

ANNEXE 21
OUTIL/MODÈLE DE DÉPISTAGE DE VIOLENCE CONJUGALE 1¹

Questionnaire

(Ask all of the following. Feel free to take notes.)

Section 1: General

- a) Is there anything you would like to ask me or tell me before we continue? Are there any special needs that you require to have this discussion (language interpretation or other special accommodations)?

- b) Do you want to mediate? If so, why? If not, why not?

- c) Why don't you tell me about your situation?

- d) Could you tell me about how the decision to divorce and/or separate was reached?

Section 2: Control, Coercion, Intimidation, Fear

- a) When you look back over time, how were decisions made in your marriage?

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- b) What happens when you speak your mind and express your point of view to [insert name]?

- c) When you and [insert name] fight and/or are angry with each other, what happens?

- d) Do you have any concerns about how the two of you will make decisions in mediation?

- e) During mediation sessions, you and [insert name] may meet in the same room to talk about all the issues and problems that need to be resolved. Do you have any concerns about sitting in the same room with [insert name] or mediating with [insert name]?

If yes, ask the following questions:

- i. What are your concerns?

- ii. If your attorney was present with you during the mediation sessions, would you still have these concerns?

- iii. If you and [insert name] were in separate rooms during the mediation sessions, would you still have these concerns?

iv. If you and [insert name] came at separate times, would you still have these concerns?

- f) Has [insert name] ever prevented you from having contact with family or friends, or with your children? If so, what happened?

- g) Has [insert name] ever denied you access to money for food, shelter, medical needs, clothing, etc.? If so, what happened?

- h) Has [insert name] ever threatened to hurt or kill him/herself? If so, what happened?

- i) Has your partner ever forced you to do something that made you uncomfortable? If so, what happened?

Section 3: Violence/Fear of Violence

- a) Has there ever been any physical confrontation between you and [insert name]? If so, what happened?

- b) Do you ever feel afraid of [insert name]? What are you afraid of? Tell me about the time you felt most afraid. Has [insert name] ever felt afraid of you? What is he/she afraid of?

- c) Do you ever become afraid for yourself or others based on the look from [insert name] or actions of [insert name]? If so, tell me about it.

- d) Has [insert name] ever pushed, shoved, hit, kicked, choked you or restrained you, or pulled your hair? If so, what happened?

- e) Has [insert name] ever used or threatened to use a weapon to harm you? If so, what happened?

- f) Has [insert name] ever threatened to kill or injure you? Has [insert name] ever threatened to kill or injure a family member, friend or coworker? If so, what happened?

- g) Has [insert name] ever damaged or destroyed your property or harmed or threatened to harm your pets? Your children's property or pets? If so, what happened?

- h) Have you or any family members ever sought medical treatment as a result of an injury caused by [insert name]? If so, what happened?

- i) Has [insert name] ever caused you to feel threatened or harassed by following you, interfering with your work or education, making repeated phone calls to you, or sending you many unwanted letters, emails, faxes or gifts? If so, what happened?

- j) Have any of these events involved the children? If so, what happened?

- k) Has there ever been an order that was meant to limit contact between the two of you, for example, a Personal Protection Order or a no contact order that was a condition of bail? Please describe.

- l) Have either of you ever had a PPO issued against you by anyone? If so, what happened?

- m) Have either of you ever been found in contempt of court for violating a PPO? If so, what happened?

- n) Are you afraid that [insert name] will harm you during the mediation or after you leave because of what you say in mediation?

- o) Are you in immediate danger?

If yes to 3o:

1. **Discontinue use of screening questionnaire and proceed to *SAFETY PLANNING* (page 28); and**
2. **Terminate mediation. See *SAFE TERMINATION* (page 24).**

“Since you are in immediate danger, let’s arrange for you [and your children] to get to a safe place. I will not be mediating your case.”

If yes to any one of 3a-3n:

If there is a yes answer to any one of questions 3a-3n, this is an indication that you should advise the party that mediation is NOT appropriate. However, do not terminate until the entire questionnaire is completed. Information gathered in the following sections may be useful if the party wishes to mediate despite the mediator’s advice. This will assist the mediator to make the decision whether or not to mediate.

Section 4: Violence/Dangerousness Assessment

- a) Have you or any one else ever called the police because of problems in your home? If so, what happened?

- b) Have you or [insert name] ever been arrested for, or convicted of, any crime? If so, what happened?

- c) Are there any guns or other weapons in the home? What kind? How many?

Section 5: Attorney Awareness of Violence

- (If lawyer is not present) Have you told your lawyer about these things (Sections 3 & 4)? It is important for your lawyer to know about these matters.

Section 6: Children

- a) How are the children doing?

- b) Do you have any concerns about the safety of the children? If so, please describe.

- c) Has [insert name] ever threatened to take the children or threatened to stop you from seeing them, or stopped you from seeing them. Please describe.

- d) Is there an open abuse or neglect case involving your children? Tell me about it.

Section 7: Other Considerations Regarding Ability to Negotiate

- a) Do either of you have a problem with alcohol or drugs? (If yes, how recent? What is the current status of treatment?) Is there a problem with alcohol or drugs in either of your families? If so, please describe.

- b) Do either of you have a history of mental illness or emotional problems? Is there a history of mental illness or emotional problems in either of your families? (If yes, how recently? What is the current status of treatment?) Tell me about it.

- c) Have either of you ever attempted or considered hurting or killing yourself? (If yes, how recently? What is the current status of treatment?) Please describe.

Section 8: Catch-All

- a) Is there anything else you think I should know about you, [insert name] or your family?

Section 9: Mediation Process Discussion

If the mediator believes that mediation will not go forward, skip this section and go to the “Decision to Not to Mediate” section. Return to this section if mediation ultimately will go forward.

“Now let’s talk more about the process of mediation.”

- a) **Discuss process of mediation.**

“In mediation, we will start by gathering information, then will look at what the issues are, options for resolving them, and how to resolve them in a way that is agreeable to both of you [and in the best interests of your children]. When you have agreements, I will send them to you and your attorneys to look over and make changes. The final draft will be given to the attorneys to file with the court documents. In light of the confidentiality of mediation as discussed earlier, I will report to the judge only that you attended mediation, and whether or not you reached an agreement.”

- b) **Discuss differences between mediation and the traditional legal process.**

“In mediation, the two of you will discuss the issues and reach your own resolutions that are agreeable to both of you. In the traditional legal process, your lawyers might do the negotiation for you, or you could take the issues to the Friend of the Court or a judge.”

- c) **Discuss need for lawyer, if party does not have a lawyer.**

“Mediation is a cooperative process, where the two of you are working together to reach a resolution. However, you will each need legal advice and knowledge of what the court would decide in your situation. I must remain neutral and cannot give you that advice. So I advise you to get a lawyer to give you legal advice, and advice about what might happen in court. You could either retain a lawyer or consult a lawyer. I would suggest that you get advice (1) prior to negotiating, and (2) after the agreement has been reached but before you sign your agreement, to see if there might be problems with it.”

- Has the divorce been filed? _____

- What is the current status of legal process? _____
- What are the upcoming court dates? _____
- Discuss fees. _____

Section 10: Preparation for Mediation

- a) What would you like to see as an outcome of mediation?

- b) What are the issues you think will be the most difficult for you and [insert name] to resolve?

