CONSIDERING AN ONLINE PRE-MEDIATION TOOL TO SCREEN FOR INTIMATE PARTNER VIOLENCE: FINDINGS & BLUEPRINT

Prepared by Resolution Systems Institute with support from the Family and Interpersonal Resilience and Safety Transformation (FIRST) Fund

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RESOLUTION SYSTEMS INSTITUTE
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PROJECT OVERVIEW

In October 2018, Resolution Systems Institute (RSI) received a planning grant from the Family and Interpersonal Resilience and Safety Transformation (FIRST) Fund to explore the development of an online or digital tool to assist mediators in screening for intimate partner violence (IPV) prior to mediation. This screening is essential to determining whether it is safe to bring parties together and to assessing whether each individual can exercise self-determination in the mediation. We set out to see how technology could assist mediators and improve outcomes for survivors. As the project evolved, our knowledge of current screening practices and the true needs of mediators deepened. Ultimately, we honed the scope of the project to answer the two following questions.

1. Is it a good idea to build a tool that would guide mediators through the pre-mediation screening process with a goal of expanding the frequency and quality of screening for intimate partner violence?

2. If it is a good idea, what would that tool look like? And how would one go about building it?

SUMMARY OF RESULTS

After months of research and expert consultation, we arrived at the conclusion that it would be a good idea to build a tool.

The tool would require certain critical features listed below.

- A concise, guided interview that would:
  - Provide the mediator with questions to ask and appropriate follow-up questions
  - Empower the mediator to have a conversation and build rapport with a party, rather than feel like a checklist
  - Explore a range of issues that could impact safety and self-determination in mediation, not just IPV, but additional factors such as mental health and substance abuse
  - Provide the mediator with a summary of the information they collected, which they could use to analyze the situation

- Educational materials for the mediator, such as:
  - Information on IPV
  - Resources to which the mediator can refer parties for IPV services
  - Information on how to adapt mediation to keep it physically safe
  - Information on how to adapt mediation to enable parties to exercise self-determination
Security that protects the content of the mediation screening, and the parties, particularly survivors

Developing the tool would take approximately 12-24 months, once full funding is obtained, and cost approximately $200,000.

THE PLANNING PROCESS

Our first step in this planning process was to conduct some initial background research on screening for intimate partner violence prior to mediation. From our experience in court-connected alternative dispute resolution, we had a fairly good sense of the landscape for IPV screening. We nonetheless wanted to dig deeper and conduct something of a literature review to explore what the prevailing thinking about screening is, and what tools already exist.

Our initial research (APPENDIX 1) looked into existing screening protocols, the critical risk factors such protocols should be identifying, the availability of educational resources for mediators on the topic of IPV screening, and any data that exists about whether and how mediators are actually screening for IPV.

Next, we sought to assemble a team of experts whose perspectives could inform this project. We leveraged the expertise of our colleagues Stephanie Senuta and Leslie Landis, of the Cook County Circuit Court’s Domestic Violence Division, who are incredibly knowledgeable and well-respected in the IPV advocacy community. Together, they helped us identify and invite experts, particularly in Cook County, who would be willing and able to contribute to this project.

To ensure we had representation from Chicago’s suburban “collar counties,” we relied on contacts whom we had met through RSI’s two-plus decades of work with courts and mediation throughout the state of Illinois. Some helped by identifying expert participants from their communities and others we invited to participate as experts.

We also reached out beyond Illinois to the Battered Women’s Justice Project, which designated Gabrielle Davis to participate as an expert in the project. She brought an important national perspective and insight about BWJP’s SAFeR approach.

In all, the expert group consisted of sixteen professionals, including mediators, family law attorneys, judges, and IPV survivor advocates. The group list is included (APPENDIX 2).

Once we had identified our experts and secured their participation in the project, we set about designing a survey to collect their input. (This is referred to below as the Expert Survey.) Specifically, we wanted to understand how the experts believed IPV screening prior to mediation should be conducted (including when and by whom), and their impression of how it was actually happening. This instrument was designed by RSI’s Director of Research, Jennifer Shack, who has considerable experience in evaluative systems design, including extensive knowledge of survey development. The survey (APPENDIX 3) was administered electronically.
To get a more empirical impression of the state of screening, we also developed surveys for mediators, attorneys, and judges about their behaviors and attitudes regarding screening (APPENDIX 4). (This is referred to below as the Professional Survey.) We solicited our professional contacts to disseminate these surveys, and received responses from 16 mediators, 18 judges and 49 attorneys in Cook and the collar counties. Additionally, we interviewed leaders from BWJP about their SAFeR method, academics from the University of Indiana about their Mediator’s Assessment of Safety Issues and Concerns (MASIC) method, and Peter Salem, Executive Director of the Association of Family and Conciliation Courts.

The project culminated in a full-day summit in which the experts participated (see APPENDIX 5 for Agenda). It was held on Tuesday, June 11th, 2019, in downtown Chicago. We facilitated a series of dialogues among our experts about the proposed tool, which focused on defining the tool, its purpose, its potential benefits, pitfalls to avoid in its development, and exploring what features the tool should have.

Our findings from these efforts culminated in the development of this report.
A group of expert participants discuss characteristics an online screening tool should have during a breakout session.
FINDINGS AND DISCUSSION

Not only did this planning process support the idea of developing the tool, it provided significant insight and guidance about how to go about developing the tool.

GOAL OF THE TOOL

The goal of the tool is to increase the frequency and competence with which mediators screen for the presence of IPV prior to mediation. Frequency addresses a view we have long held — based on informal conversations with family mediators over many years — that often mediators do not screen parties for IPV prior to mediation. This view was supported by responses to the Expert Survey and the Professional Survey. Competence, in this context, refers both to the mediator’s ability to not only identify IPV but also how the presence of that IPV impacts the mediation, including adjusting the mediation process or determining that the case is inappropriate for mediation altogether.

This pre-mediation screening is essential not only to ensure the safety of participants, but also to confirm that parties have the requisite self-determination to participate in mediation. Many mediators are cognizant of the former, but fewer are looking out for how certain dynamics, such as duress, coercive control, or emotional manipulation may prevent participants from advocating effectively on their own behalf.

Importantly, the tool would not only enable mediators to screen more often and better, it would also help them know what to do with the results of the screening. The tool would enable mediators to assist parties when IPV is encountered. The tool would help mediators know what to do when they identify IPV, give them resources to which they can refer people who have experienced violence, and help mediators understand the dynamics of IPV more generally.

AUDIENCE FOR THE TOOL

Based on the insights from the practitioner surveys we collected, we determined that the audience that would benefit most from the development of a tool would be newer and intermittent family mediators. Broadly speaking, experienced mediators we surveyed and with whom we spoke already had some tool – usually a questionnaire – to screen for IPV with which they already had a level of comfort and fluency. These mediators seemed less interested in and less likely to adopt a potential online tool.

Conversely, mediators who were new to the field or only mediated family cases on an infrequent basis were much more enthusiastic about an online tool. One possible explanation, is that for less-experienced mediators, managing the complexity of the mediation process demands so much of their attention that screening for IPV is not something on which they can afford to focus. Additionally, they may be somewhat intimidated to directly confront and explore risk factors. These mediators who
do not have significant experience with the dynamics of IPV -- or mediation -- would benefit most from a straightforward tool to guide them through the screening process.

Designing a tool that will serve this target audience of newer and intermittent mediators means developing its features with this audience in mind. These mediators need a tool that can provide information, resources and context without demanding significant subject matter expertise in intimate partner violence.

**NEED FOR AND VALUE OF THE TOOL**

The tool is needed to make it easier to screen so that more and better screening will be conducted. While screening tools exist (as detailed below), our investigation under this grant found that there are advantages an online tool offers that would help proliferate the use and quality of screening.

A tool would make the screening process faster by allowing mediators to engage the parties and process the information they are receiving in real-time. This makes screening more efficient and increases the probability that a mediator will screen. Existing screening protocols also typically require substantial training, which mediators are unlikely to seek out unless they are particularly interested in issues related to IPV. The tool can be developed to be used with minimal training, and training can be native to the application, allowing a mediator to develop the requisite baseline proficiency quicker and at little to no cost. Finally, by making an intuitively designed tool free to the mediator, we would avoid erecting an additional barrier to screening with the new tool.

Most of the respected screening protocols exist as “pen and paper” tools. Two of the major ones are MASIC and SAFeR. In addition to these well-recognized protocols, many court ADR programs and individual mediators have created their own protocols.

As far as online, interactive IPV screening tools go, we have not seen one that will serve the less experienced mediators we see as the audience for the online tool. MASIC is preparing an abbreviated version of their assessment for online use, but it will still require extensive training. While a number of self-screening diagnostics are available online, these tools do not accomplish the objectives we and the experts have sought to achieve. The Commonwealth of Australia has adapted clinical child psychologist and developmental researcher Jennifer McIntosh’s Detection of Overall Risk Screen (DOORS) framework into an online application.¹ While intuitively designed and made to be used in the mediation context, this application still does not provide the guided user experience that will help a mediator who is not fluent in IPV issues with the support and competency needed to navigate these issues.

¹ Available at: [https://familydoors.com/](https://familydoors.com/).
FEATURES OF THE TOOL

We did not head into this project assuming that a tool should be built. On any given day, one can read headline after headline about how the unintended consequence of technology bear negative consequences for society. We are certainly not interested in unleashing a tool that could harm survivors.

Our initial surveys did yield cautious support for an online tool. The 16 IPV experts saw benefit in the tool, but had concerns about its use, which are articulated throughout this report. The overwhelming majority (29 of 31) of mediators said they would consider using such a tool. Similarly, 48% of attorney respondents said it would be helpful for their clients if mediators had access to the tool, with another 44% saying it might possibly help them. And 12 of 18 family judges across northern Illinois who we surveyed said such a tool would be beneficial to the court.

As we convened the summit, the overall sense from the experts in the room was that any tool would probably be better than the current status quo in screening. However, as the day progressed, the group identified some potentially serious pitfalls, and their thinking became more nuanced. It became clear that a poor tool could be worse than no tool at all. As a result, our conclusion is that **there are certain features that must be included and precautions that must be undertaken for this endeavor to be advisable.**

THE TOOL SHOULD FACILITATE DIALOGUE

The experts felt strongly that the optimal screening protocol would encourage the screener to engage in an **open dialogue** with the party and would help them **build rapport**. A common concern they mentioned was “turning the screening process into a checklist.” Mediators who are not comfortable with screening have the potential to make the screening process feel like a clinical diagnostic. This approach can turn off the interviewee and lengthen mediation. Moreover, it is an inefficient method for the mediator to uncover information. By structuring the tool’s content to feel more like an interview guide, the mediator will be able to screen the parties in a way that elicits critical information about the parties’ safety and capacity in a format that complements the mediation process.

SCREENING FOR IPV ALONE IS NOT ENOUGH

A major finding from our summit is that **the tool will need to screen for overall capacity, not just as it relates to IPV.** Nearly all the experts felt strongly that this tool should be holistic in nature. One reason for this is practical: mediators need to screen for other risk factors along with IPV, and they are quite unlikely to utilize multiple protocols when they are trying to screen a party. Furthermore, it is difficult

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2 Note that in this context, rapport does not supersede impartiality, nor does it require a mediator to ratify a participant’s attitudes or behavior. This distinction is particularly important in interviewing the person who is alleged to have used violence. Rather, rapport refers to the mediator’s ability to engender trust in a party to the extent it will allow the party to open up their communication.
to isolate the impact or presence of IPV without considering other risk factors such as substance abuse, mental health issues, and mental capacity.

At each specific juncture, the tool could provide some static informational content. The tool could also have video modules for ongoing education on specific topics.

THE TOOL SHOULD ASSIST MEDIATORS IN ADAPTING MEDIATION

A key goal of the tool should be to give mediators insight into how they can adapt the mediation process to best serve the parties. Adaptations will vary from party to party, and should be based on responses the mediator inputs during the guided interview. While the tool need not utilize complex algorithmic capability, the tool should be able to suggest specific adaptations based on the dynamics of the parties in each case.

THE TOOL MUST OVERCOME POTENTIAL BARRIERS

PROVIDING SUFFICIENT TRAINING AND EDUCATION

A significant portion of discussion during the summit centered on what sort of training and education a mediator would need to use the tool effectively. Many experts expressed concern that unqualified mediators would hop in and use the tool without really understanding the dynamics of IPV. On the other hand, there are existing tools which require extensive training, and mediators are not seeking out that training and using those tools.

The experts expressed apprehension about mandating in-person training, as that would pose a significant barrier to use, but there was also concern about mediators using the tool when they know nothing about IPV. One potential compromise would be requiring parties to complete some kind of online training in order to be able to access the tool.

AVOIDING FURTHER ABUSE OR REVICTIMIZATION

One of the main concerns among those who advocate for survivors of IPV is that survivors not be victimized again during screening. This requires mediators to know how to respond appropriately to victims’ disclosures of abuse, especially if that instance is the victim’s first time disclosing the abuse to anyone. The tool will provide the mediator with information about IPV and referral information the mediator can pass along to the party.

KEEPING COMMUNICATIONS CONFIDENTIAL

Confidentiality is a core pillar of mediation, and while that is true in every case, it is particularly important when IPV may be present.

For the mediators, keeping information confidential and being sure not to share it with the other party is critical. For example, if a mediator shares information about the survivor, such as a phone number...
or address, with the person who used violence, the survivor could be further endangered. In terms of technology, any information that is collected from this tool must be encrypted and anonymized.

ENSURING PARTY BEING SCREENED IS IN A SAFE PLACE

While the tool may be used in person, we envision another potential application of this tool would involve a mediator conducting the screening over the phone with a party. While this raises issues about ensuring the party is not being coerced into answering a particular way, those issues exist when screening over the phone whether the mediator is using the tool or not. One benefit of the tool is that it will prompt the mediator to inquire about whether the party can talk openly and offer guidance about what to do if the party seems unsure.

KEEPING THE TOOL FREE TO THE MEDIATOR

Along with the cost to develop the tool, there will be ongoing costs. To encourage wide adoption of the tool, it should be available free of charge. Whether that is doable will depend on continuing support to maintain the tool, encourage its use, pay for liability insurance, and potentially improve the tool.
HOW THE TOOL WOULD WORK

Based on our initial research, expert and practitioner surveys, input from the experts during the summit, and our own years of experience in the mediation field, we were able to come up with an outline for how mediators would access the tool, what it could look like, and what information it would provide to mediators.

Note: The following description is one way in which the tool could be designed. It is likely that the actual process of developing and testing the tool will cause the tool to diverge from the below description in any number of ways.

The tool we envision would be something a mediator could have on their phone, tablet or computer while speaking with a party in person or on the phone. Before the screening conversation begins, the mediator would open the tool, either via a web browser, or as an application on an iOS or Android device, log in, and create a new entry for the screening they are preparing to conduct. (The tool should be responsive, adapting how it appears based on the device, including phones, tablets, and desktops).

One area to further explore is what information should be collected prior to and during the screening. At this point, we do not expect the tool to collect any identifying information; however, that could change through the development process. Additionally, it could ask whether the mediator knows if the party is someone who experienced violence, someone who used violence, both, or whether that is unknown at this juncture; this could potentially change the screening prompts.

Once the party is in the room or on the phone, the mediator, with the tool open in front of them, would begin by introducing themselves and confirming that the party is free to participate openly. If the party is on the phone, the mediator would confirm that the party is alone. The mediator would then ask the party if they have the time to complete this screening process (20-30 minutes would be likely, potentially longer if IPV was identified). The tool would provide the mediator with an optional script they could use to explain to the party what the screening process entails, its purpose, and that the mediator will be using a tool. Before proceeding with the screening conversation, the mediator would be prompted to ask if the party has any questions.
The tool would guide the mediator in exploring a limited number of factors, such as autonomy, good faith and parenting judgment.\(^3\) For each factor, the tool would provide a series of screens. On the first screen, the mediator would read a brief explanation about the factor, why it is important, and what the questions are intended to explore (Figure 1).

Upon clicking the “Continue” button, the mediator would be guided to the next screen, an interview prompt for that factor. The prompt would give them several questions to ask, which would be designed to help generate conversation around the factor. There would also be follow-up questions available (Figure 2).\(^4\)

For each factor, the tool would provide the mediator with buttons to click if, in the course of the conversation, the party mentions IPV behaviors related to that factor. Using buttons instead of inputting notes would allow the mediator to easily capture information while staying engaged with the party. There would also be the option of keying in comments (by clicking the “Notes” button at the bottom) because we understand that some mediators may want to refer to their notes as well as results produced by the tool. At any point during screening, the mediator would be able to scroll to the top of the section in which they are working to review the explanation of the particular factor.

On every screen, there would be a turquoise information button that would take the mediator immediately to referral resources for IPV survivors. This would enable the mediator to access information at any time that the party needs, or is interested in, IPV services.

Once the mediator feels they have sufficiently explored the factor with the party, they would click the “Next” button to review the findings for that factor. In this

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\(^3\) We adopted much of the proposed structure based on the SAFeR method. However, we do not advocate a direct port of the SAFeR approach to a digital tool. SAFeR was designed for a different audience and use case. The tool envisioned in this project would require development of its own protocol so that it could take advantage of technology and not require in-person training.

\(^4\) Alternatively, the tool could give the mediator a full script to read. This idea was suggested by one expert with whom we spoke, and we believe merits further exploration.
summary, the mediator would be prompted to reflect and summarize the overall risk for the factor, using a set of three to four adjustable sliders.

As the mediators develop familiarity with screening and the tool, we expect this process would be something they can do quite quickly, but to begin, they may want to ask the parties to allow them a minute to capture their thoughts. This information will be used to generate a visual report at the end of the screening process.

Upon exploring the final factor and clicking the “Continue” button, the mediator would be taken to the summary screen providing a graphical report, pictured here as sliders that the mediator can manipulate to summarize the severity of certain dynamics between the parties (Figure 3). Based on the inputs entered in this summary screen, as well as the buttons selected previously, the tool would highlight a few potential adaptations that may be appropriate. These would be very general in nature, and the mediator would still need to conduct their own analysis to determine what actions to take.

Actions the mediator would take at the end of screening would vary based on what is identified during screening and whether the other party has been screened yet. Sometimes the next steps would be clear and immediate, as in the examples listed below.

- If during screening, the mediator identifies IPV that clearly indicates a mediation should not go forward, the mediator would discuss next steps with the party at the conclusion of screening. This may include offering referral sources for IPV services and explaining what the mediator plans to say to the other party so as not to endanger the party who was just screened.

- If the mediator does not identify any concerns about IPV and this is the first party who has been screened, the mediator would tell the party they plan to follow up with further directions about mediation after the other party is screened.

Sometimes the next steps would not be so clear and may be determined and implemented in the hours and next couple days after the screening. That may occur in cases where:

- The mediator is unsure whether IPV has occurred
- IPV has occurred, but the mediator is unsure about what effect it has had on the parties

In situations such as these, the mediator must consider both their own strengths, weaknesses and experience, and those of the parties. If competent to do so, the mediator might discuss what would be the best course of action with the party. If the situation is beyond the mediator’s skill set, the mediator might end up telling the parties they will follow up with further directions about mediation at a certain time in the future. In any case, the mediator would take time to reflect on the overall dynamics and
decide on whether to proceed with mediation and, if so, whether any adaptations to the mediation process would be needed.

If the mediator is conducting screening immediately before a scheduled mediation, the mediator can still take some time away from both parties -- remembering to not leave them alone together -- to think about the best course of action.

RESOURCE AND INFORMATIONAL STATIC CONTENT

The other key functionality of the tool, along with the dynamic screening system described above, would be static educational content. Since this tool would be designed for newer and more intermittent mediators, we expect that the mediators would not have deep knowledge about IPV and how to adapt mediation. Giving mediators access to informational materials and resources would allow them to better explore sensitive topics with the parties, to provide referrals for IPV services when needed, and to have a wider understanding of how and when to adapt the mediation process.

Along with standard text, multimedia educational content could be accessible directly from the platform. Text, videos, audio and slide-based content could be embedded directly into the tool and provide mediators with guidance both on how to use the tool, and how the dynamics of IPV could affect their attempts to mediate between parties.
NEXT STEPS: THE BLUEPRINT GOING FORWARD

To make this tool a reality, a quality tool would need to be developed, its use adopted widely, and its availability maintained. Under this planning grant, we have been able to ascertain that there is a need for such a tool and identify what core functionality the tool would need to have. Bringing the tool to life still requires considerably more exploration, articulation and definition, not to mention resources. Below, we have laid out how we would tackle creating the tool.

DEVELOPING THE TOOL

PROJECT PREPARATION

The first step is to fill in the details of how this project will proceed. The development team will need to invite subject matter experts and secure their commitment to the development team. This is also the step at which to determine who will own the tool and be responsible for maintaining it going forward.

One important set of preparation tasks will be related to the rollout. The development team should not wait until the end of the project to begin working on the marketing, branding, communications and outreach all required to get mediators to use the tool.

DEVELOP CONTENT

As highlighted above, existing solutions, be they pen and paper or digital, are not suitable for tackling the challenge of getting new and infrequent mediators to effectively screen for IPV. To create a tool that does, the development team will need to develop a new set of questions, follow-up questions and guidance about how to interpret the conversation in terms of whether or how the parties might proceed with mediation. While under this planning grant RSI and the experts were able to begin exploring this development, significant additional work would need to be done to refine the workflow and create the content.

Developing a whole new tool will require convening a group of national experts to form a development team. RSI staff could oversee the process and lend our experience in dispute resolution and technology/online dispute resolution. Some other potential members include representatives from BWJP, MASIC and AFCC. We think it would also be helpful to have a technologist as part of the team to help explore the possibilities and limitations of technology (and cost) early on in the process before development gets too far along.
Together, this team would design the interview, identify the factors, write the script, determine what data the tool would capture, and develop the educational and training components. They would put together a prototype (likely something low-tech, ranging from a word processing document or slide deck, all the way down to a paper chart) that the developers could work from and test going forward.

**USER RESEARCH**

The planning grant has allowed us to survey practitioners and crowdsource knowledge about the potential user base for this project. We recommend further user research to better understand the needs of new and infrequent mediators.

**FIND A DEVELOPER**

In the course of RSI’s other work with technology, we have spoken to several software developers. To find a developer for this project, we would reach out to developers with whom we have a connection, as well as leverage our network, including our funders, to find others. We recommend sending out a brief description of the project and a list of requirements to solicit quotes from potential developers. From this stage, the development team would select two or three finalists, then sit down with them to discuss the project in greater detail before selecting a developer. This stage also includes negotiating and forming a contract with the developer.

**CONCEPTION**

To begin a software project, the developer will bring together a few key members of the development team, such as the project manager, coders, and user design and experience experts, to meet with key stakeholders to sketch out key details about the project. These details include timelines, costs, features (both essential and optional), and assumptions about the end product.

**BETA BUILD**

Software developers build in “sprints,” a time-limited period (often a week) in which the developers build a prototype of certain features, test their use, and assess the success and note shortcomings. This process allows them to quickly and efficiently iterate on a project without investing too many resources into a path that ultimately has a dead end. A critical marker in this process is the stage at which they can produce a “minimum viable product” or MVP. The MVP will be a skeletal conception of the product, which, if released as-is, would serve all the essential functions required of the tool.

**USER TESTING**

We recommend having real mediators test this product and see how it performs. The feedback of a few trusted mediators would be helpful to get more detailed input. Ultimately, however, since this is aimed at new and intermittent mediators, we recommend the development team share a beta version with mediators who fit those characteristics. Using feedback collection methods such as surveys, focus

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5 Suggested topics include understanding IPV, understanding competence to mediate (IPV and other issues), safety in mediation, how to adapt mediation in situations in which mediation is appropriate and substance abuse related issues.

6 We prefer this more informal method to a full-blown Request for Proposals. Developers have told us that they are less likely to respond to RFPs because it requires too many resources to submit a full proposal compared to a more abbreviated estimate, which tends to be just as effective in communicating the necessary information.
groups, and screen recording applications, the development team could obtain data about how the product performs, and use this to inform the rest of the development process. Although this step of the process is not strictly required to develop the tool, we think it would be a worthwhile use of time and funds to be better assured that the final product will be useful to the target audience.

REFINEMENT
Based on the user testing above, the developers will run through a succession of additional sprints to complete development and refine the product based on the feedback.

EVALUATION/FINAL APPROVAL
Following the completion of development, the development team will want to ensure that all the relevant stakeholders, including the consulted experts and funders, are satisfied with the product. The project manager will also ensure that all requirements have been met, and engage in final testing for quality assurance to troubleshoot any lingering problems.

ROLLOUT
This portion of the project involves marketing, branding, communications, outreach, and all aspects of actually getting this tool in the hands of mediators. The development team should leverage and collaborate with the experts and practitioners we have engaged throughout this project and then expand that group to include lawyers, bar associations, mediators, mediation trainers, court administrators, and others. From there, the development team would develop a rollout plan. Promotion could be accomplished via online communications, in publications, via mediation trainers, through courts, at appropriate conferences, and in other ways.

Having considered these activities and engaged in informal conversations with technology developers, we believe the development of the tool would require 12-24 months, and approximately $200,000.
MANAGEMENT AND MAINTENANCE OF THE TOOL

Once the tool is developed, there will be ongoing costs to ensure its use and support. Ultimately, one entity will have to host the tool. We recommend a single stakeholder host it, with the others guiding their users toward the tool, when appropriate.

Hosting this tool would not be without cost. There may be a financial cost associated with hosting the tool, depending on whether it exceeds the bandwidth of the hosting entity’s current webhost. An additional financial cost could arise with regards to liability. The tool owners may need to procure insurance to guard against potential injuries related to use of the tool. The host would need to continue to encourage use of the tool.

The entity who owns the tool would need to engage a developer, ideally the original product developers, to provide ongoing maintenance and support if (when) there is a technical malfunction on the site. The hosting entity would need someone on staff to corral tech support requests from users and communicate with the developers. Alternatively, this function could be outsourced, but there would still be a cost associated.

As time goes on, the hosts may identify additional functionality that ought to be developed for the tool. New technology could be developed that would improve the tool. It would therefore be up to the host, subject to funds, to engage with the developer and develop new functionality.
CONCLUSION

We entered this project prepared to discover that a tool to guide mediators in screening for IPV prior to mediation was superfluous, or perhaps even a liability when balancing its usefulness against the potential for misuse. We did find, however, that there is a real need to improve the quality and frequency of screening among new and intermittent mediators. We believe this need can be met using a tool that guides mediators through the screening process and enables them to screen for most impediments to mediation and determine how to adapt the mediation, when appropriate. To bring such a tool to life will take funding, energy, and wisdom from a broad stakeholder constituency, but we hope the foregoing report has laid out a viable path forward.
APPENDICES

- **APPENDIX 1** - Initial Research
- **APPENDIX 2** - Expert Advisors
- **APPENDIX 3** - Expert Survey Analysis
- **APPENDIX 4** - Practitioner Survey Analysis
- **APPENDIX 5** - Summit Agenda
Editor's Note: The following research was prepared as part of RSI’s activities under the FIRST grant to explore whether an online tool would be an effective means of improving the quality and prevalence of screening for intimate partner violence prior to mediation. The document was one of our first activities under the grant, and provided context to understand the ecosystem of screening that currently exists. It does not reflect everything we learned during the process, but we present it here, as a potential resource for practitioners.

SCREENING APPROACHES TO INTIMATE PARTNER VIOLENCE IN MEDIATION

SAFeR APPROACH

The SAFeR Approach is a method developed by the Battered Women’s Justice Project. This method focuses on four parts, which are detailed below. A more detailed summary about SAFeR can also be found at https://www.bwjp.org/assets/safer-summary.pdf.

FOUR PARTS

- Screening for intimate partner violence (IPV)
- Assessing the full nature and context of IPV
- Focusing on the effects of IPV on parenting, co-parenting and the best interests of the child
- Responding to the lived experience of IPV in all family court recommendations, decisions, and interventions

MORE ABOUT EACH STEP

- **Screen for IPV (Asks: Is abuse an issue here?)**
  This step involves exploring whether there is reason to take a closer look at IPV. In the training materials, this step is compared to an airport metal detector, and it is meant to check on whether a closer look for IPV is needed.

- **Assessing the nature and context of IPV (Asks: What is actually going on?)**
  This is the more thorough IPV assessment. It involves looking at the full nature and context of any potential IPV that is detected during the screening process and seeks to identify if this is an ongoing or isolated incident and if the IPV intended to instill fear or compliance.

- **Focusing on the effects of IPV (Asks: Why does it matter?)**
  This step is directed to explore what the experience of abuse means for the parties and the children in both a broad and narrow sense. It explores how IPV shapes everyday life, communication, daily responsibilities, authority in the home, general parenting beliefs, etc.
Respond to the lived experience of IPV (Asks: What can be done about it?)
The goal here is to respond to and correct the harm that results from IPV and minimize the opportunity for ongoing abuse. This step explores how agreements can be tailored to counteract the personalized elements of abuse in a relationship.

**IMPORTANT CONSIDERATIONS FOR EACH STEP**

- **Step 1 – Screening**
  In order to ensure a safe screening, parties need to be informed about the potential risks of talking about IPV and why they are being asked about abuse, how the information will be used, who will have access to it, and where might this information show up later.

- **Step 2 – Assessing the nature and context of IPV**
  Practitioners need to know more about who is doing what to whom and why. Additionally, they need to find out how this behavior impacts the well-being of the children and the parties’ ability to parent.

- **Step 3 – Focusing on the effects of IPV**
  The screener needs to consider how the IPV may impact the decisions the parties need to make. (Example: How does the abuse impact parenting arrangements in a custody case? How does the abuse impact safety in a protection order case?)

- **Step 4 – Respond**
  The screener responds appropriately to the parties’ experience of abuse.

**MASIC APPROACH**

The Mediator’s Assessment of Safety Issues and Concerns (MASIC) approach was created by Amy Holzworth-Munroe, Connie Beck, and Amy Applegate. Parties are separated from each other during this process, and the mediator verbally administers the questions to each party in person. MASIC assesses multiple types of IPV including: psychological abuse, coercive control, threats of severe violence, physical violence and severe physical violence, sexual violence, stalking, and fear. The structure of MASIC questions are divided into three sections.

- **Section 1:** This section focuses on the background and assessment of lethality and includes questions that cover the background of the parties, begin to touch on the relationship of the parties and how their relationship ended, ask about substance abuse/use, and ask if parties have access to weapons.

- **Section 2:** This section utilizes behaviorally specific questions to assess IPV and includes questions that focus on abuse and dive further into the relationship between the parties and what their dynamics were like.

Section 3: This section is brief and covers other matters not specifically asked in section one or two. It focuses on if any behaviors identified in section two have gotten worse recently, if the party is afraid to mediate or if they feel like they are in danger. There is also an optional fourth section that asks about the parties’ education, ethnicity, and income.

The MASIC approach also offers an answer key for mediators that they can use to assess the parties’ answers and identify what type of abuse (if any) is going on, what risk factors are facing the parties (with additional risk factor assessment for female victims), and whether or not the case can be mediated.

RELATIONSHIP BEHAVIOR RATING SCALE – REVISED (RBRS-r)

This is a copyrighted self-assessment paper and pencil screening tool used to assess specific IPV related behaviors. It focuses solely on victimization from the victim’s perspective, focusing on six different areas of IPV: psychological abuse, coercive controlling behaviors, physical abuse, threats of and escalated physical violence, sexual intimidation/coercion/assault and stalking. More information on this assessment’s functioning and efficacy can be found in: Beck, et al., “The Relationship Behavior Rating Scale: Validation and Expansion of a Revised Measure of Intimate Partner Violence.” 50 Journal of Divorce and Remarriage 295-308 (2009).

POWER AND CONTROL WHEEL + FMS’S MEDIATION SCREENING PROTOCOL FLOW CHART

Used by Cook County Family Mediation Services; Power and Control Wheel created by National Center on Domestic and Sexual Violence

The Power and Control Wheel is a tool from the Domestic Violence Intervention Project that mediators use as a way to identify intimate partner violence. The wheel includes abuse on a wide variety of levels including physical, sexual, economic, intimidation, coercion and threats, isolation, and emotional and verbal abuse.

Notably, the mediators at Cook County’s Family Mediation Services (FMS) have developed and use an initial “Confidential Mediation Questionnaire” that they use as the base for their intimate partner violence screening. Based on the parties’ responses to this questionnaire, FMS mediators also have a “Domestic Violence Protocol Follow-Up Questions” that they will ask parties. Based on the answers to both sets of these questions, the mediator then follows a “Mediation Screening Protocol Flow Chart.” Through the flowchart, the mediator determines whether they will (1) mediate, (2) mediate with precautions, (3) delay mediation to address imbalances of the parties (i.e. parties seek

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2 Available at: [http://www.ncdsv.org/images/PowerControlwheelNOSHADING.pdf](http://www.ncdsv.org/images/PowerControlwheelNOSHADING.pdf). More information on Power and Control wheels can be found at [https://www.theduluthmodel.org/wheels/](https://www.theduluthmodel.org/wheels/).

3 Available at: [https://www.afccnet.org/Portals/0/PublicDocuments/ProfessionalResources/Appendicies/InnovationsinCourtServices/Chapter%202%20Appendix%203.pdf](https://www.afccnet.org/Portals/0/PublicDocuments/ProfessionalResources/Appendicies/InnovationsinCourtServices/Chapter%202%20Appendix%203.pdf).

4 Available at: [https://www.afccnet.org/Portals/0/PublicDocuments/ProfessionalResources/Appendicies/InnovationsinCourtServices/Chapter%202%20Appendix%204.pdf](https://www.afccnet.org/Portals/0/PublicDocuments/ProfessionalResources/Appendicies/InnovationsinCourtServices/Chapter%202%20Appendix%204.pdf).

5Available at: [https://www.afccnet.org/Portals/0/PublicDocuments/ProfessionalResources/Appendicies/InnovationsinCourtServices/Chapter%202%20Appendix%205.pdf](https://www.afccnet.org/Portals/0/PublicDocuments/ProfessionalResources/Appendicies/InnovationsinCourtServices/Chapter%202%20Appendix%205.pdf).
counseling or substance abuse treatment services), (4) not mediate because one party is not able to exercise self-determination, or (5) terminate the mediation and refer parties to various resources.6

MICHIGAN DOMESTIC VIOLENCE SCREENING PROTOCOL FOR MEDIATORS OF DOMESTIC RELATIONS CONFLICTS

Michigan has a very thorough screening tool7 that is used for domestic cases and involves a questionnaire and an interview. The Michigan Domestic Violence Screening Questionnaire breaks questions down into six different areas including:

- General background information about the parties and their case/divorce
- Control, coercion, intimidation, fear between the parties and their relationship
- Violence in the past or a fear of violence
- Children, and if there are any concerns for the children’s safety
- Attorney awareness of violence
- Other considerations regarding the party’s ability to negotiate (example: drugs, alcohol, mental health issues)

Mediators in Michigan are required to do not only an initial screening but also conduct ongoing screening throughout the mediation process. Ongoing screening is recommended because abusive behavior may not appear until an abuser becomes fearful of losing ground, which may occur as the mediation process progresses. For that reason, abusers who may have initially appeared to be charming or engaging may shift to more overtly coercive tactics. Additionally, and especially in cases where mediation takes place over a longer period of time, changes in the parties’ circumstances may cause abuse tactics to appear or escalate. Examples of circumstances to consider here include the physical separation of the parties, the abused party’s formation of a new relationship, and/or a court ruling that favors the abused party and may cause an abuser to try to regain control.

Notably, the Michigan materials also note that web-based video, audio, or telephone screening are not a preferable way to conduct screening because the screener cannot be certain that the abuser is not present or listening during the screening, and this can compromise safety, confidentiality, or a person’s ability to speak freely.8

WHAT CRITERIA ARE CRITICAL FOR EFFECTIVE SCREENING

Below are criteria gleaned from the various resources described above.

6 FMS mediator Corinne (Cookie) Levitz notes that the screening process FMS uses are also supposed to be used by mediators on the Domestic Relations Court’s roster of private mediators in Cook County. Ms. Levitz has co-authored a chapter with David Royko and Sharon Zingery for the AFCC publication “Innovations in Court Services”, available at https://www.afccnet.org/Resource-Center/Resources-for-Professionals/Innovations-in-Court-Services, which includes and discusses these tools.


8 The screening guide does identify examples of questions mediators can ask if electronic screening cannot be avoided, id. at 18.
Parties should be separated when screened, and preferably scheduled at different times and/or locations.

Screening should be conducted in an environment that allows for the greatest degree of privacy possible.

Person conducting screening should be trained in IPV screening.

Parties should be asked whether they have any safety concerns about coming to the screening location or participating in screening.

There is a need to screen for impediments to mediation (example: domestic violence, substance abuse, mental illness, mental health issues, physical and cognitive impairments, literacy efficiencies, financial inequities) that will hinder the party’s ability to negotiate safely, competently and in good faith.

Behaviorally specific questions are important because many victims will not identify their perpetrator’s conduct as abuse; these questions help to illuminate IPV behavior.

Screener should determine whether either party has a criminal background.

Screener should determine whether there are No Contact Orders or Orders of Protection between the parties.

Screener should determine what form(s)/type(s) of IPV is (are) at play.

If there is IPV, screener should assess whether it was an isolated incident or is ongoing.

Screener should determine the effect on the child and on the parenting of the child.

Screener should address the self-determination capability of the parties. (Example: Can parties speak up for themselves without fear or intimidation? Can they negotiate in their own best interest and in the interests of their children? Can they carry out and understand the consequences of the agreements they reach?)

Screener should address what risks the victim faces. (Example: safety, where does victim live, etc.)

Screener should determine both parties’ access to weapons.

Screener should share how the information gathered will be used. (Example: Is it confidential? With whom will it be shared?)

**OTHER RECOMMENDATIONS NOTED BY COOK COUNTY PROGRAM**

- Screen individually and face-to-face
- Give parties a written screening tool so that they can reflect as they answer the questions
- Encourage parties, themselves, to fill out the questionnaire, rather than their attorney
- Screening should be considered an ongoing assessment
- Determine if there is an Order of Protection or Restraining Order
OTHER RECOMMENDATIONS NOTED BY THE MICHIGAN SUPREME COURT

❖ To keep in mind for screening:
  • Questions about the dynamics of the relationship
  • Behaviorally specific questions including various tactics of abuse
  • Follow-up questions to clarify participant’s answers
  • Explanations about the limitations on confidentiality
  • Information about what will be done with the information that is disclosed

❖ To keep in mind for mediation:
  • Whether the victim wants to mediate
  • Whether the parties are able to negotiate for themselves
  • Physical safety of the mediation process for all involved
  • Ability to reach a voluntary un-coerced agreement
  • Ability of a mediator to manage a case involving domestic violence
  • Whether the abuser is likely to use the information discovered during mediation against the abused party

APPS/WEBSITES NON-MEDIATION PROFESSIONALS CAN USE TO SCREEN

R3 APP

Platforms: Apple and Android
Price: Free
Created by: Harbor House of Central Florida

R3 stands for Recognize, Respond, and Refer and is a screening tool meant to help users identify if someone is being abused. R3 is based on the HITS screening tool, a four-item questionnaire that stands for Hurt, Insult, Threaten, and Scream and was created to give physicians an easy-to-use tool to assess for intimate partner violence. The R3 app can be used by anyone to help identify if someone is experiencing abuse. The app also has specific information and resources for health care professionals.

Additionally, Technology Safety, a blog managed by the National Network to End Domestic Violence, noted the following positive features in the application:

❖ The safety plan in the app is generic and meant for a broad audience. This makes it applicable to anyone who may download it.

❖ The app is very thorough and informative and includes additional information such as videos, links, and a protocol for professionals wishing to use the screening tool.

Available at: https://www.harborhousefl.com/get-help/r3/. Further information is available at: https://www.mobihealthnews.com/13989/app-to-help-physicians-screen-for-domestic-abuse/.

This is one of the few apps that provides safety information before downloading, informing users of the risk that the abuser could see this app on the device.

The app also opens, when first downloaded, with a video discussing the safe use of the app, considering how abusers can sometimes monitor phone activity. When it comes to safety, the more information provided the better.

SCREENING TOOLS IN THE MEDICAL CONTEXT

Created by researchers at the Rochester Institute of Technology, RITa and RITchie are avatars (female and male, respectively) that are currently being pilot-tested to screen patients for IPV at doctor’s offices and make actionable recommendations for victims and their physicians. Physician offices were chosen to pilot-test these apps because family care practitioners are often the first place victims go for help. Physicians participating in the pilot-testing are offering the app to patients when screening during an office visit suggests abuse or an IPV risk. The apps are described as being able to assess a patient’s health and physical safety. Currently, the apps are being tested through local iPads kept at medical practices.11

Additionally, the Agency for Healthcare Research and Quality12 and the Centers for Disease Control13 have both put out resources to guide healthcare providers in screening for IPV.

APP SCREENING TOOLS FOR VICTIMS TO SELF-SCREEN

There also are a wide variety of apps that are self-evaluating apps that victims can use to identify whether they or a friend are involved in an abusive relationship. Most of these apps use a quiz structure and provide resources to potential victims of abuse.14

IS THERE ANY EVIDENCE TO SUPPORT OR REFUTE WHETHER SCREENING IS ACTUALLY BEING DONE?

Pearson (2007) found that “up to 80% of mediation programs report that they assess for domestic violence.”15 A decade later, Clemants and Gross reported that:

*In a survey of 94 North American community mediation centers, 5 reported using some method of IPV screening but only 36 indicated formal procedures for the assessment of IPV including a questionnaire or interview. The remaining 29 centers reported informal*

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13 Available at: https://www.cdc.gov/violenceprevention/pdf/ipv/ipvandsvscreening.pdf.

14 More information is available at the following URLs:
- https://www.techsafety.org/assessmentapps/

screening procedures that involved asking about IPV without a standard set of questions or simply by attending to signals suggesting IPV, without direct questioning.\textsuperscript{16}

With regards to court mediation, the National Council of Juvenile and Family Court Judges has compiled a document identifying whether courts in each state can mediate in custody cases where IPV is present. The resource details each state’s statute, identifies whether courts can mediate in child custody cases, identifies ban or opt-out provisions, and identifies exceptions to mediation.\textsuperscript{17}

OTHER HELPFUL RESOURCES

\begin{itemize}
\item National Statistics Domestic Violence Fact Sheets detail state-by-state statistics on domestic violence
\item “Domestic Violence and Mediation: Concerns and Recommendations” Anita Vesta, Mediate.com (May 2007)
\item Connecting to Safety and Stability: Domestic Violence Needs Assessment of Chicago (July 2017), Heartland Alliance Program
\item Family Court Approaches to Intimate Partner Violence and Abuse: Stakeholders Perceptions and Implications for Systemic Change
\item “Why aren’t we screening?” A survey examining domestic violence screening procedures and training protocol in community mediation centers, Elizabeth Clemants, Alan Gross Conflict Resolution Quarterly (2007)
\item Detecting Intimate Partner Violence in Family Divorce Mediation: A Randomized Trial of Intimate Partner Violence Screening, Robin H. Ballard, Amy-Holtzworth Munroe, Amy Applegate (2011)
\item Domestic Violence Screening Protocol for Mediators of Domestic Relations Conflicts, Office of Dispute Resolution, State Court Administrative Office Michigan Supreme Court (2014)
\item Detection of Intimate Partner Violence and Recommendation for Joint Family Mediation: A Randomized Controlled Trial of Two Screening Measures. (August 2015)
\end{itemize}


\textsuperscript{17} Available at: http://www.ncjfcj.org/sites/default/files/chart-mediation-dv-present.pdf.
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What the Experts Say

Pre-Mediation Screening for IPV: Could a Tech Tool Help?
INTRODUCTION
Resolution Systems Institute invited 16 expert mediators, domestic violence advocates and lawyers to participate in a project to look at the possibilities for an online pre-mediation screening tool for IPV. As an early step in the project, RSI surveyed these experts, who all have extensive experience working with cases involving intimate partner violence (IPV). We asked a series of questions about pre-mediation screening for family cases, the steps that should be taken when IPV is identified, and their perspectives on the role that an online screening tool for mediators could play in these cases.

Summary of Results
Overall, the experts indicated a preference for mediation to go forward as long as it is safe to do so, and the harmed party has been educated about mediation and has made an informed decision to participate. The experts think that a screening tool can be helpful as long as it includes follow-up questions and provides guidance to mediators on a number of topics, such as how to read non-verbal cues, how to interpret the parties’ responses and how to decide whether to mediate. They believe the tool can lead to better screening, particularly for new mediators, more screening and more information about the parties’ situation for the mediator, and more information about mediation for the parties.

SCREENING PROCESS
The survey included four questions about how the screening process should be undertaken:

- For what types of family cases should IPV screening be conducted?
- Who should do the screening?
- Who should be responsible for ensuring that screening is done?
- When should screening occur?

There was general agreement that all family cases should be screened. A few experts listed specific family case types, but their lists encompassed most types of family cases. Most experts said mediators should do the screening, but there was less agreement as to who should ensure it’s done and when it should take place. The experts were primarily split between the mediators and the court as being responsible for ensuring screening takes place. Opinions on the timing ranged from before referral to just before mediation, with many believing it should take place at more than one point in the process.

Who Should Do the Screening?
Eight of the 16 experts said that the mediator should screen for IPV, while one said the party’s attorney should be responsible for screening. Three experts were less specific: one said that the screener should be a neutral, but not necessarily a mediator; one said that the person should have expertise in issues surrounding domestic violence; another said the screener should be the attorney or someone who has had a 40-hour training in domestic violence.

Three experts believed that screening should be done by more than one person: two said everyone involved should screen, while the other said both the attorney and mediator should screen. One expert didn’t respond to this question.
Who Should Be Responsible for Ensuring Screening Is Done?
The experts most commonly believed that the courts or program supervisors were at least in part responsible for ensuring that screening is done, followed closely by mediators. Half of those who said courts/program supervisors or mediators were responsible for ensuring that screening was done thought the two together had a shared responsibility to do so. One expert said everyone who was involved in employing/hiring the mediator was responsible, from the court to program supervisors to the attorneys. One said it was the purview of the party’s attorney.

When Should Screening Be Done?
The experts held differing opinions regarding when IPV screening should be done, and some of their responses were possibly mutually exclusive. The timing options they cited were:

- Before referral (8 responses)
- Before scheduling mediation (2 responses)
- Before mediation (4 responses)
- Just prior to mediation (4 responses)

Nine of the experts thought screening should take place at only one point in time, with the timing distributed relatively equally across all four options. Another five said that screening should occur at two points in time, with four of them believing the first point should be before referral. They were split as to the timing of the second screening.

Two experts had different takes on when screening should take place. One said screening should be throughout. The other said it should be done at a separate intake, but it wasn’t clear whether the intake was after a case was filed or after it was referred to mediation.

The experts who held possibly mutually exclusive perspectives were those who were clear that screening should happen just prior to mediation so that mediators have the most recent information, and those who were equally clear that it should not happen at that time because the mediator should have time to plan and the parties need time to be prepared for what happens.

Steps To Be Taken after Identifying IPV
All but one of the experts believed that mediation could take place if IPV is identified, depending on the severity of the abuse

IN THEIR WORDS: IPV and Mediation
“The mediator should discuss [mediation] with the participant and determine if it should not occur, if it should be shuttled, or if it should occur face-to-face.”

“I don't believe it should be totally at the participant's discretion unless they have first been required to attend a session explaining what mediation is and how it works so they understand what mediation is and how it may or may not be beneficial in their case.”

“I think it depends on many different factors. More often than not, mediation may still be appropriate as long as certain safety protocols are followed ... I do not think cases should automatically be screened out if there is DV. I believe the decision to move forward is a combination of the mediator's assessment and the assessment of the person who has been harmed.”

“The party needs to reach an informed, voluntary decision about whether, and if so, how, she/he wants to try mediation and the screening process needs to assist each party in making their own determination.”
and as long as appropriate measures are taken to ensure the safety of the person harmed. The other expert appeared to be open to mediation proceeding, but not if IPV is ongoing.

The experts also mentioned specific issues involved in mediating cases involving IPV. These included:

- The decision regarding whether to mediate a case depends upon a complex set of factors (6 responses)
- The harmed party needs to understand the benefits and risks of participating in mediation (4 responses)
- Attorneys should participate in mediation when IPV is identified (2 responses)
- The perpetrator should not know why mediation does not go forward (1 response)

The mediator and harmed party together should make the decision as to whether mediation should proceed, according to six of the 16 experts. Three others said it was the party’s decision alone, while two said it was the mediator’s decision. One person said everyone involved should decide, including the attorneys, and four did not mention who made the decision.

**Perspectives on an Online Tool**

For the purposes of this survey, we said the screening tool would “guide the mediator through the screening process, which they would conduct individually with each participant on the phone or in person.” The experts were asked four questions about their perspectives on the adoption of an online screening tool for mediators:

- Do you think such a tool would be useful?
- What concerns do you have about such a tool?
- What benefits do you think it might provide?
- Anything else you’d like us to know?

Overall, the experts were positive about the possibilities for the tool, but want to be sure that it is used properly and competently. The main concern is that mediators will use it mechanically as a checklist, without follow-up questions or attending to cues that a party is not being entirely forthcoming or truthful.

Despite their concerns, the experts believed there could be significant benefits to the tool, particularly improved and more prevalent screening for IPV. These benefits would be best

**IN THEIR WORDS:**

**Screening Tool Thoughts**

“The field is in desperate need of a reliable way to safely and appropriately determine whether, when, and how cases involving allegations of IPV should be mediated. The mere presence of IPV, standing alone, is not sufficient. Therefore, a screening tool has to go further than simply identifying IPV.”

“I think, in addition to any screening tool that would be developed, a guide of sorts would also need to be developed, to assist mediators in interpreting the results they may receive.”

“I welcome the protocol with lots of instruction on how to watch/listen for non-verbal clues.”

“Technology is touching every aspect of our lives; we should embrace it and explore potential benefits it may lend to create advancements in the practice of mediation.”

“The easier it is to conduct the screening, the more likely it will actually be done.”

“The tool would need to be user friendly, confidential and pretty short.”
realized if the tool included information on how to identify domestic violence and how to decide what to do once it is identified.

**Perspectives on Usefulness**
Almost all experts thought the online tool could be useful, with most saying it could be very useful. The others responded that they didn’t know whether it could be useful. The opinions came with conditions, however. As the tool is an abstract concept at this point, its usefulness was based on its being properly designed and utilized:
- Follow-up questions are needed
- Mediators need to know what to do with the information they get from the parties

A few experts’ comments made clear that they understood the tool to be either an online form or questionnaire completed by the parties or an online method of communication between the mediator and the parties, rather than a guide that moved mediators through the screening process. This perception points to the need to use different terminology, and to more carefully describe the tool being contemplated.

**Concerns**
The majority of experts were concerned about how the screening tool would be used. The main theme of these concerns was that the tool would be used as a form to be filled out or as a check-the-box questionnaire by the mediators. They think the tool needs to allow for follow-up questions and mediators need to be trained on how to use it correctly, particularly because mediation can pose increased security risks for the harmed party.

Another concern was that the tool might not be used. For two experts, this meant that the tool needed to be short and not time-consuming, while a third just thought that mediators might not use it. For two experts, the parties’ lack of candor when responding to the questions was a concern. One wanted to be sure the tool would be available to all parties, regardless of language spoken, and that it be sensitive to the needs of immigrant communities.

**Benefits**
The experts’ responses regarding the possible benefits of a tool can be divided into three themes:
- It can help mediators and parties to have more information
- It can improve and standardize screening
- It can lead to more mediators screening for IPV

The most common theme was that a screening tool would provide more information. Several experts mentioned that a screening tool could help mediators have more information about the situation between the parties (4 responses), as well as help parties to understand more about mediation and its potential impacts (3 responses). Another indicated that parties would learn more about their own situation regarding IPV, including that they are experiencing it.

Mediators and parties would also be helped by an improved screening process, according to three experts. Another cited benefit was that screening could be standardized across mediators (4 responses),
with two experts noting that this would allow for the collection of data on how mediators respond to the presence of IPV and how mediation works for those families in which IPV is an issue.

Access to a good screening tool could also lead to more mediators screening for IPV, according to five experts. The reasons given were that the tool could make screening easier for mediators and it would be affordable. One noted that greater use of screening would increase the safety of the harmed parties when they are referred to mediation.

Other Comments
The experts’ final comments in the main elaborated on their earlier responses. Some new thoughts were brought forward, however. These included:

- A big issue will be marketing the tool and having it be accepted. Perhaps it would be easiest to start with organizations
- The process for screening should be for the parties to complete a questionnaire in private before having the mediator go over their responses
- This seems more like an expert system that the mediator can access offline as well as online
- We should embrace technology to find what benefits it can provide mediation
- This tool is needed/can work

One concept was greatly emphasized in the experts’ final comments: that the screening tool must include more information for mediators than just a set of questions to ask. It should provide mediators with guidance on how to interpret the parties’ responses and instruction on how to look for non-verbal clues. One expert also said it should help parties to assess the prospect of mediation.

CONCLUSION
As a group, the surveyed experts believe that ideally screening for IPV should be done before referral and then again some time before the scheduled mediation. The mediators themselves, along with the court or any organization that supervises the mediators, should be responsible for ensuring that screening is done. When IPV is identified they believe mediation can go forward in many cases, as long as the harmed party agrees and safety measures are put in place.

Because they think mediation can go forward in many cases involving IPV, the surveyed experts see screening for IPV as a nuanced process requiring that mediators know how to look for cues, ask follow-up questions and take appropriate actions. They believe the mediator and the harmed party should make the decision together about whether to mediate, with the party having enough information to know how the mediation might affect them, both positively and negatively. They fear that mediators don’t have sufficient training or understanding of the issues surrounding IPV to properly use an interview protocol.

With all this in mind, they see a well-structured tool as a positive for both parties and mediators, particularly if it is more broadly developed to be a guide. It requires instruction on how to detect IPV, how to decide whether to mediate a case and, if mediated, how to adapt the process to ensure the safety of the harmed party.
Intimate Partner Violence (IPV) Survey Analysis

Resolution Systems Institute is investigating the idea of creating an online tool to guide mediators through pre-mediation conversations to screen parties for IPV. We are exploring whether such a tool is a good idea, and if so, how it might be developed.

As part of this project, we surveyed family mediators, lawyers and judges about how parties are screened for IPV and what actions are taken based on screening.

Below are the findings of those surveys.
Mediator Survey Analysis

The mediators who responded to the survey were generally well-trained and knowledgeable about intimate partner violence (IPV) issues. They tend to mediate with precautions when there is an order of protection or their screening points to the presence of IPV in a case. The main area in which they differ is when they screen, and whether they do it in person or by phone. Most of the mediators were willing to look at an online screening tool to see if it was better than the one they used. Less experienced mediators were more positive about having a new resource at hand.

Who Responded to the Survey

The following analysis is based on responses to two surveys. All questions were answered by 16 people who completed the Survey for Mediators. In addition, the 15 people who responded to the Survey for Lawyers who said they also acted as mediators in family cases were asked three questions that are analyzed here: “What do you do to identify whether IPV is present in a case you have been asked to mediate?”, “Would you use a free, secure online screening guide if it were made available?” and “Approximately how many cases do you mediate per year?”

Responses

Does the court screen out cases involving IPV before they are referred?

Most of the respondents said that the court does not screen out cases prior to referral to mediation. Regardless of their response, all mediators said that they screen for IPV.

What do you do if there is an order of protection between the parties in a case?

The mediators differed as to how they would handle a case in which there is an order of protection between the parties. Twelve would be willing to mediate the case, with eight of those saying they would talk with the parties or review the order of protection in order to make the determination.

| Action taken when there is an order of protection? |
|---------------------------------|----------|----------|
| Mediate the case, but with precautions in place | 23.5%    | 4        |
| Talk with the parties to determine if mediation is possible | 41.2%    | 6        |
| Decline to mediate the case       | 11.8%    | 3        |
| Other - Write In                  | 23.5%    | 2        |
| **Total**                        |          | **15**   |

What do you do to identify whether IPV is present in a case you have been asked to mediate?

All but one of the mediators said that they would look for warning signs of IPV. All but two said they talked with the parties separately. The two others had the parties complete a questionnaire, and
one of them also talked with the attorneys before mediation. Six in total talked with the attorneys before mediation.

Lawyers who responded to the lawyer survey and said they mediated family cases were also asked this question. Similar to the mediators, all but one of the 15 said they would look for warning signs of IPV. However, they were less likely to say they talked to parties or asked them to complete questionnaires, and more likely to talk with their attorneys.

### How do you identify IPV?

<table>
<thead>
<tr>
<th></th>
<th>Mediators (n=13)</th>
<th>Lawyers (n=15)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Look for warning signs</td>
<td>12 (92%)</td>
<td>14 (93%)</td>
</tr>
<tr>
<td>Ask parties to complete questionnaire</td>
<td>9 (69%)</td>
<td>5 (33%)</td>
</tr>
<tr>
<td>Talk to parties separately</td>
<td>11 (84%)</td>
<td>9 (60%)</td>
</tr>
<tr>
<td>Talk to the attorneys</td>
<td>5 (38%)</td>
<td>8 (53%)</td>
</tr>
</tbody>
</table>

### At what point before mediation do you talk with each party separately about potential IPV?

The mediators talk with each party separately at different times, with five saying they did so the before the date of the mediation, four saying they did so on the day of and three doing so both before the date of mediation and on the date of mediation.

### When you talk with parties separately, how do you do it?

Similarly, the mediators have different practices when talking with the parties, with them about equally split as to whether they talk to them in person, or sometimes by phone and sometimes in person.

### How do you talk with the parties?

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>In person</td>
<td>5</td>
</tr>
<tr>
<td>Sometimes in person, sometimes by phone</td>
<td>4</td>
</tr>
<tr>
<td>Both in person and by phone</td>
<td>2</td>
</tr>
<tr>
<td>By phone</td>
<td>1</td>
</tr>
<tr>
<td>Blank</td>
<td>2</td>
</tr>
</tbody>
</table>

### When do you talk with parties?

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Before date of mediation</td>
<td>5</td>
</tr>
<tr>
<td>On the day of mediation</td>
<td>4</td>
</tr>
<tr>
<td>Both</td>
<td>3</td>
</tr>
<tr>
<td>Blank</td>
<td>2</td>
</tr>
</tbody>
</table>

When you talk with each party separately, do you use a particular screening questionnaire or checklist? Which one?

All but one mediator uses a particular questionnaire or checklist. Five of the mediators used the Cook County questionnaire. Three used their own screening tool, which they had adapted from others. One used the Intimate Partner Violence and Abuse Screen. Five did not say.
Do you mediate cases if IPV is involved?
Almost all the mediators said they mediate when IPV is involved, depending on the case.

<table>
<thead>
<tr>
<th>Mediate if IPV is present?</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes, depending on the case</td>
<td>10</td>
</tr>
<tr>
<td>No, never</td>
<td>2</td>
</tr>
<tr>
<td>Yes, always</td>
<td>1</td>
</tr>
<tr>
<td>Blank</td>
<td>2</td>
</tr>
</tbody>
</table>

What factors do you consider when deciding whether to mediate a case when IPV is present?
Most of the mediators said they consider multiple factors when deciding whether to mediate a case. Nine of the 11 who answered this question said self-determination was a factor. Nine also mentioned safety, either based on how serious or recent the abuse was, or the ability to create a safe environment. One took into account whether he/she was the best mediator for the case.

<table>
<thead>
<tr>
<th>Deciding factors?</th>
<th>N=11</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-Determination</td>
<td>9</td>
</tr>
<tr>
<td>Parties’ level of comfort with mediating</td>
<td>6</td>
</tr>
<tr>
<td>Seriousness of abuse/physical danger</td>
<td>6</td>
</tr>
<tr>
<td>Ability to create safe environment</td>
<td>5</td>
</tr>
<tr>
<td>How recent the abuse was</td>
<td>2</td>
</tr>
<tr>
<td>Living arrangements of the parties</td>
<td>2</td>
</tr>
<tr>
<td>Scope of the order of protection</td>
<td>1</td>
</tr>
<tr>
<td>Ability to mediate the case</td>
<td>1</td>
</tr>
<tr>
<td>Ability of abuser to mediate without threats</td>
<td>1</td>
</tr>
</tbody>
</table>

If you go forward with mediation, what do you do?
Every mediator who answered this question said that they put safety measures in place and also adapted the mediation process. One added that they continued to screen and kept open the possibility that mediation would be terminated. That mediator also said that co-mediation should be considered. Another said that they would check with the abused party during the mediation to determine their willingness to continue.

Would you use a free, secure online screening guide if it were made available?
This question was asked of mediators on two surveys: the mediator survey and the lawyer survey, if the lawyers also mediated. Thus, the number of respondents for this question is 31. Twenty-nine of 31 mediators said they would or possibly would use the online screening guide.

<table>
<thead>
<tr>
<th>Willing to use an online screening guide?</th>
<th>Mediator Survey</th>
<th>Lawyer Survey</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>7</td>
<td>7</td>
<td>14</td>
</tr>
<tr>
<td>Possibly</td>
<td>7</td>
<td>8</td>
<td>15</td>
</tr>
<tr>
<td>No</td>
<td>2</td>
<td>0</td>
<td>2</td>
</tr>
</tbody>
</table>

The 29 mediators were almost evenly split between those who said yes (14), they would and those who said they possibly would use an online screening guide (15). Generally, almost all of those who responded to the mediator survey gave similar reasons for their answer – they would use the guide if it were better than what they used. One who answered “yes” liked the idea of an automated tool,
offering this conception of the guide: “[E]asy to update with new info, less likely to forget a question easy to store and add my own questions. If properly done, can lead to researchable database. Don’t do this if a computerized version in any language already exists. If done, do it in a language and on a platform compatible with a popular family program.”

Two mediator survey respondents said they wouldn’t use such a guide, with one saying that he/she doesn’t use screening guides, instead modifying the party interviews for each case, and the other saying they don’t take IPV cases.

The comments of who responded to the lawyer survey indicate that they are more receptive to the tool than the mediator survey respondents, possibly reflecting their lower level of experience with mediating these cases. One said, “Absolutely! Have to be extra wary where there is huge imbalance of power and important to provide assistance/resources to parties (it is not legal advice).” Another said, “Any guidance, instruction, or tip to discovery and help deal with IPV is always useful. I would incorporate the guide into all my cases, whether it is for mediation or litigation.” Others were less positive, saying they needed to see the tool or felt they were already set, but were willing to check out the tool.

Do you think it would be good for other mediators to have access to such a guide?
All the responding mediators answered “yes” or “possibly” to this question, with 12 of 16 saying “yes.”

**Mediator Characteristics**

**Training**
All but one mediator had received training about IPV. Of these, most had significant training. Three didn’t mention training, but have significant professional experience, including representing parties in order of protection cases and training other mediators in screening. Three had training that was limited to seminars and CLEs. The rest mentioned Cook County training, CCR training, and SAFeR training.

**Professional Background**

<table>
<thead>
<tr>
<th>Background</th>
<th># of Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lawyers</td>
<td>8</td>
</tr>
<tr>
<td>Various backgrounds</td>
<td>3</td>
</tr>
<tr>
<td>Mediator</td>
<td>1</td>
</tr>
<tr>
<td>Retired judge</td>
<td>1</td>
</tr>
<tr>
<td>Finance</td>
<td>1</td>
</tr>
<tr>
<td>Blank</td>
<td>2</td>
</tr>
</tbody>
</table>
**Mediation Practice**
The twelve mediators who were not staff mediators were evenly split between those who combined their mediation practice with their other profession and those who said mediation was their only professional practice.

**Mediations Per Year**
Those who responded to the mediator survey are more likely to mediate a high number of cases than those who responded to the lawyer survey.

**County of Practice**
Because Cook County staff mediators have an established screening protocol, we did not specifically ask them to respond to the survey. However, three received the survey through various avenues and responded.

<table>
<thead>
<tr>
<th>Mediations per Year</th>
<th>Mediator(s)</th>
<th>Lawyers</th>
</tr>
</thead>
<tbody>
<tr>
<td>30+</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>20-30</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>11-20</td>
<td>1</td>
<td>4</td>
</tr>
<tr>
<td>6-10</td>
<td>4</td>
<td>3</td>
</tr>
<tr>
<td>1-5</td>
<td>3</td>
<td>8</td>
</tr>
<tr>
<td>Blank</td>
<td>1</td>
<td>0</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>County</th>
<th># of Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cook</td>
<td>15</td>
</tr>
<tr>
<td>DuPage</td>
<td>7</td>
</tr>
<tr>
<td>Lake</td>
<td>5</td>
</tr>
<tr>
<td>Kane</td>
<td>2</td>
</tr>
<tr>
<td>Will</td>
<td>2</td>
</tr>
<tr>
<td>McHenry</td>
<td>1</td>
</tr>
</tbody>
</table>

**Conclusion**
Mediators who responded to the survey are generally experienced and well-trained. They’re willing to mediate cases that involve IPV, as long as it is safe and they determined the abused party can exercise self-determination. They almost all have a particular screening tool they already use, and therefore want to see a screening guide to determine whether it is better than what they use. The lawyers who also mediate (and answered questions about their mediations on the lawyer survey) are less experienced as mediators, are less likely to talk with parties separately and are more enthusiastic as a group about a possible screening guide.
**Lawyer Survey Analysis**

Almost all the lawyers who responded to the survey believe that a screening guide for mediators has the potential to be useful to their clients. The main reason lawyers said a screening guide could be useful is that more information is always helpful. The main reason that lawyers gave for not being fully confident in the guide’s usefulness is that they don’t refer their clients to mediation if IPV is involved.

**Lawyer Characteristics**

Forty-nine lawyers responded to the survey:

- Almost all have a significant family caseload, with all but six taking on more than 20 family cases per year.
- Most send half or fewer of their cases to mediation.
- Thirteen have been trained in screening for intimate partner violence (IPV).
- Fifteen also act as mediators in family cases.

<table>
<thead>
<tr>
<th>Proportion of family cases sent to mediation?</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Almost all or all</td>
<td>7.7%</td>
<td>4</td>
</tr>
<tr>
<td>More than half</td>
<td>13.5%</td>
<td>7</td>
</tr>
<tr>
<td>About half</td>
<td>23.1%</td>
<td>11</td>
</tr>
<tr>
<td>Less than half</td>
<td>34.6%</td>
<td>17</td>
</tr>
<tr>
<td>Few or none</td>
<td>21.2%</td>
<td>10</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td></td>
<td><strong>49</strong></td>
</tr>
</tbody>
</table>

**Training for IPV**

**Thirteen of the 49 lawyers have had training in screening for IPV.** Four of these took a 40-hour IPV advocate training. (Two of these said they were IPV advocates.) Three said that in addition to their training, they regularly represent victims of IPV. One each said they were an ASA in a IPV courtroom, a DCFS attorney and a GAL, all of which required training as part of their position. The others said they took CLEs or other forms of training.
Practices Regarding IPV
Do you talk with your clients about the possible presence of IPV?

Almost 40% of the lawyers said that they always talk with their clients about the possible presence of IPV. The others said they do so when they have reason to believe that IPV is present. Interestingly, not all lawyers who had been trained in screening always talk with their clients about IPV, with eight of 13 doing so. The same is true of lawyers who are also mediators, with seven of 15 always talking with their clients about IPV.

Opinions Regarding Screening Guide
Do you think it would be helpful to your clients if mediators used an online screening guide?

The lawyers were generally receptive to the concept of a screening guide. They were almost equally as likely to say it was possibly a good idea as to say it was definitely one. Only four of 49 said a screening guide would not be useful. Their responses were not related to the percentage of their cases that go to mediation, nor the size of family caseload. This is likely due to the fact that they had different reasons for having reservations about the guide.

Reason for their Answer:
Those lawyers who were enthusiastic about the screening guide see it as helping to protect their clients. Importantly, they understand that their clients may be referred to mediation when IPV is involved, either because they are ordered to mediation, fall through the cracks or aren’t adequately screened prior to referral. Comments include:

• It’s just one more safety net in the family court process that can identify and protect against IPV — and the power relationships in a relationship involving IPV pervade and interfere with the mediation process. It is important to know ahead of mediation whether both parties are sufficiently capable of negotiating and discussing conflict as EQUALS or if there is an existing power dynamic that prevents meaningful negotiation.
abused partner into a mediation situation, where they have to confront their abuser to argue for their own interests, can be traumatizing to the abused partner.

- **I refer parties to mediation because our local rules require it.** It’s up to the mediator to do shuttle mediation if there’s abuse. *Any additional information the mediator has to assess a relationship would help them in effectively communicating with the parties.*

- I think it would be helpful because *it would help ensure that clients who might be victims of IPV are treated appropriately by the mediator,* making them more comfortable in the mediation session, and would help both the mediation and the remainder of their case proceed appropriately.

- **I think it would be helpful also to provide such guidance to attorneys handling divorces.** It is not always easy to know what is going on…so attorneys need to know what to look out for as well as mediators.

- Having the option to ask questions that research and experience went into is always a good idea.

- **Informing victims of IPV of services and options would be very helpful.** However, if there is ongoing abuse, I don’t believe that mediation would be appropriate.

- Some occasions the client will not be completely candid about issues of abuse in the family home.

Of the four lawyers who said a screening guide would not be useful, only two provided a reason. Their comments were:

- **As a responsible attorney, I ask every client about possible IPV,** and in fact, I am very aware that men are not the only perpetrators of IPV, and women are not the only victims. I advise all my clients about these problems, and ascertain if IPV is a real problem. If it is, then I bring a motion to skip mediation. *An online assessment is just a meaningless make-work step that needlessly increases the cost and aggravation of mediation.*

- **The IPV bogeyman has gotten so ridiculous** that the woman who cuts my hair now feels obligated to ask me if I feel safe at home every haircut. If we mindlessly let this silliness continue its slow creep, I soon won’t be able to pick up a sandwich at Subway without my Sandwich Artist asking me about my home life or the bruises on my arms.

Those who said a screening guide would “possibly” be useful had diverse reasons for saying so. Some don’t send their clients to mediation when they identify IPV, and therefore are unsure whether mediator screening is needed:
• I don’t know. I provide legal services through federal grant funding which only permits me to work in family cases on behalf of clients who have been victims of IPV. Therefore, all of my clients have experienced IPV, I advise all of my clients not to engage in mediation, and I have never had a client that has mediated their family case.

• If I as a lawyer recognize there are IPV issues then I do not have clients mediate. I don’t want my client in an uncontrolled situation without an attorney. The mediator is supposed to be neutral and cannot act as the advocate that the abused spouse needs.

• If my client is a victim of IPV, we typically discourage mediation as it often serves often to perpetuate the power imbalance and provide a vehicle for the manipulation already present in the relationship. That said, a screening guide may be useful for cases in which IPV has not already been identified or in cases where IPV victims have been ordered to mediation despite the history of IPV.

• To be perfectly honest I’m not quite sure where this is going. If there’s a history of IPV I wouldn’t recommend the parties do mediation, particularly since mediation is primarily for child-related issues.

Another thinks a screening guide is insufficient:

• IPV and accusations of IPV are serious and I think more training is required than a screening guide by a lawyer/mediator. Maybe instead there should be a referral to a professional.

Two said it depends on what the screening guide is.

Other reasons include:

• For lower income families it may be easiest to have a mediator available when the parties are in court. It could produce settlement.

• Would have some concern over the material being discoverable.

Additional Comments
Lawyers were given an opportunity to make additional comments and responded as follows:

• The biggest concern is not IPV but other forms of domestic abuse that could impact a party’s free will in choosing an outcome in mediation. Harder to detect in screenings geared to past violence or fear of physical harm.

• Yes, there should be exceptions to the requirement that parties mediate where there is even alleged the existence of IPV. This would guarantee no abused person would have to plead and prove the IPV to avoid being put into the intimate context of a mediation session.
An abused party should not be compelled to sit next to their abuser and ask for terms. The power dynamic makes that negotiation just an opportunity for the abuser to act upon the abused. **The risk is that litigants could abuse the exception by alleging IPV willy nilly. That risk is outweighed by the benefit to victims of IPV in this context.**

- As a woman and a former victim of IPV and a family law practitioner, I can say that **not enough is done to train victims to not be victims, and too much is done to automatically quell perceived IPV, real or imagined.** All this does, as orders of protection are handed out like candy, is create a situation where too many people claim to be victims of IPV in a power play in an already unhappy relationship mired in turmoil. It’s a stupid situation that hurts many innocent people every year. **Further layers of IPV screening or enforcement are not helpful in any way shape or form.** Rather than creating a set of perpetual victims, we should focus on educating the true victims into getting away from the abuser and exercising common self-help mechanism, and less time demonizing all men.

- **Cases where IPV is more than verbal harassment are generally not candidates for mediation** no matter how many precautions or screenings one does.

- Abused spouses usually don’t present well or communicate with a mediator well. **More training for mediators would be helpful.**

**Counties Represented**

All six counties were represented in the sample, with many of the 49 lawyers practicing in more than one county.

<table>
<thead>
<tr>
<th>County</th>
<th># Lawyers</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cook</td>
<td>30</td>
</tr>
<tr>
<td>DuPage</td>
<td>38</td>
</tr>
<tr>
<td>Kane</td>
<td>29</td>
</tr>
<tr>
<td>Lake</td>
<td>13</td>
</tr>
<tr>
<td>McHenry</td>
<td>15</td>
</tr>
<tr>
<td>Will</td>
<td>28</td>
</tr>
</tbody>
</table>

**Conclusion**

The lawyers were generally receptive to the idea of a screening guide, believing that more information would provide the mediator with information necessary to appropriately mediate the case. Those who were less enthusiastic believe that they know when IPV is present, and when it is, they don’t send their cases to mediation. The lawyers’ opinions on the usefulness of a screening guide was not dependent on caseload, training status or whether they also mediated family cases.
Judge Survey Analysis

The surveyed judges were generally receptive to the idea of a screening guide for mediators, believing that any tool that provides more information to mediators would be helpful. Two judges from Will County, however, felt that screening should be done by the court before referral to mediation. Most of the judges were proactive about assessing their cases for the presence of IPV, but they did not ensure that screening was done once a case was referred to mediation. The judges were also generally unsure about the court’s policies regarding the mediation of cases with an order of protection and those cases in which screening does expose the presence of IPV.

County

The surveyed family judges came from four counties. Note that family judges from Cook County were not surveyed because they rely on the Cook County Court’s mediation program, which has its own screening process.

<table>
<thead>
<tr>
<th>County</th>
<th># of Responses</th>
</tr>
</thead>
<tbody>
<tr>
<td>DuPage</td>
<td>6</td>
</tr>
<tr>
<td>Kane</td>
<td>2</td>
</tr>
<tr>
<td>Lake</td>
<td>6</td>
</tr>
<tr>
<td>Will</td>
<td>4</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td><strong>18</strong></td>
</tr>
</tbody>
</table>

Court Practice

How do you address the possibility of intimate partner violence (IPV)?

Twelve of the 18 judges said they did not refer cases with an order of protection to mediation. Five of these judges said that they learned about the existence of an order of protection either by asking about it or said it was in the case file. The others relied upon others to bring up the presence of an order of protection or had faith that the mediators had it covered, although one said that there was no method for ensuring screening was done.

Eight of the 18 responding judges said that they did more than one thing to address the possibility of IPV. For example, four of the five judges who said mediators are expected to screen for IPV before mediation said they ask the attorney and/or parties about it. One judge said he took all three actions.

<table>
<thead>
<tr>
<th>How do you address the possibility of IPV?</th>
<th>Percent</th>
<th>Count</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cases with orders of protection are not referred to mediation</td>
<td>67%</td>
<td>12</td>
</tr>
<tr>
<td>I ask lawyers and/or parties about the presence of IPV</td>
<td>39%</td>
<td>7</td>
</tr>
<tr>
<td>Mediators are expected to screen all cases for IPV before mediation</td>
<td>28%</td>
<td>5</td>
</tr>
<tr>
<td>Other - Write In</td>
<td>17%</td>
<td>3</td>
</tr>
</tbody>
</table>
Three judges wrote in responses, saying they dealt with cases involving IPV on a case-by-case basis, required both parties to consent and appointed an experienced mediator, respectively.

Two judges wrote comments about this question. The two appear to have differing views about the amenability of mediation for cases involving IPV:

- “On rare occasion I will allow mediation in the courthouse with a court officer outside the conference room where the mediation is to take place but generally out of a concern for safety if there are IPV issues I do not want the parties together.”

- “Clearly a history of IPV can be an impediment to mediation. However, based on the totality of circumstances, and where the parties and mediator are fully aware and in agreement to proceed, it can in some cases, continue to be an effective, and efficient tool for resolving issues.”

How do you ensure that screening has been done?
It’s not clear from the responses that all judges understood this question as it was intended, with some seeming to understand it as whether they uncover the presence of IPV. Those whose responses indicated that they did understand the question correctly said that they did not ensure that screening had been done. Six said that they relied on the attorneys to tell them, or believed that the mediators would screen.

Is there a particular questionnaire or checklist that the mediators are expected to use to screen for IPV?
Two of the judges (one from Lake County and one from Will County) said mediators used a particular instrument to screen for IPV, but they did not state what that instrument was. Five judges, from Kane, Lake and Will counties, said mediators didn’t use a particular instrument, and the rest were unsure.

Does the court have a policy regarding what mediators must do if they find that IPV is involved?
The judges were unclear about whether the court had a particular policy about whether or how cases involving IPV should be mediated. In each county except Kane, the judges’ responses were either contradictory or they said they were unsure.

Three judges said there was a policy. Two judges in Will County said that cases with an order of protection were not referred to mediation. A judge from Lake County talked about his/her own policy, which was that mediation should take place with the parties separated.
Does your court prohibit the use of mediation in cases involving an order of protection?

Lake County judges are sure that the court does not prohibit the use of mediation in cases involving an order of protection. The judges from the other counties are evenly divided as to whether they believe that the court does or does not allow mediation when there is an order of protection.

<p>| Does your court prohibit the use of mediation in cases involving an order of protection? |
|---------------------------------|---------|--------|--------|</p>
<table>
<thead>
<tr>
<th>County</th>
<th>Yes</th>
<th>No</th>
<th>Unsure</th>
</tr>
</thead>
<tbody>
<tr>
<td>DuPage</td>
<td>2</td>
<td>2</td>
<td>2</td>
</tr>
<tr>
<td>Kane</td>
<td>1</td>
<td>1</td>
<td>0</td>
</tr>
<tr>
<td>Lake</td>
<td>0</td>
<td>6</td>
<td>0</td>
</tr>
<tr>
<td>Will</td>
<td>2</td>
<td>2</td>
<td>0</td>
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Opinions Regarding a Screening Guide

Would it be helpful to the court if mediators had access to a free, secure, online screening guide?

Twelve of the 18 judges believe a screening guide would be beneficial. Only one does not see value in it. Judges in DuPage and Lake Counties in particular see the value of a screening guide.

Please Explain:
The judges’ largely positive perspectives on a screening guide were based primarily on their belief that any new tool and any opportunity to gather more information is beneficial. Eight of the 18 judges responded in this way, saying, for example, “It’s obvious we need more tools,” and, “Knowing the right questions to ask to elicit DV, and knowing how to modify the mediation to accommodate DV issues would be enormously helpful to the process.” One said the courts aren’t doing enough to screen cases: “We do not do enough currently to screen for IPV in the mediation process and this survey has impressed me that we need to do more so having a guideline would be very useful.” Three didn’t provide a reason.

Four judges discussed their reservations about a potential screening guide. One, who said a guide wouldn’t be useful, said the court should do the screening. The other three said the guide would possibly be useful. Of these, one said that the court should do the screening, not the mediators, another worried that a screening tool wasn’t enough. A final judge was concerned about violating parties’ rights.

Additional Comments
Judges were given an opportunity to add additional comments to their surveys and replied as follows:

- Mediation in IPV cases is fraught with peril, and should be screened by the court not the mediator before being allowed and even then approved by the court sparingly and with an abundance of caution particularly in SRL cases.
• Most often if issues of IPV are present, a GAL is appointed instead of a mediator.

• Since cases involving IPV are the most difficult to resolve and the greatest concern for the safety of the party who has been a victim and the mediator we need to improve on how we handle these cases.

• I don’t think mediation should be summarily dismissed as a tool just because DV may exist. GALs may be too expensive, and formal court hearings can be intimidating and are not always the most effective at dealing with finding resolution for families on a more long term basis. Mediation should remain in the toolbox, we just need to learn how to do it better when issues of DV exist.

• Important to remain neutral as a mediator but let parties create solutions that work for them.

• There are times that IPV is not discovered prior to mediation; we must therefore train our mediators how to uncover the various forms of IPV and give them all the tools necessary to intervene.

**Conclusion**

The judges’ stated practices regarding IPV indicate that a screening guide could be useful, something that most of them agreed upon. Although they do ask the attorneys and/or parties about the presence of IPV, they do not ensure that mediators screen. This points to the importance of training mediators and providing them with quality tools to conduct the screening.
# Pre-Mediation Screening for IPV: Might a Tech Tool Help?

**IPV Summit**

## AGENDA

<table>
<thead>
<tr>
<th>Gathering/Coffee</th>
<th>8:30 a.m.</th>
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<td>(Participants arrive any time between 8:30 and 9:00.)</td>
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**Summit Begins with Welcome & Introductions**

<table>
<thead>
<tr>
<th>Context &amp; Assumptions</th>
<th>9:00 a.m. – 12:45 p.m.</th>
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<tbody>
<tr>
<td>• What do we mean by screening?</td>
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<tr>
<td>• Assume screening is a good idea?</td>
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<tr>
<td>• Articulate the problem</td>
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<tr>
<td>▪ Mediation problem</td>
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<tr>
<td>▪ Societal problem</td>
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<tr>
<td>• Potential users of the tool</td>
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<tr>
<td>• Underlying assumptions</td>
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<tr>
<td>• Exclusions: What the tool will not do</td>
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</tbody>
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## Review of What We Know

## Barriers to Screening

## How the Tool Might Work

### Tackling Big Questions

- How good does a tool have to be to be better than no tool?
- Why might a tool be a bad idea?
- Will the tool require training to use it?
- What level of mediator screening competence would be the goal?
  - How do mediators assess their own ability to mediate particular cases?
- What would make a tool effective for decision-making?
- What would make a tool useful to mediators?

**Lunch**

(The time at which lunch will be served may vary based on how the morning goes.)

<table>
<thead>
<tr>
<th>Lunch</th>
<th>12:45 p.m. – 1:30 p.m.</th>
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## Using the Tool

- What characteristics should the tool have?
- How might mediators use the tool?
  - How long should it take to screen using the tool?

**Bringing It all Together**

- Is the Tool a Good Idea?

**Next Steps**

**Thanks and Farewell**

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<th>4:00 p.m.</th>
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