

Domestic Violence Screening

By Hilary Linton | Published: October 2, 2010



I was recently asked whether it was okay for a mental health professional to screen (for power imbalances or various forms of control) only one of the parties in an arbitration. The answer, of course, is no.

The [Ontario Arbitration Act](#) requires everyone who chooses family arbitration to be “screened”, before they sign the Arbitration agreement, for anything, such as controlling violence or abuse, that would make that case an inappropriate one for a voluntary arbitration process.

People going through a separation are vulnerable. [Statistics](#) show that it is a dangerous time for women who are in relationships that are defined by power, control and violence. Women and their children are far more likely to be harmed or killed at this time.

Just read the chilling report of the [Domestic Violence Death Review Committee](#).

Screening takes place during a confidential meeting with each person who is considering mediation or arbitration. They are asked questions that help identify if any indicators of a coercive, controlling relationship exist. The indicators are set out in the “Power and Control Wheel” (above).

Screening “tools” exist that allow the person doing the interview to take the information they are given and to predict the likelihood of a person or child being assaulted or harmed. This helps the person doing the screening to advise on the best and safest process for each party and for their children.

As important as the screening is, equally critical is what happens when dangerous coercive, controlling behaviour is identified. This is the focus of today’s lament.

Screening must be confidential. The person at risk will not disclose anything that might put her, or her children at risk of harm. She knows that, if the abusive person finds out that she told someone the truth, she and/or the children could be hurt or killed.

When a screener learns of incidents or behaviours that cause concern for the safety of a party or child, he or she must advise that the case is not appropriate for arbitration (or mediation). But, if the person doing the screening has met with only one of the parties, it is obvious who gave the information that led to that conclusion.

Based on everything we know about people who control their intimate partners through abuse and violence, this disclosure could put the victim or children at a real risk of harm.

So, when lawyers decide that they will each screen their own client before an arbitration; or when they send each client to a separate mental health professional for screening, they are risking the violation of the confidentiality that is critical to the safety of their own client.

The solution is, thankfully, an easy one.

Lawyers, do not screen your own clients for mediation or arbitration. Send both parties to the same trained and experienced mental health professional who knows how to screen them (separately, of course) and also how to competently and safely terminate the process if necessary. It is quick, it is not costly, and it is the best process for your client.

Mental health professionals; if a lawyer asks you to screen only one party to the arbitration, say no. It is not worth your deductible, your reputation or your peace of mind.

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