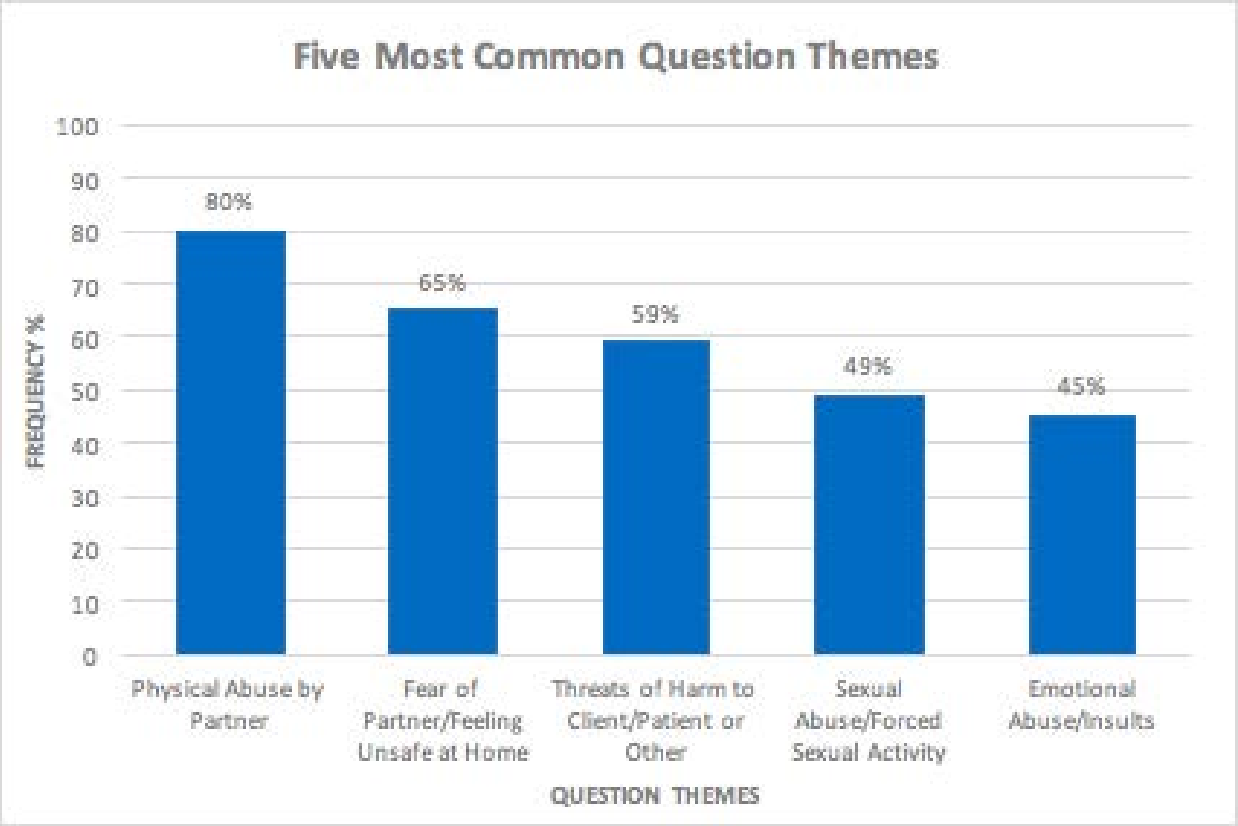


Note: The total count exceeds 86 because tools could be represented in multiple question type categories if they included more than one question type (e.g., a FVST that includes both yes/no and open-ended questions would be included twice).

Question Content and Phrasing

Based on all of the tools reviewed, 49 question categories were identified across the 86 tools. The five most common question themes (out of 49) related to physical abuse, fear of the partner, threats of harm, sexual abuse, and emotional abuse. Figure 4 illustrates these five common themes. The most common question phrasing for each theme is listed below.

Figure 4. Most Common Question Types



1. Physical Abuse by Partner (80% of tools)

The majority of tools inquire about physical abuse by giving approximately three examples of physical abuse and asking whether or not they have occurred. The most commonly used examples are: “hit, kick, hurt, push, or slap,” with “hit” being the most commonly used example.

Of the 69 tools that contained questions relating directly to physical abuse, 61 (88%) of those tools asked behaviourally-specific questions. Fifteen tools specifically referenced acts of strangulation/choking (17% of all tools, 22% of tools referencing physical abuse). Non-fatal strangulation or choking is a form of physical violence and a risk factor that can predict serious future violence or homicide (Douglas & Fitzgerald, 2014). The Nursing Research Consortium on Violence Against Women altered the Abuse Assessment Screen (AAS) in 2007 to screen for this form of violence (Laughon, Renker, Glass, & Parker, 2008). While research does not reveal any studies on how this change improved or otherwise affected the tool’s sensitivity, Laughton and colleagues (2008)

note that the addition of the word “choke” to a screening tool does not increase the length of the tool by any significant amount, nor should it decrease a tool’s usefulness.

> *Common Question Phrasing*: Has *[someone/your partner/the other parent etc.]* hit, kicked, hurt, pushed or slapped you?

2. Fear of Partner/Feeling Unsafe at Home (65% of tools)

Fifty-six of the analyzed tools ask whether the interviewee is afraid of their partner. The majority ask this question as: “Do you ever feel afraid of [your partner/someone in your life/insert name etc.]?” or in a slightly varied form. Another common format is: “Do you feel safe at home/in your relationship?” A few of these tools (nine tools) expanded the question to ask about fears for the safety of children, typically phrasing this question as: “Do you have any concerns for your children’s safety?”

A third common format asks whether or not the other person causes the interviewee to worry about their safety or has done something or said something which had this effect. The DV Screening Tool for Consumer Lawyers, for example, asks, “Has your partner ever acted in ways that scare you?” (Sussman & Carter, 2007). These questions ask the interviewee for a reference point for their fear, when perhaps the cause for their fear cannot be reduced to particular statements and/or actions.

Stark (2007) points out that “violence in abusive relationships is ongoing rather than episodic, that its effects are cumulative rather than incident specific” (p. 12). Stark (2007) references a national survey conducted in Finland which found that fear was most prominent with women whose partners had not been physically violent for many years, but who experienced abuse in the form of coercive control and mental torment.

Questions that ask if there were specific actions that inspired fear may not capture fear that is grounded in a pattern of behaviours including multiple tactics of abuse over time. First, there may not be a pinpoint action that contributes to the sense of fear. Second, there may be concern that the fear would seem disproportionate to a third party in relation to the specific actions which can be referenced without an understanding of these other patterns. It is possible that the more general phrasing of simply asking, “Are you afraid of [insert name]?”, will better capture situations where the fear is inspired by nonviolent patterns of coercive and controlling behaviours.

> *Common Question Phrasing*: Do you ever feel afraid of *[your partner/someone in your life/insert name etc.]*?

3. Threats of Harm to Client/Patient or Others (59% of tools)

Threat-based questions focus primarily on threats of harm directed towards the interviewee and/or their children. Fifty-one of the analyzed tools contain questions touching on this theme. Threat-based questions that did not fall within this specific theme captured threats to take the children and/or threats relating to the interviewee's immigration status. These types of threat-based questions were significantly less common in the analyzed tools. Approximately 17% of all tools contain questions relating to threats to take the children[11] and only 1% of all tools referenced immigration-related threats.[12] A history of threats to take the children (Araji, 2012; Bemiller, 2008; Coy et al., 2015) is more relevant in the family law context, however, given the need to arrange safe access schedules.

The majority of questions related to threats of harm focus on threats against the interviewee rather than against the children. Once again, it may be more important to inquire about threats against the children in the context of a separation, as an abuser may use children as substitutes for control after separation (Araji, 2012; Bemiller, 2008; Coy et al., 2015; Hayes, 2017). A history of using the children in this way could indicate that a former partner will engage in future tactics of control involving the children throughout the family court proceedings and in the resulting custody and access arrangement.

While most questions contain the generic phrasing, "threatened you", or "threatened to harm/hurt you", some contain specific references to a weapon (i.e., "threatened you with a weapon") and to homicidal threats.

> *Common Question Phrasing*: Has *[insert name/your partner/the other party etc.]* ever threatened *[you/to harm you/to hurt you/to kill you]*?

4. Sexual Abuse/Forced Sexual Activity (49% of tools)

Forty-two of the tools directly reference some form of forced sexual activity. This focus on force is not consistent with Canada's sexual assault laws, which are focused on

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[11] This figure includes tools that questioned about threats to abduct the children and tools that had questions asking about threats of lost custody. The greatest proportion of tools did not distinguish between these forms of threats, but simply asked, "Has *[insert name/the other party]* threatened to take or have the children taken away from you?", or something similar to this.

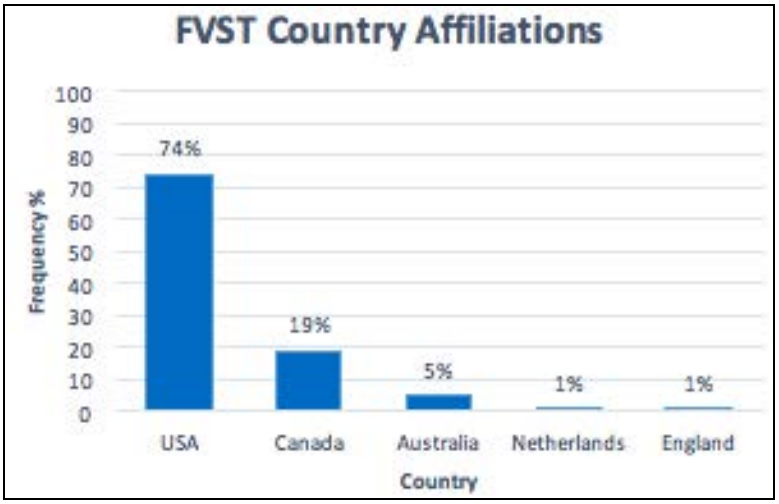
[12] The only tool containing a question that specifically asks about threats relating to immigration status is the Mediation Screening Tool authored by the Nova Scotia Supreme Court (Chewter, 2003). This tool asks, "Has the other party ever taken your passport or threatened to have you deported, or ever used your family's immigration status to intimidate or control you?"

consent.[13] It is of note that 74% of the tools were developed in the United States, while 19% were developed in Canada (see Figure 5).

Few of the screening tools reference the use of threats to coerce sexual activity.[14] The Conflict Tactics Scale-Revised (Straus et al., 1999) is one tool which does ask whether threats were used to coerce sex and whether sex was insisted upon without the use of physical force. Other tools, such as the Initial Domestic Abuse Screening Guide from the Battered Women's Project (Davis et al., 2015) and the Abusive Behavior Inventory (Shepard & Campbell, 1992), use the word "pressured" rather than "forced". This wording may better capture instances of sexual abuse where physical force was not applied but the interviewee was not subjectively consenting to the sexual contact. While the word "forced" as it is used in the tools may well be read to capture instances of non-physical coercion, its typical affiliation with physical force may cause the interviewee to respond negatively even where sexual abuse has occurred.

> *Common Question Phrasing*: Has *[insert name/your partner]* ever forced you to have *[sex/sexual activities]* that *[you did not want/you were not comfortable with]*?

Figure 5. FVST Country Affiliations



[13] The *actus reus* of sexual assault is defined in Canadian law as touching of a sexual nature absent consent. Consent is defined in Canada's *Criminal Code* in s. 273.1(1), as the voluntary agreement to engage in the sexual activity in question (*Criminal Code*, 1985)

[14] S. 273.1(1) of the *Criminal Code* describes the conditions which will prevent consent from being called voluntary through its reference to s. 265(3) (*Criminal Code*, 1985). The application of force is only one of the listed conditions. Consent also is not voluntary where threats are made of the application of force or there is fear of the application of force to the complainant or to another person (*Criminal Code*, 1985).

5. Emotional Abuse / Insults (45% of tools)

Questions were included in this category when they either referenced emotional abuse directly, i.e., “Has your partner ever abused you emotionally?” or asked the interviewee if their partner engaged in activities that “put them down” in some way. Most tools inquired about emotional abuse by asking whether the interviewee’s partner ever put them down or called them names. For example, the Partner Abuse Assessment Questionnaire (New Brunswick Dept of Justice, 2011) includes a question that asks: “Did you or your partner call each other names or swear at each other?” If the client responds affirmatively, the tool recommends additional follow-up questions. To illustrate a question that asks about emotional abuse more broadly, the OAS (Weiss et al., 2003) asks, “Are you presently emotionally or physically abused by your partner or someone important to you?”

Emotional abuse of this form is often tied to the presence of fear, which enhances the abuser’s power and control over their partner. Emotional abuse itself refers to a very broad category, including various activities beyond the commonly listed: “put them down or called them names.” Faver and Strand (2007) define emotional abuse as including a number of “verbal and behavioral tactics directed toward the aim of achieving and maintaining dominance, or power and control, over the victim”. Affirmative answers to the questions of, “Are you afraid of your partner”, and even, “Has your partner ever harmed/threatened to harm your pets?” are also, then, indicative of emotional abuse. For this reason, Faver and Strand (2007) recommend including questions relating to pet abuse as a part of the screening process to detect emotional abuse. Of the tools that subdivided questions into abuse categories, the MASIC (Holtzworth-Munroe et al., 2010) listed pet-related questions as a form of coercive control, the Duluth Power and Control Wheel (Domestic Abuse Intervention Programs, n.d.) captured harm to pets under “intimidation”, and the Interview Guide from the Battered Women’s Justice Project (Davis et al., 2015) listed “harm to pets” as a form of emotional abuse. No tool listed “harm to *animals*” as a tactic of emotional abuse, likely because of a focus on companion animals.

While the tools typically used the word “pets,” “harm to animals” is a broader category than “harm to pets,” and questions inquiring about harm to animals may capture patterns of abuse that, for instance, are economic in nature. Asking about “harm to animals” can include livestock animals that are used to generate income and service animals trained to provide assistance in addition to companion animals that are more

associated with the term “pets”. Harm to service animals may have an additional physical and/or isolating impact on the interviewee compared to companion pets.

Including questions broad enough to capture harm to livestock (phrasing it as “harm to animals”) may be important in the family law context because these animals are assets whose value must be divided at the time of separation. If the abuser continues to harm the animals after separation or if the animal abuse escalates, this could affect the income the interviewee is able to receive from the sale of livestock if/when they are sold (Saskatchewan SPCA & STOPS to Violence, 2006). Also, broadening the question to include threats to animals captures instances where the animals were not actually harmed, but were used by the abuser to coerce and exert control over the interviewee (Newberry, 2017).

Common Question Phrasing:

1. Has *[insert name/your partner]* ever put you down or called you names?
2. Has *[insert name/your partner]* ever damaged/destroyed or harmed/hurt things that you cared about, including your pets?

Summary of Most Common Question Phrasing across 5 Most Common Themes

1. Has *[someone/your partner/the other parent etc.]* hit, kicked, hurt, pushed or slapped you? (Physical)
2. Do you ever feel afraid of *[your partner/insert name etc.]*? (Fear)
3. Has *[insert name/the person who hurt you/your partner/the other party etc.]* ever threatened *[you/to harm you/to hurt you/to kill you]*? (Threats of Harm)
4. Has *[insert name/your partner]* ever forced you to have *[sex/sexual activities]* that *[you did not want/you were not comfortable with]*? (Sexual)
5. Has *[insert name/your partner]* ever put you down or called you names? (Emotional)
6. Has *[insert name/your partner]* ever damaged/destroyed or harmed/hurt things that you cared about, including your pets? (Emotional - Pets)

FVST Comprehensiveness

The FVSTs vary with respect to their degree of comprehensiveness. “Comprehensiveness” refers to the number of question themes covered by each tool. For example, a tool that included questions about physical violence, emotional violence, and sexual violence is considered more comprehensive than a tool that includes

questions about physical violence only. Table 2 lists the most and least comprehensive FVSTs included in the analysis.

Table 2. Most and Least Comprehensive FVSTs

Tool Name	No. of Question Themes (out of a possible 49)
Most Comprehensive	
Mediator Assessment of Safety Issues and Concerns (MASIC, Holtzworth-Munroe et al., 2010)	32 (65%)
Partner Abuse Assessment Questionnaire (New Brunswick Dept of Justice, 2011)	28 (57%)
North Dakota Mediator Domestic Violence Screening Tool and Safety Planning (North Dakota Supreme Court, 2017)	22 (45%)
Minnesota State Bar Client Screening to Identify Domestic Violence Victimization (Minnesota State Bar, 2013)	21 (43%)
Battered Women's Justice Project (Davis et al., 2015)	20 (41%)
Least Comprehensive	
Simple Domestic Violence Screen (Siemieniuk, Krentz, Gish, & Gill, 2010)	1 (2%)
Partner Violence Screen (Feldhaus et al., 1997) Functional Health Tool (Sherman et al., 2017) Two-Question Screening Tool (McFarlane et al., 1995)	2 (4%)
Jellinek Inventory (Kraanen et al., 2013) Women's Experiences of Battering (WEB, Smith, Earp, & DeVellis, 1995) Bartlett Regional Hospital DV Assessment (Bartlett Regional Hospital, n.d.) Slapped, Things, Threatened (STaT, Paranjape & Liebschutz, 2003) Minnesota Tool (Family Violence Prevention Fund, 2003) Victimization Assessment Tool (Hoff & Rosenbaum, 1994) Relationship Chart (Wasson et al., 2000)	3 (6%)

Note: Percentages were calculated based on a possible total of 49 categories and refer to the percentage of categories represented in the tool.

Generally, FVSTs developed specifically for mediation and family law contexts were more comprehensive (i.e., covered a broader range of question themes) than FVSTs developed for brief screening in health care settings. Rossi and colleagues (2015) compared the detection rates of the MASIC (the most comprehensive tool in our analysis) with the Multi-Door Screen (one of the less comprehensive tools in our analysis with only five question themes represented) and found that the MASIC, which assessed forms of abuse such as a coercive control and stalking not covered by the Multi-Door Screen, detected significantly more cases of abuse.

While Table 2 identifies the tools that were the least comprehensive, this does not mean these tools are ineffective. The Domestic Violence Evaluation (DOVE, Ellis & Stuckless, 2006)[15] closes the screening process by asking the open-ended question: "Is there anything you wish to add?", which could lead to a number of disclosures even though this question does not fall within any of our established themes.

Less comprehensive tools may also be constructed anticipating that certain answers will result in further follow-up. Twenty-two (26%) of the tools examined either directly provided suggested follow-up questions or referenced a need for further follow-up if the main questions detected an abuse history. Follow-up questions (often separate from the main screening questions) were frequently meant to assess the level of risk. Some tools, such as the Jellinek Inventory for Assessing IPV (Kraanen et al., 2013) and the Mediator In-Person Screening Protocol (Michigan Supreme Court, 2006), that did not provide the risk assessment questions, still referenced separate risk assessment tools that could be used as a follow-up to the detection of violence. Many tools that did not reference a follow-up assessment still referenced procedural steps when a screening is positive.

Frequency of FVST Use Among Practitioners

A common finding from the literature reviewed was that FVSTs are underused by FLPs and in health care sectors (Davis & Harsh, 2001), whereas they are part of the mediation accreditation standards across the country.

[15] This tool covers 10 (or 20%) of the Question Themes.

For example, Part 3 of the Regulations to British Columbia's *Family Law Act* (2012) sets out training that mediators must take to become accredited, which includes a component that covers identification and assessment of family violence and power dynamics. In Ontario, the standards set by the Ontario Association of Family Mediation require mediators to screen all clients for any occurrences of abuse and/or power imbalances (Ontario Association of Family Mediation, 2013). Elsewhere, Family Mediation Canada (2018) sets the standards for training and accreditation for family mediators.

In a study of family law practices in Canada conducted by the Department of Justice (Bertrand et al., 2016), almost 70% of lawyers and 47% of judges reported *often* or *almost always* screening clients for FV. Two percent of lawyers and almost 10% of judges reported that they *never* screened for FV. Of those lawyers who reported screening, over half (53%) reported *never* using a standardized screening tool, 25% reported that they *rarely* used a standardized tool, and only 13% reported *often* or *almost always* using a standardized tool. The Department of Justice will be conducting this survey again in 2018.

A recent literature review (Costa & Barros, 2016) reported the most frequently used FVSTs were the CTS-2 (Straus et al., 1999), Abuse Assessment Screen (Parker & McFarlane, 1991), and the WHO Violence Against Women Questionnaire (Ellsberg et al., 2008). Other commonly used tools in their review included in our analysis were the Sexual Experiences Survey (SES, Koss et al., 2007), Composite Abuse Scale (CAS, Hegarty et al., 2005), Partner Violence Screen (PVS, Feldhaus et al., 1997), Severity of Violence Against Women (Marshall, 1992), Women's Experience with Battering (WEB, Smith et al., 1995), and the Hurt, Insult, Threat, Scream (HITS, Sherin et al., 1998).

The FVST analysis conducted for the current study did not identify information about the frequency of use of specific FVSTs. However, informational interview data corroborated the findings from the literature that FVSTs are largely underused by family law lawyers. Future research could further examine frequency of FVST use by surveying family law lawyers.

Assessment and Scoring Procedures for Determining the Presence of FV

An important component of FVSTs is the set of procedural steps practitioners use to make a determination as to the presence of FV. This determination will ultimately inform service provision, including the decision to terminate services (such as in the case of meditation) or the need to report the abuse to authorities (as is the case when

child abuse is detected). The FVSTs analyzed revealed a range of assessment and scoring procedures (see Figure 6). These assessment/scoring procedures can be grouped into two broad categories:

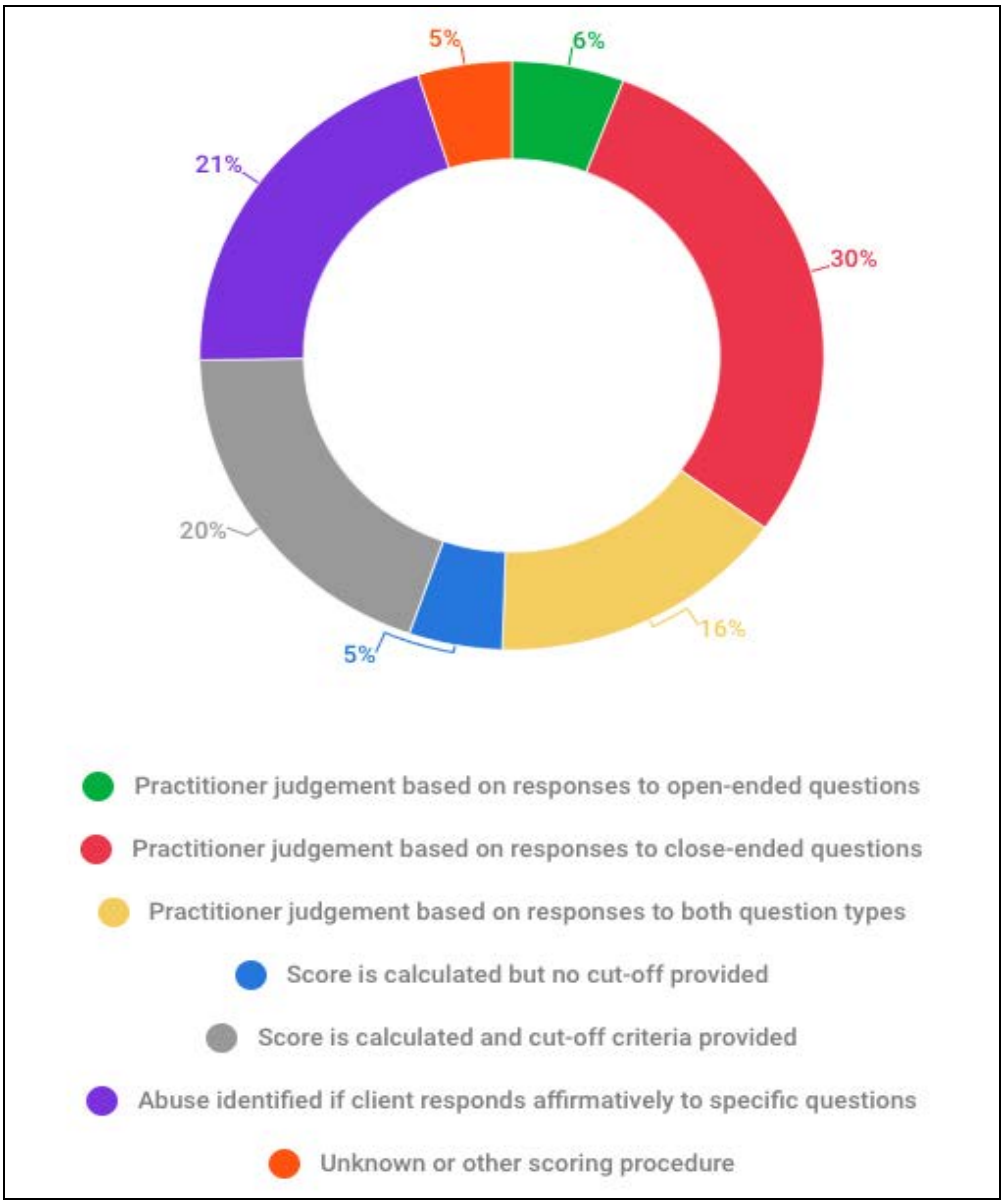
1. Determination of abuse based on practitioner judgement (52% of tools)
2. Determination of abuse based on standardized scoring procedures (46% of tools)

Seven different assessment/scoring procedures for determining a positive screen for FV were identified:

1. Practitioner judgement based on open-ended questions
2. Practitioner judgement based on close-ended questions
3. Practitioner judgement based on open- and close-ended questions
4. Calculated total score, but no cut-off/threshold score provided (and thus the practitioner must determine its meaning)
5. Calculated total and assessed against cut-off/threshold score
6. Affirmative answer(s) to specific question(s)
7. Unknown or other scoring procedures

The three most common assessment/scoring procedures are discussed in detail below.

Figure 6. Percentage of Assessment/Scoring Procedures for FVSTs



1. Practitioner judgement based on open-ended questions (30%)

Across all FVSTs, the most common assessment/scoring procedure was for practitioners to make a determination of FV based on client responses to closed-ended questions, such as, “Have you been hit, kicked, punched, or otherwise hurt by someone within the past year?” or “Have the police ever been called to your home because of an argument?” Unlike the Danger Assessment instrument designed to assess the likelihood of lethality or attempted lethality in a case of intimate partner violence (Campbell,

Webster, & Glass, 2009), there is no quantitative value or scoring associated with answering these FVST questions, nor are there guidelines for which questions are considered most important or should be given greater weight in making a determination of FV. The implied assumption is that practitioners will use the information from the screening tool to make an informed decision about the presence or absence of FV for any given client.

2. Client responds affirmatively to a specific question or set of questions (21%)

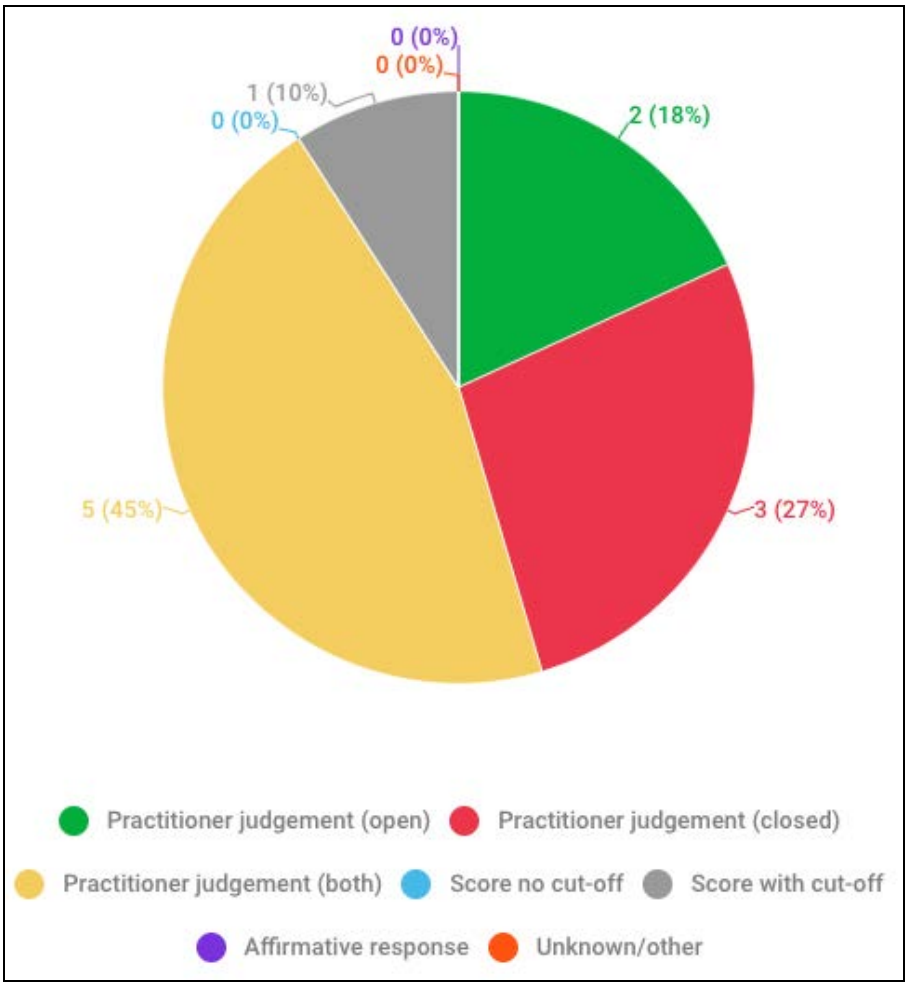
The second most common procedure for assessing the presence of abuse was to conclude that there is FV if the client responds affirmatively to a specific question or set of questions. For example, the Ongoing Abuse Screen (OAS, Weiss et al., 2003) is a brief 4-question screen that asks yes/no questions about physical abuse, sexual abuse, and fear of partner. If clients respond affirmatively to *any* of the 4 questions, the screen for FV is considered positive.

3. Client's score reaches cut-off threshold (20%)

The third most common assessment/scoring procedure was to score the screening tool and make a positive determination of abuse if the client's score reaches a specified cut-off threshold. For example, one of the most common FVSTs used in the health care sector, the HITS (Sherin et al., 1998), uses 4 questions measured on a 5-point scale from never to frequently. A positive screen is any score of six or higher (out of a possible 20).

The type of assessment/scoring procedure most commonly used differed by sector. FVSTs developed for family law contexts used practitioner judgement procedures. Ninety percent of the family law FVSTs used relied on practitioner judgement to make a determination of FV (see Figure 7).

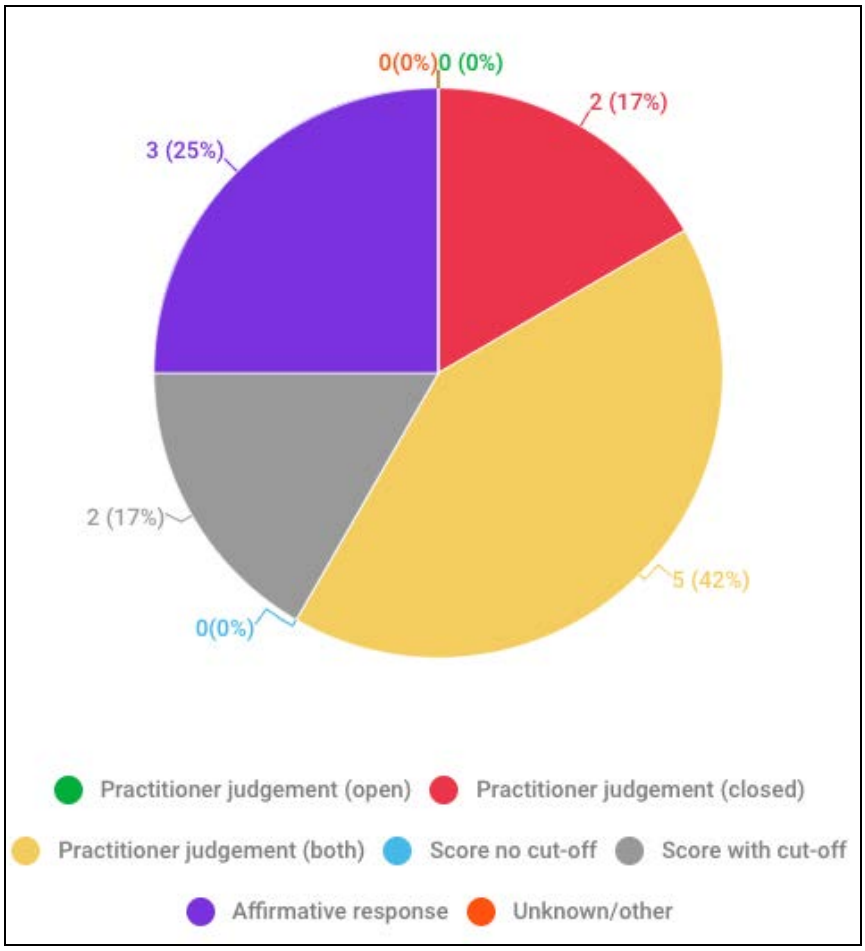
Figure 7. Assessment/Scoring Procedures Used in Family Law FVSTs



Similarly, 60% of the FVSTs designed for mediation used practitioner judgement (see Figure 8). Family law and mediation FVSTs typically did not include scoring instructions or cut-off scores to make a determination of abuse. Rather, practitioners are expected to make a determination based on the client's responses to a series of questions about abuse against the client, the children, history of police involvement, and so on.

In contrast, FVSTs in the health care sector included both practitioner-judgement and more standardized scoring procedures. Among the health care sector FVSTs analyzed, 41% relied on practitioner-judgement to make a determination of FV. Of these tools, 16 out of 19 were based on patient responses to close-ended questions. Over half of the health care sector tools (54%) used a more standardized scoring procedure. Of these tools, 15 out of 25 would result in a positive screen for violence if the patient responded in the affirmative to a specific question or set of questions.

Figure 8. Assessment/Scoring Procedures Used in Mediation FVSTs



Positive Screen Follow-up Procedures

Once a practitioner determines that FV is present, it is important that s/he use this information both to inform her/his practice (such as the decision of whether to modify or terminate mediation) and to provide appropriate support to women (and their children) experiencing abuse.

Approximately 60 of the analyzed tools (68%) mentioned the need for follow up post-screening or outlined some kind of follow-up procedure.[16] Often these procedures involved referrals to agencies specializing in domestic violence cases (e.g., domestic violence centres, shelters), which would themselves conduct further questioning or would engage in the risk assessment. These follow-up procedures may explain, to some extent, why some tools were not comprehensive according to our review process and

[16] Follow up procedure was broadly defined. This number is an approximation because a tool may be accompanied by procedures for encountering a positive screen, but these procedures are built into the institution and were not written down on the formatted tool.

why these tools did not themselves list any risk-assessment follow-up questions. In fact, the WEB (Smith et al., 1995) and STaT (Paranjape & Liebschutz, 2003) tools were the only ones identified as "least comprehensive" in Table 2 for which the researchers could not locate follow-up questions or procedure suggestions.[17]

Some organizations have developed internal follow-up tools to supplement the screening tool. These are often designed for risk assessment and/or safety planning. There are also reporting/documentation tools and protocols. For example, the New York City Children's Services Domestic Violence Screening for Parents, which includes a number of checklist questions, includes the instructions:

> If domestic violence is present or suspected, conduct the Assessment for Identified Survivor of DV and follow with safety planning and/or other action steps. Once this is completed, review the Assessment and safety plan with your Supervisor and/or DV Specialist and after determining that it is safe to do so, conduct the Assessment for Identified Abusive Partner (n.d., p.3).

Other tools did not list particular procedures to put in place but referenced the need for each institution to establish the appropriate protocols for what should happen when a client screens positive for domestic violence (Furbee et al., 1998).

FVSTs developed for mediation typically included instructions for mediators and family law practitioners to terminate mediation or to recommend against mediation when FV is identified (e.g., Michigan Supreme Court, 2006; New Brunswick Department of Justice, 2011; North Dakota Supreme Court, 2018; see Rossi et al., 2015 for overview of research on mediation and FV). The Michigan Supreme Court's (2006) *Domestic Violence and Child Abuse/Neglect Screening for Domestic Relations Mediation* protocol clearly outlines the concern behind these instructions:

> Mediation presumes that participants can maintain a balance of power with the help of a mediator in order to reach a mutually satisfactory resolution of a dispute. When domestic violence is present among parties in a dispute, the abuser's desire to maintain power and control over the victim is inconsistent with the method and objective of mediation. Fear of the abuser may prevent the victim from asserting needs, and the occasion of mediation may give abusers

[17] It is possible that these procedures typically accompany the tools in practice but were not written down along with the main screening questions or that these components simply did not accompany the copies that we had and abstracted from.

access to victims, which exposes the victim, the children, and the mediator to a risk of violence (Michigan Supreme Court, 2006, p. 1).

Recommended FV Screening Practices

As part of our analysis, we reviewed each FVST and accompanying article (if available) for FV screening practices recommended or endorsed by the FVST developers/authors (i.e., included in the instructions for practitioners using the tool). See Table 3 for recommended practices for practitioner expertise, FVST administration, and post-screening practices.

Table 3. Recommended FV Screening Practices Among Analyzed FVSTs

Category	Practice	No. of Organizations/Authors who Endorsed/Included Practice in Tool
Practitioner Expertise	Practitioners should receive training on specific tool and/or FV more broadly	12 (14%) Examples: ● DOORS (McIntosh et al., 2016) ● ALPHA (Midmer, 2005) ● Mediator In-Person Screening Protocol (Michigan Supreme Court, 2014) ● Family Civil Intake Screen (Salem et al., 2007)
	Practitioners should recognize/understand the dynamics of abuse	2 (2%) ● In Person Screening Tool (Maryland Judiciary, 2005) ● Partner Abuse Assessment Questionnaire (New Brunswick Dept of Justice, 2011)
Admin-istration	Screening should be administered in private, confidential setting and/or the practitioner should create safe setting	33 (38%) Examples: ● AAS (Parker & McFarlane, 1991) ● New South Wales Department Health Survey (Ramdsen & Bonner, 2002) ● DV & Child Maltreatment

		Coordinated Response Guidelines (King County, 2015)
	Screening should be administered in person/Screening should not be completed over the phone	6 (7%) Examples: ● DV Screening Tool (Illinois Department of Human Services, 2005) ● Mediator In-Person Screening Protocol (Michigan Supreme Court, 2014) ● In Person Screening Tool (Maryland Judiciary, 2005)
	Practitioner should inform client that screening is voluntary	8 (9%) Examples: ● 9-Question DV Screening Tool (Furbee et al., 1998) ● IPV-SAT (Todahl & Walters, 2009) ● DCIPFV Screening Tool (Rivers et al., 2007)
	Practitioner/client should not skip any questions	2 (2%) ● Oregon DV Screen for Mediators (Oregon Parenting Time, 2014) ● Office of the Children's Lawyer Intake Form (Ontario Ministry of the Attorney General, 2016)
	Practitioner should demonstrate cultural awareness (e.g., use appropriate language, be aware of cultural values, use interpreter)	7 (8%) Examples: ● DV Initiative Screening Questions (Webster et al., 2004) ● DV Screening Tool (Contra County Health Services, 1995) ● DOORS (McIntosh et al., 2016)
	Practitioner should administer screening as	16 (19%) Examples:

	part of routine health history or initial interview/intake process	● Brief Inpatient Screen (Laurie et al., 2012) ● Tool for Attorneys to Screen for DV (American Bar Association, n.d.) ● Client Intake Form (BC Ministry of Justice, n.d.)
	Practitioner should provide preamble to screening that informs client that FV screening is universal and routine	20 (23%) Examples: ● AMA Screening Questions (American Medical Association, 1992) ● Landau DV Screening Interview (Landau, n.d.) ● RUCS (Middlesex-London Health Unit, 2000)
	Practitioner/screening tool provides definition of FV/DV/IPV	1 (1%) ● Intake Screening Questionnaire (Magen et al., 1995)
Post-Screening Practices	Following positive screen, practitioners should affirm and validate the client's experiences (e.g., acknowledge this is difficult, thank her for sharing, acknowledge this is not her fault)	12 (14%) Examples: ● CAP (Girdner, 1990) ● Suggested Assessment Questions (Family Violence Prevention Fund, 2002) ● Client Screening to Identify DV Victimization (Minnesota State Bar, 2013)
	Following positive screen, practitioner should assess client risk/safety (e.g., complete a safety plan)	30 (35%) Examples: ● 2-Question Screening Tool (McFarlane et al., 1995) ● DV Screening for Parents (NYC Children's Services, n.d.) ● DOVE (Ellis & Stuckless, 2006)
	Practitioners should	42 (49%)

	offer resources and/or provide referrals	Examples: ● Falmouth Pediatric Associated Violence Handout (Parkinson et al., 2001) ● OAS (Weiss et al., 2003) ● Mediation Screening Tool (Chewter, 2003)
	Practitioners should respect a client's choice to refuse disclosure	3 (3%) ● RUCS (Middlesex-London Health Unit, 2000) ● IPV-SAT (Todahl & Walters, 2009) ● DV Screening Tool for Consumer Lawyers (Sussman & Carter, 2013)

Note: The results presented in the above table are intended to highlight broad themes for recommended practices rather than report the results of a systematic review/analysis. The totals for each category were calculated based on the literature reviewed and the information about the tool that was available to the researchers; as a result, there may be tools that were omitted from a particular category.

Informational Interviews

As described earlier in this report, the research team conducted 17 informational interviews. Information gathered through these interviews was largely consistent with the findings from the literature review and from analyzing the tools: that while screening is common for both mediators and health care providers, it is ad hoc and less common among FLPs. Interviews also revealed that when women's shelters screen for FV, it is largely to assist in the process of safety planning with women. See Appendix B for overview of participant sectors.

Few of the lawyers interviewed indicated that they use a formal screening tool. Rather, they tended to rely on the presence of "red flags" and the ongoing development of a relationship with a client to identify opportunities to open a discussion about violence and abuse.

Interviews further revealed that not all lawyers screen every client. Four of the interviewed lawyers indicated that they do and three that they do not. Mediators, including lawyers who conduct mediation, screen every client.

Both mediators and lawyers indicated that screening happens throughout their relationship with a client and that it is an ongoing process.

Three lawyers said they would use a standardized tool if one existed, four lawyers said they might and one lawyer responded “no” to this question. Those who were unsure and the lawyer who responded “no” indicated they were concerned that using a tool might lead them to miss signs of abuse not identified by the tool.

The interviews produced a number of suggestions as to what features would make a screening tool helpful:

- Short
- Structured
- Plain language
- Avoid triggering language like “family violence”
- Open-ended and suggestive rather than yes/no questions
- Oral, conversational, narrative
- Include categories of abuse
- Addresses cyber stalking and harassment
- Easy to use
- Includes a way to score responses

Many of those interviewed felt strongly that training is extremely important; perhaps even more important than the precise construction of the tool that is used.

Discussion

Practice Setting

FVST Content

The majority of the analyzed tools were developed for use in the health care sector. This practice setting may influence the overall structure of the tools and the prevalence of certain questions in the tools that were analyzed. For example, only 14 tools (16%) contained questions relating to relationship decision-making. None of these tools originated from the health care sector (they were primarily from the family law and mediation sectors). Relationship decision-making may be more relevant in the family law context where the framework for making decisions that relate to children of the relationship must be established. This points to the influence of context and setting on the content of FVSTs. Because the relationship decision-making question was not prevalent, this theme does not appear in the provided list of common questions despite its relevance for family law.

Another factor affecting content has to do with the period of time during which the services of a FLP are sought. Family law lawyers are met with at the time of separation, when research indicates that abusive behaviours tend to escalate (Ellis, 2016; Zeoli et al., 2013). The screening tool must reflect the possibility that some abusive activities may amplify in their severity in the near future. Beyond this, separation also represents an opportunity to determine the remedies to be sought, both legally and by way of appropriate referrals to supportive service networks. The practitioner's choices in both these regards have to be informed by an adequate understanding of the interviewee's experiences.

Only 20% of the tools reviewed asked the interviewee whether their partner engaged in stalking behaviours or in other ways invaded their privacy. However, stalking and other forms of harassment commonly occur following the termination of an abusive relationship (Edwards & Gidycz, 2014; Showalter, 2016) and can be an indication that more serious violence could soon occur. "Victims of stalking can experience serious psychological harm that can have long-lasting effects and limit their daily activities" (Statistics Canada, 2018, p. 5). Given this, any new or previous stalking behaviours are important for practitioners to consider when determining the legal course of action (i.e., whether to seek a restraining order).

Seventeen percent of the reviewed tools asked whether the interviewee's partner had ever taken or threatened to take their children.[18] While these questions did not appear very frequently in the tools, the threats may previously have been used to coerce the interviewee to stay with the abusive partner, i.e., a threat to take the children if the interviewee ever left them. This information is important to the family law lawyer given that separation has now occurred, because legal options may be available to help prevent child abduction from occurring, and because it indicates the willingness of the abuser to use the children to engage in indirect abuse towards the interviewee (which is relevant to custody and access matters).

Though this paper has differentiated between screening and risk assessment, questions should be included in the screening tool that assess for the risk of child abduction. Neilson (2017) notes that prevention is important because of the expense and uncertainty associated with trying to obtain the return of children who have been abducted. Screening tools should inquire about a history of abduction/threats of abduction as a form of abuse, but perhaps could also include a sub-list of risk-assessment questions to be asked if the interviewee responds affirmatively to the primary questions on abduction. A list of risk-assessment questions is available in Neilson's *Responding to Domestic Violence in Family Law, Civil Protection & Child Protection Cases* (2017, Chapter 16.6.2). Where the screen and risk assessment indicate a probability of abduction, legal options include bringing an emergency motion for sole custody (noting that the threshold for an "emergency" is high), requesting an order that the abuser hand over the children's passports and other identity documents, and/or requesting an order that the abuser not remove the children from the jurisdiction (non-removal order).[19]

While including these questions in a FVST can provide valuable information to the FLP, these insights can only be gained if the practitioner adequately understands the dynamics of abuse. Practitioners should receive training on the topic of family violence so that they are able to recognize the implications of these historical patterns.

Common Phrasing of Questions Referenced Above

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[18] See footnote 1. Some tools explicitly referenced kidnapping (the Mediation Screening Tool and the Measure of Wife Abuse), while others referred to threats of lost custody (the Illinois DV Screening Tool). The Abuse Behavior Inventory specifically asked about both forms of "taking"; but the greatest proportion of tools used the word "take" without specifying whether this was a reference to abduction or lost custody. This broader form of question can capture both types of threats.

[19] This is not an exhaustive list of legal options.

1. When you look back over time, how were decisions made in your *[marriage/relationship]*?
2. Has *[insert name/the other party]* ever followed you, made repeated phone calls to you, or examined your phone records?[20]
3. Has *[the other party/your partner]* ever threatened to take or have your children taken away from you or threatened to never let you see them again?

FVST Structure

Research has identified a common operational concern among health care providers to be the lack of follow-up visits after an initial meeting during which screening was conducted (Williams, Halstead, Salani, & Koermer, 2016). This may be less of an issue in the lawyer-client relationship where more frequent interactions take place throughout the duration of the case if the lawyer is retained for its entirety. This could allow the initial screen to be relatively short (particularly compared with the outliers to the mean in the analyzed tools that had 70 questions or more), given the lawyer will have opportunities to conduct additional screening as the relationship progresses and trust is built. These lawyers may not wish to use a tool that takes a significant amount of time to administer whether their fee is being paid by a legal aid service or directly by the client.

Given that the lawyers will meet the interviewee at the time of separation, the screening tool's structure and administration should also take into account the effects of trauma and fear on the interviewee's willingness to disclose. These effects may drive the legal issues that the client chooses to share with the lawyer, which can then create tension with a screening tool that seeks to direct the conversation along particular lines.

Training is necessary so that FLPs can effectively administer FVSTs in a way that takes into account those factors that are particularly relevant to the family law context.

Training on the effects of trauma generally, and the particular impact of trauma on demeanour and disclosure patterns, should be a requirement along with training in methods for supporting and interviewing people experiencing the effects of trauma. If there is a history of physical abuse involving head injuries and potential brain trauma

[20] Most tools do not reference social media harassment as an example of stalking behaviour. The MASIC is the only analyzed tool to explicitly reference social media, asking whether there have been attempts "to contact you against your will or in a way that made you feel frightened or harassed, for example, by unsolicited written correspondence, phone calls, or other ways of communicating, like text messages, or on Facebook or MySpace"

(strangulation, struck on the head, head banged against walls/furniture), the interviewee's ability to convey information in a linear sequence may be affected. Family law practitioners should receive training in the effect of this form of trauma on disclosure patterns. This training is necessary to promote effective screening and will also improve the lawyer's ability to represent the abuse survivor and work with them in the subsequent family court proceedings (if proceedings are initiated).

Gaps in Existing Screening Tools and Approaches

FVSTs should reflect the diversity of the populations with which they are used.

FV occurs in all cultural groups (Htun & Weldon, 2012; Raj & Silverman, 2002; Vanderende, Yount, Dynes, & Sibley, 2012).[21] Asay, DeFrain, Metzger and Moyeret state that FV is a core social issue in every country around the world (Garcia-Moreno et al., 2006).

This report does not suggest that particular cultures are more tolerant of violence or condone violence (Neilson, 2017).[22] While all women experience many of the same or similar forms of violence, intimidation, isolation, and control by their abusive partners, some women may also experience discrimination and violence from society and face additional challenges in leaving an abusive relationship (Vanderende et al., 2012). As Pedersen, Malcoe, and Pulkingham (2013) explain, although women's experiences of violence cut across socioeconomic, racial, ethnic, and other cultural divides, social inequalities exist. They may be more vulnerable due to a lack of resources and options for leaving (Madden, Scott, Sholapur, & Bhandari, 2016). Furthermore, the abusive partner may use specific tactics and forms of abuse related to the particular cultural situation.

Research conducted by Wrangle and colleagues (2008) on screening among Spanish-speaking Latina women indicates that with this population, questions focusing on psychological and emotional abuse had a higher sensitivity than physical abuse questions. The authors note that:

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[21] For the purposes of this discussion, culture includes identities and social locations such as race, ethnicity, language, class, gender, gender identity, sexual orientation, age, ability/disability, mental health, immigration status, religion, family status and geographic location (Lockhart & Danis, 2010).

[22] This resource lists both assumptions as common and erroneous.

> [d]ifferences in perception of IPV, such as lower intolerance of certain forms of IPV, may result in a difference in screening efficacy for the same screening questions among ethnic groups (Wrangle et al., 2008).

To be effective, FVSTs need to reflect cultural realities and differences, and need to bring an intersectional understanding of the ways in which multiple forces can work together and interact to reinforce conditions of inequality and social exclusion (Murshid & Bowen, 2018). Tools for identifying FV in the histories of Indigenous women should be created "by experts in collaboration with elders and others who understand the applicable Indigenous cultures" (Neilson, 2017, 20.3.3).

Neilson notes that the effect of historical practices targeting Indigenous communities in Canada (such as residential schools) combines with the effect of exposure to violence where the relationship is abusive, resulting in high rates of trauma and post-traumatic stress disorder (2017). Additional barriers to disclosure can exist and are listed in Chapter 20.3.2 of *Responding to Domestic Violence in Family Law, Civil Protection & Child Protection Cases* (Neilson, 2017).

In spite of the necessity for cultural and regional sensitivity, the research team could not locate any tools that were specifically written to reflect the realities of Indigenous, rural, or other regional or cultural circumstances. The concern that questions should be tailored to the population was also expressed in the informational interviews conducted by the research team. We note the existence of the Alberta Council of Women's Shelters' risk assessment tool, which was developed with sensitivity to the experiences of First Nations women (Alberta Council of Women's Shelters, 2012).

Further research should be conducted on diverse cultural and regional considerations and how these considerations should impact the wording and format of FVSTs.

Emerging Realities

The face of family court is changing rapidly across Canada. Unrepresented parties have become the norm rather than the exception (Government of Canada, Department of Justice, n.d.).

In response, lawyers are increasingly offering unbundled legal services, where they accept a retainer from a client for specific legal issues rather than for the entire case (Murphy, Wilson, & Wong, 2012). Legal coaching is also emerging, with lawyers accepting a fee to provide behind-the-scenes, off-the-record guidance to litigants to

assist them in presenting their case effectively in court (Gershbain, 2017; National Self Represented Litigants Project, n.d.).

As of 2018, paralegals are permitted to provide some legal services in family court in Ontario (Robinson, 2017).

Any plans for introducing and promoting a universal FVST for FLPs will have to take these new realities into account to ensure that individuals who are not fully represented still encounter screening and have access to the supports that can flow from that.

Distinguishing FV Screening in Family Law from Screening in Other Sectors

There is much for the legal profession to learn from screening that occurs in both health care and mediation, since both these sectors have been engaged in screening (in some cases universal screening) for some time. There is no universal FV screening for FLPs, and it appears few lawyers engage in any formal process or use a formal tool.

However, there are also important differences between the purpose of screening in different professions and in the environment in which a screening tool can be used.

In the health care context, screening for FV can allow the practitioner to identify possible long-term health impacts that they might not otherwise have reasons to look for; it increases the likelihood that patterns of abuse over time can be tracked; it can, in the case of sexual abuse, ensure that proper testing for pregnancy, HIV/AIDS and STIs is done; it can assist the practitioner in making appropriate referrals for counselling and other support; and, it may even help to prevent more serious harm in the future. Regardless of the screening result, the practitioner will be providing services to the patient.

Another difference between family law and health care is that because most health care in Canada is funded by the government, the time it takes to screen is at no direct cost to the practitioner or the patient.

In the context of mediation, FV screening allows the mediator to assess the appropriateness of mediation for both parties (including whether or not mediation can be fair to both of them) and to consider any relevant safety factors. Furthermore, screening looks at the tactics of abuse, the longevity and intensity of abuse, the ways in which the two parties interact with one another, levels of fear experienced by abuse

survivors and the ability and willingness of both parties to participate fully and authentically in the mediation process.

In mediation, the same individual generally conducts the screening with both parties. The mediator may decline to provide mediation based on their conclusions post-screen and may make recommendations to the parties for alternative processes; or the parties (in particular, the abuse survivor) may decide against participating in mediation. The mediator may engage in some safety planning with the parties or may refer them to community resources for this and other support (i.e., counselling).

As noted previously in this report, screening has been an entrenched practice in professional mediation services for some time (in most parts of the country) with mediators required to use particular tools after completing mandatory training, and to engage in regular update training.

FLPs tend to engage in less formal screening. Some lawyers use tools that they have found or created themselves, but most rely on "gut instincts" or on voluntary disclosures to learn about violence their clients have experienced. Because few lawyers have had formal education or training on the topics of domestic violence and/or screening, they may miss important red flags, rely on inaccurate stereotypes about who is a victim of FV, not understand that many FV survivors do not self-disclose, be unfamiliar with how a survivor would present herself, and not know the appropriate language to use to solicit accurate responses about FV.

The family law setting is very different from both health care and mediation settings. Lawyers cannot expect to conduct lengthy screenings when their clients are working with limited funds or are receiving legal aid assistance. The lawyer will also be using the screening tool with their client only, so will not be able to hear alternative perspectives from the other party (unlike in mediation where the mediator assesses both parties).

The primary purpose of FV screening in the family law context is to enable the lawyer to identify related legal issues and provide effective legal advice/services to their client. Information gathered during screening will, in all likelihood, become part of the evidence that the lawyer needs to prepare pleadings and other court documents. The time needed to gather this information should be taken into account when legal aid services consider the provision of funding for a certain number of hours.

Screening should also allow lawyers to identify immediate and longer-term safety issues and to make appropriate referrals for their clients to community services that can assist them with safety planning and can provide other support in areas such as counselling and housing.

The Importance of Training

Screening tools should only be used by FLPs who have completed a standardized training.

This training, whether delivered in-person or online, should cover the following topics:

- The purposes of screening
- Appropriate language to use when talking about FV
- How to spot and analyze red flags for abuse
- Developing rapport/trust with new clients
- The importance of screening throughout the course of the case
- Risk assessment and safety planning
- FV and power imbalances
- Post-separation abuse and legal bullying
- Key safety concerns in FV cases
- Impact of FV on children
- Impact of trauma on client
- Cultural issues related to FV and family law/court processes
- Contextual factors to be aware of (e.g., client's body language; cultural, community or family values; language barriers; age; sexual orientation; gender identity; disability status; history of substance use; etc.)
- Importance of referring to community resources for survivors, perpetrators, and children
- Appropriate interviewing techniques with clients who have survived FV
- How to administer a FVST
- How to interpret the findings of a tool
- Recommended screening tools

Recommendations

1. Provincial and territorial law societies implement a requirement for universal FV screening for FLPs.

2. Screening be conducted using a standard two-step approach. A short tool should be used initially with all new clients to quickly identify FV red flags, followed by a longer tool to be used with clients if red flags have emerged during the initial screening or if the client has self-disclosed the presence of FV (See Appendix C for a list of proposed questions for the two tools).

3. The screening tool include a working definition of the term “family violence”.

4. The screening tool include basic information for the FLP about risk assessment and safety planning.

5. Further work be undertaken to develop culturally specific screening tools. In particular, unique tools should be developed for use with Indigenous, newcomer, and older clients as well as for clients with disabilities. These tools should be developed by, or in close collaboration with, those communities.

6. All family law practitioners receive training in how to administer and score FV screening tools, including training in the appropriate follow-up where they encounter a positive screen.

7. Training be provided for FLPs that is developed and delivered by FV experts who also have expertise in family law, that is free of cost to lawyers, and that provides CPD hours upon successful completion.

8. A pilot study be undertaken to test both training and screening tools in diverse regions and communities of Canada.

9. Provincial and territorial legal aid programs cover the cost of FV screening when they issue certificates, or in other ways provide financial assistance to family law clients.

10. Further funded research be undertaken to continue to enrich knowledge related to FVSTs in the family law context. This research should address, but not be limited to: screening for cases of mutual abuse; screening for child abuse in the family law context; the strengths and weakness of both practitioner- and self-administration of tools; cultural considerations, and the impact on wording and

format of screening tools; and, the effectiveness/impact of FV screening by FLPs.

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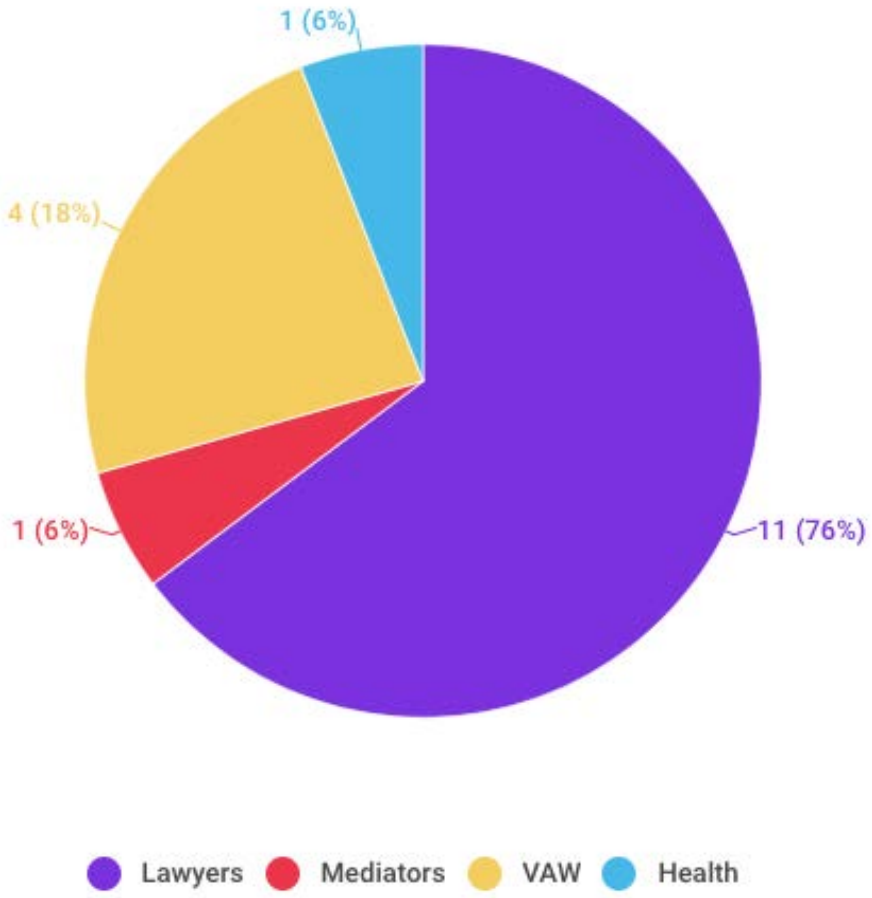
Appendix A

Informational Interview Subject Sectors



Appendix B

Recommended Screening Tool Questions

Initial Screening Tool

It is proposed that the initial screening tool be universally used by all lawyers with every new family law client unless the client has voluntarily disclosed abuse, in which case the practitioner would proceed to use the second screening tool.

The lawyer should introduce the tool by telling the client that s/he asks all new family law clients these questions and by reminding the client of solicitor/client privilege. This should help the client feel more comfortable answering the questions honestly. Comfort level can further be increased by administering the tool in a private setting that will feel safe to the client.

The lawyer should tell the client that answering the questions is voluntary, while also pointing out the value to the client of completing the tool (being able to address safety concerns, to gather information that may be helpful to the family law case and to find appropriate other resources). The client should be told that s/he can decline to answer any questions that s/he is uncomfortable responding to.

The initial screening tool should be conducted orally during the first appointment with the new client and should take approximately 10 minutes to administer.

Note: These are template questions, intended as the starting point for discussions towards creating a portfolio of screening tools that reflect the cultural realities of diverse communities.

To assist lawyers, both the initial and second screening tools can be further developed to include a list of responses to listen and watch for that would accompany each question. The Minnesota State Bar Family Law Section Domestic Abuse Committee Screening Tool is a model of how this could be done.

Proposed Questions

1. Have you ever felt afraid of your partner because of something they have said or done to you or to someone else? (If yes, can you give an example?)
2. Has your partner ever been physically aggressive with you? For example, have they choked, hit, kicked, punched or slapped you?

3. Has your partner ever threatened you or someone else in any way (for example, to hurt or kill you, to harm the children or take them away from you, to hurt other people you care about, to hurt or kill themselves, to hurt or kill pets or animals)? (If yes, can you give an example?)
4. Has your partner ever pressured you to have sex or had sex with you when you have said you don't want to? (If yes, can you give an example?)
5. Does your partner control how much money you have, tell you what you can spend money on or make all the decisions about money for your family?
6. Has your partner ever said or done anything to make you feel bad about yourself? For example, have they called you stupid, lazy, ugly or insulted you in other ways?

Second Screening Tool

The lawyer will use the second screening tool only when the first screening identifies red flags[23] or when the client has self-disclosed abuse.

This tool is not a script for the lawyer to recite. It is a discussion guide meant to assist the lawyer, who must also use her/his professional judgement, analytical skills, critical thinking skills and must observe the client's nonverbal cues to know which questions are the right ones to ask.

For example, if the client has indicated psychological abuse in the first screening, the lawyer should focus on questions related to that kind of abuse in the second screening, perhaps asking only one or two questions related to other categories or as many as seem necessary based on the client's previous responses.

The questions suggested in this report have been divided into categories that reflect common abuse tactics: coercive control, physical, threats, sexual, financial, and psychological.

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[23] Red flags are indicators, other than specific information provided directly by the client, that there may have been abuse in the relationship. For example, a lawyer should be watching and listening for information that the client's partner is unemployed, has or has had trouble with drug or alcohol use, or has had run ins with the law or other people. Even if the client denies the presence of abuse, if she indicates that she has left on more than one occasion in the past, or that she does not want her partner to know she has seen a lawyer, these are red flags that abuse ***may*** be an issue. Paying attention to the client's body language may also elicit other red flags (e.g., extreme submissiveness). Being able to identify and analyze red flags and body language correctly and in a culturally competent manner requires training, and these few suggestions cannot serve as a replacement for that.

Naturally, this second screen will take longer to complete, relative to the first one, because there are more questions that the lawyer should ask that are of a conversational nature, unlike the yes/no-type questions of the first screen. The lawyer needs to determine, based on what was identified in the first screen and the type of retainer, etc., how much time to spend using the second screening tool and which sections to focus on.

Proposed Questions

Part One: Coercive Control

1. If you are still living with your partner, is it safe for you to go home today?
2. If you are not still living with your partner, do you feel safe?
3. Do you feel comfortable when you are in the same space as your partner?
4. How did/do you and your partner make decisions?
5. Do you feel that you have meaningful input to decisions?
6. What happens if you don't agree on a decision?
7. More specifically, how do you and your partner make decisions related to the children?
8. What happens if your partner disagrees with something you say or do?
9. Do you hide things you do from your partner because you are afraid of how they will react?
10. Has your partner ever forced you to do something you did not want to do or that you knew was wrong? Tell me about a time this happened.
11. Has your partner ever damaged or destroyed anything that was important to you? Give me an example of this.
12. What impacts do you think your partner's treatment of you is having on your children?
13. Have child protection authorities ever been involved?

Part Two: Physical

1. Has your partner ever subjected you to the following:
    - choking
    - strangling
    - hitting
    - punching
    - kicking
    - pushing
    - scratching
    - pulling your hair

- holding you down
- confining you?

2. Have you ever had to see a doctor or go to the hospital because of your partner's physical abuse? Tell me about that.
3. Has your partner ever been charged because of physical abuse? What were they charged with? What happened in the criminal case?
4. Do you have any restraining orders or bail/probation conditions in place to keep your partner away from you? What are the terms of those orders?
5. Does your partner have access to firearms or other weapons? Tell me about that.
6. Has your partner ever threatened you with a weapon or used a weapon against you?
7. Have you ever called the police because of something your partner has done to you?

Part Three: Threats

1. If your partner has ever threatened to hurt you, what has the threat been? Did they carry it out?
2. What threats has your partner made about your children?
3. What kinds of threats has your partner made about your pets or animals?
4. If your partner has threatened to kill themself, have they ever attempted to carry out the threat or have you been concerned they might?
5. Has your partner ever threatened to call the child protection authority about you?
6. Has your partner ever threatened to hurt a friend or family member?
7. Are you frightened when your partner makes these kinds of threats?
8. If your family has a car, has your partner ever threatened to take away your keys or access to it?
9. Has your partner ever threatened to not let you leave the house?

Part Four: Sexual

1. Has your partner ever pressured you into having sex when you didn't want to?
2. How does your partner react when/if you say you do not want to have sex?
3. Has your partner ever pressured or forced you to do things sexually that you didn't want to do?
4. Has your partner ever forced you to practice unsafe sex/forced or not allowed you to use birth control or tampered with your birth control?
5. Has your partner ever forced you to terminate a pregnancy?
6. Has your partner ever not allowed you to terminate a pregnancy?

7. Has your partner ever intentionally infected you with HIV or an STI?
8. Has your partner ever coerced you into having sex in exchange for letting you do something you want to do (e.g., "I will let you go to visit your family if you have sex with me.")?
9. Has your partner ever forced you to watch or participate in pornography?
10. Has your partner ever forced you to have sex with other people for money or for their pleasure/entertainment?

Part Five: Financial

1. How do you and your partner make decisions about money?
2. What happens if you disagree?
3. Do you argue about money frequently?
4. Do you have access to a joint bank account?
5. Do you have your own bank account?
6. Do you feel like you understand your family's financial situation?
7. Has your partner ever forced you to work or forbidden you from working?
8. Where does your paycheque go?
9. Do you have access to money or does your partner give it to you?
10. Whose names are credit cards in?
11. Can you make decisions about spending money without your partner's permission?

Part Six: Psychological

1. Does your partner call you names or put you down? What are some examples of what s/he calls you?
2. Does your partner draw your children into name calling or putting you down?
3. Can you tell me about one time when they did this?
4. Do they threaten you or insult/put you down in front of your children? Other people?
5. How does it make you feel?
6. Does your partner control or prevent the contact you have with your family and/or friends?
7. Has your partner ever:
    - followed you
    - parked outside where you are and watched you
    - installed a GPS system on your car or mobile device
    - installed spyware on your computer, laptop, tablet or phone
    - installed hidden video cameras in your home

- examined your phone records/looked at your emails or text messages without your permission
- showed up unexpectedly when you are with family or friends
- texted you relentlessly
- telephoned you repeatedly in a short period of time
- sent or left you threatening or rude emails, text or phone messages
- used social media to threaten, intimidate or embarrass you?

8. Has your partner done any of these things since you separated?
9. Has your partner ever been charged with criminal harassment for any of this behaviour?
10. Is your partner jealous of other people in your life, such as coworkers, friends or neighbours?
11. Does your partner criticize your personal appearance (e.g., your weight, how you dress, how you do your hair, your makeup)?
12. Does your partner expect you to think and act like they want you to?
13. Is your partner dealing with any significant life stressors such as alcohol or drug dependency, job loss, mental health concerns or financial worries?