

**American Bar Association
Commission on Domestic Violence**

Tool for Attorneys to Screen for Domestic Violence



What is Domestic Violence?

Domestic violence is a pattern of behavior in which one intimate partner uses physical violence, coercion, threats, intimidation, isolation or emotional, sexual or economic abuse to control the other partner in the relationship. Domestic violence does not necessarily involve physical violence and it equally affects all aspects of our society, rich or poor, regardless of race, ethnicity, religion or national origin.

“Domestic violence is an epidemic.”

Domestic violence is an epidemic. One out of nearly every three women will be the victim of domestic violence in her lifetime. Between three and ten million children are exposed to domestic violence every year and that exposure has a negative impact on their development. Moreover, studies indicate that forty to sixty percent of men who abuse women also abuse children.

How to Screen Your Clients for Domestic Violence – Examples and Suggestions

It is not easy to bring up these issues, but it is critically important. Think carefully about your manner of speaking and your actions before you begin to ask these questions. Incorporate questions about domestic violence in your standard intake process to minimize the stigma and encourage disclosure.

Here are some examples of questions to integrate into your standard interview for any new client:

- Has your intimate partner ever pushed, slapped, hit or hurt you in some way?
- Has your intimate partner ever hurt or threatened you?
- Has your intimate partner ever forced you to do something you did not want to do?
- Is there anything that goes on at home that makes you feel afraid?
- Does your intimate partner prevent you from eating or sleeping, or endanger your health in other ways?
- Has your intimate partner ever hurt your pets or destroyed your clothing, objects in your home, or something you especially cared about?
- Has your intimate partner taken the children without permission, threatened to never let them see you again, or otherwise harmed them?

Why Should I Screen My Clients to Determine if they are Victims of Domestic Violence?

Given the prevalence of domestic violence in our society, it is likely that some of your clients are in, or have been in, violent relationships that impact the legal advice you will provide. For example, your client may be seeking advice in a personal injury case and the prospective defendant is the perpetrator of domestic violence. Similarly, in a sexual harassment case, the harasser may have also been in a violent relationship with her and his behavior may also be a violation of an existing protection order. However, your client may not disclose this information to you because she may not think it is related to the advice sought or she is embarrassed or ashamed.

“To make sure you are ethically representing your client and to avoid malpractice...”

To ensure that you are *ethically representing your client and to avoid malpractice*, it is critical that you learn if she is a survivor and consider how this information affects your representation. Moreover, if their safety is at risk while you are representing them, your safety may be at risk as well.

How Do I Screen My Clients to Determine if they Are Survivors of Domestic Violence?

Interview your client alone. Let your client know that you ask a series of standard questions of all of your clients when you embark on representation.

Explain why you are asking about domestic violence:

It is an epidemic.

It impacts how you provide representation.

You care and can provide referrals and support.

Include direct questions about domestic violence in your standard set of questions such as *“Do you feel safe at home?”*

What Should I Do If My Client Discloses That She is a Victim of Domestic Violence?

Let her know that your conversation with her about the violence is confidential and that it is not her fault.

You do not and should not provide her with counseling or tell her what you think she should do about the situation. Instead, provide information about resources in your community for herself and her children such as a hotline, shelter, or domestic violence legal services.

For advocacy, counseling and referrals 24 hours a day provide her information about how to contact the ***National Domestic Violence Hotline: 1-800-799-SAFE (7233) or 1-800-787-3224 (TTY).***

Explain that she will reach an advocate who can talk with her about her situation, her safety, and the options available to her. All conversations with advocates at the National Hotline are strictly confidential.

What if I Suspect That My Client is a Victim of Domestic Violence but She Has Not Disclosed?

Remain supportive and let her know that if, at any time, she needs resources about domestic violence she should feel comfortable asking you. Remind her that if she is a victim, that information is important for you to know so that you may best represent her.

Should I Be Concerned for My Client’s Safety and Mine If She Discloses That She Is Currently Being Threatened by Her Batterer?

The danger of violence, including the risk of death, escalates when a domestic violence survivor attempts to leave a batterer. Seeking legal assistance is a step towards independence, which threatens a batterer’s sense of power and control and may lead to increased violence. If you represent a client who is planning to leave or to take any legal or financial steps to separate from a batterer, alert her to the increased likelihood of violence.

Your safety may also be at risk. Please review the Safety Checklist for Attorneys below for ways to increase your safety.

Safety Checklist For Attorneys Representing Victims of Domestic Violence

- ✓ For your safety and that of your client and your staff, safety planning is crucial. Be aware of your own safety. Most batterers seek to control their former or current partners, rather than their lawyers, and many batterers appear to be well behaved in court.
- ✓ Nevertheless, lawyers for victims of domestic violence may be threatened by batterers and their family members. Take precautions if a problem arises. Carefully review your office security procedures.
- ✓ If the batterer is representing himself and is coming to your office, do not hesitate to ask a law enforcement officer to sit outside your office or seek similar precautions. You may wish to obtain a protection order that includes the batterer staying away from you and your office.
- ✓ Instruct your staff as to how much interaction they should have with a batterer who represents himself and calls your office. All staff should be particularly careful not to reveal last names or personal contact information.
- ✓ Find out the safest way to contact your client and the names of other individuals who will know how to reach her.
- ✓ Ask for your client when you call and speak only to your client about the case. Do not leave messages with other family members or on an answering machine or voice-mail unless your client has told you this is safe.
- ✓ If questioned by family members, do not indicate that you are a lawyer; rather, give an innocuous reason for the call, such as taking a survey. **Avoid leaving your last name if you do leave a message.**

- ✓ Always ask your client first if it is safe to talk. The batterer may be present, even if the batterer no longer lives with your client. Develop a system of coded messages to signal danger or the batterer's presence, or if you should call the police.
- ✓ Block identification of your number when calling your client. **Suggest that your client block hers.**
- ✓ Keep your client's whereabouts confidential, including during discovery.
- ✓ If your client fails to respond to your calls, make extensive (but confidential) efforts to confirm that your client is safe. If your client has decided to drop the case, try to verify that your client has not been threatened or coerced. Let your client know that she should not be embarrassed to call you in the future.
- ✓ If your client wants you to, or if it may be a life/death matter, call the police if your client is in danger, and, where possible, confirm that a non-responsive client is safe.
- ✓ Talk to your client in advance about what to do if she disappears – does she want you to try and locate her?

“...call the police if your client is in danger...”

Resources For Attorneys Screening For Domestic Violence

Check your local telephone directory or search on line for information about local resources in your community for victims of domestic violence. *These include:* The local police department, victim witness program, local domestic violence hotline, domestic violence shelter, and counseling program. Request information pamphlets and other outreach materials from these organizations. By making these materials available in your waiting room, you will increase the safety and security of your clients as well as increase the likelihood of her disclosure to you.

Each state has at least one statewide coalition on domestic violence that may be a resource such as the Maryland Network Against Domestic Violence or the Washington State Coalition Against Domestic Violence. Most state domestic violence coalition websites provide information on local programs and resources for victims of domestic violence.

Information about state coalitions and other national domestic violence organizations may be found on the website of the National Coalition Against Domestic Violence at www.ncadv.org.

The American Bar Association Commission on Domestic Violence provides resources for attorneys nationwide on domestic violence including, publications, a listserv, and technical assistance and training for attorneys representing victims of domestic violence. Information about these resources may be found on our website: www.abanet.org/domviol.

If your client requests information for her own safety planning, you may wish to provide information from one of these resources:

Women's Law Initiative, Safety Planning:
www.WomensLaw.org

For information on Technology safety, see this site of the National Network to End Domestic Violence:
www.nnedv.org

The Bureau of Justice Statistics reported that 85% of victimizations by intimate partners in 2001 were against women.

The use of gender specific language, however, should not be construed to mean that domestic violence perpetrators are all male, nor should it be construed to mean that domestic violence exists only in heterosexual relationships. The screening attorney should be sensitive that domestic violence can be present in all intimate relationships.

The views expressed herein have not been approved by the House of Delegates or the Board of Governors of the American Bar Association except where otherwise indicated, and accordingly, should not be construed as representing the policy of the American Bar Association.

“Each state has at least one statewide coalition on domestic violence”

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