

Part 1: Screening for Success

Part 2: Dispute Resolution Safety, Screening and Security - Tips & Techniques for Neutrals

Christy Cumberlander Walker
Marya Cody Kolman
Michael R. Moran, Esq.

The Business Center of the
Dispute Resolution
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CONFERENCE

Part 1: Screening for Success

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Concerns

- Physical Safety
- Psychological harm, re-traumatization
- Effects of post-traumatic stress disorder
- Party's ability to negotiate
- Mediator's ability to balance power

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Screening Purpose

- Identify, in advance, cases that
 - Should not be mediated
 - Require specific protocols and safeguards
 - Require referrals to other resources



Screening Goals

- Learn if history of abusive or controlling behaviors
- Learn if history of threats or power imbalances
- Learn if history of violent or criminal behavior
- Determine if and how case should be mediated
- Protect safety through specialized process
- Determine referrals to other resources, if needed



Three-Tiered Screening

- Document Review
- Written Questionnaire
- Confidential Interview



Document Review

- Court records
- Restraining orders or protection orders
- Criminal charges and convictions
- Probation and parole conditions
- Pleadings and affidavits



Questionnaire

- Accessible, easy to read language
- Safe location to complete
- Ask about violent, abusive, controlling or explosive behaviors
- Ask about attitudes, fears and special concerns
- Ask about contacts with law enforcement




Confidential Interview

- Build rapport
- Inquire about responses to questionnaire indicating fear, violence, coercion or manipulation
- Inquire about responses suggesting mental health, substance abuse or explosive behavior concerns
- Modify questions and approach to party; ask follow up questions
- Observe body language and non-verbal clues
- Address party's concerns




Assessing Capacity to Mediate

- Fear can impact party's ability to negotiate
- Mental illness and substance abuse can interfere with party's ability to meaningfully participate in mediation
- Party must be able to articulate own interests
- Party must be able to negotiate without fear of consequences
- Party must be willing to mediate




Screener's Decision

- Case not suitable for mediation
- Mediate with special conditions
- Mediate without special conditions




Mediation with conditions

- Safe location
- Room set-up
- Third parties in session
- Ongoing screening
- Staggered arrivals and departures




Structured Mediation Process

- Mediator controls the process
- Structured agenda
- Behavioral ground rules enforced evenly
- Caucus
- Adjust process during mediation, if needed
- Mediator termination of mediation session, if needed



Termination

- From caucus
- Mediator takes responsibility
- Do not blame either party
- Use reasons generated by party caucusing with, when possible
- Keep parties separate; protect safety



Questions?




**Part 2: Dispute Resolution
Safety, Screening and Security -
Tips and Techniques for
Neutrals**

Michael R. Moran, Esq.



Objectives

- Participants will learn about risk assessment and will be provided resources for screening mediation parties, including using court records, open source information and commercial databases to ensure safety;
- Participants will learn the importance of increasing their situational awareness to confront and resolve safety threats;
- Participants will be provided personal security awareness, including options for self-protection, legalities involved in self-protection and working with outside resources.



Safety & Risk Assessment



Safety & Risk Assessment

- Begins at Intake
- Identify all "legal" parties and then all potential mediation parties/attendees
- Gather appropriate background information
- Conduct appropriate information gathering, i.e. interviews, records checks, etc.
- Analyze information
- Determine what, if any, mitigation will be undertaken



Tools for Risk Assessment

- Questionnaires & Checklists
- Referring Court / Agency / Professional
- OCN: Ohio Courts Network
- Local Court Records – Municipal Courts, Common Pleas, Probate
- Google
- Commercial Databases: LEXIS/NEXIS, Westlaw, Accurant, etc.
- Law Enforcement Agencies



Ohio Courts Network - OCN

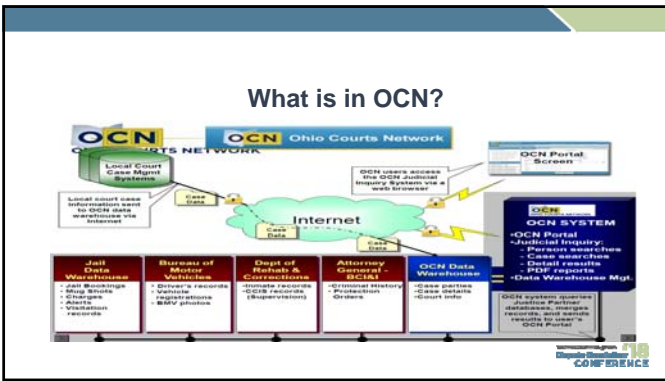


What is the Ohio Courts Network?

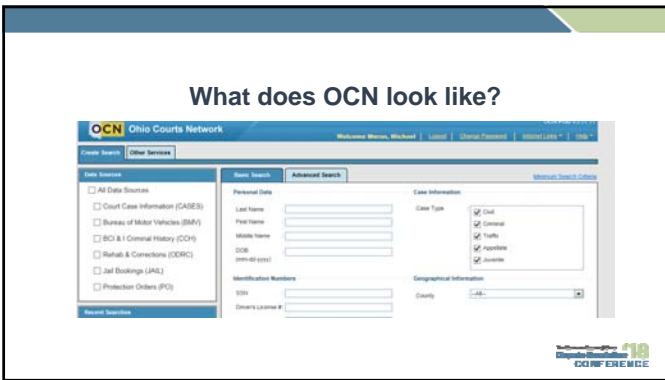
A statewide information exchange system to enable courts and justice system partners to share the information necessary to make critical decisions



What is in OCN?



What does OCN look like?



LEXIS/NEXIS Public Records

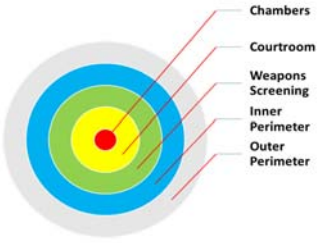



Physical & Personal Security




Courthouse Security System

- This is a classic graphical representation of a Courthouse Security System.
- Not everyone here works in a courthouse – but the principles of security are the same, whatever “asset” is protected:
- The Red/Yellow are the most protected areas
- The Gray represents the initial line of defense
- The Blue represents the next line of defense
- The Green represents a final barrier

Security @ Office (Not a Courthouse)

- Consider “Crime Prevention Through Environmental Design” – survey it!
- Layout and flow of waiting area, physical separation of parties
- Ability to observe, directly or electronically, those in waiting area
- Consider escape routes, “safe rooms” and duress alarms (panic buttons)
- Communication and contingency plans with staff, neighboring tenants, landlord, etc.
- Obtaining appropriate self-defense training



Options to Increase Safety @ Mediation

- Procedural Justice: Explain very carefully what is going on
- Begin and end in caucus
- Never leave parties alone in a room together
- Asynchronous mediation – parties at separate times
- Telephone / Skype mediations
- Encourage appropriate support people
- Private security or off-duty LE presence (last resort)



Security @ Home

- Layers Of Security
- Lighting, Locks and Landscaping (3 L's)
- Keeping Doors Locked
- Home Intrusion Detection Alarm System / Cameras
- Garage/Vehicle Use
- See Something, Say Something



Security at Home, Continued

- Mail
- Courthouse Screening
- Alternative Address - Post Office Box
- Telephone Unlisted & Unpublished
- Residential Security Survey



Increase Situational Awareness

- Condition White: Unaware
- Condition Yellow: Relaxed Alertness
- Condition Orange: Focused Alertness
- Condition Red: Ready to Act

These "Conditions" refer to your current state of mind and willingness to take action regardless of real or imagined threats.



Mediator Safety & Security Resources

All Hazards Resource Guide, Virginia Center for Policing Innovation (n.d.)

Barrett, Jimmie H., Jr. *Protecting Court: A Practitioner's Guide to Court Security*, Mill City Press: 2009.

Carter, Richard W. and Randy Harris. *Court Security for Judges, Officers and Court Personnel*, 1st ed., LexisNexis: 2016.

Center for Judicial & Executive Security, *Courthouse Risk Identification Template* (n.d.).



Resources - Continued

Center for Judicial & Executive Security, *Extensive Research Analysis: 185-Documented Student Incidents Court Targeted Acts of Violence* (n.d.).


National Center for State Courts, 101 PERSONAL SAFETY TIPS for JUDGES and COURT STAFF (n.d.)

National Center for State Courts, HOME SECURITY AUDIT AND RECOMMENDATIONS (n.d.)

Risk Factors for Threat Assessment Resource Guide, Virginia Center for Policing Innovation (n.d.).



Conclusion
 Questions?
 Remember – Serve the Public.
 Stay Safe!



Contact Information

Christy Cumberlander Walker
 Mediator and Mediation Trainer
 Las Vegas, Nevada

(614) 209-4738
 Christywalker51@Hotmail.com

Contact Information

Marya Cody Kolman
 Director Mediation Services
 Franklin County Domestic Relations & Juvenile Court
 Columbus, Ohio

(614) 226-1063
 Maryakolman@gmail.com

**Contact
Information**

Michael R. Moran, Esq.

Director of Mediation, Chief Counsel & Chief Bailiff
Franklin County Probate Court / Judge Robert Montgomery
373 South High Street, 22nd Floor
Columbus, Ohio 42315

(614) 525-3638
MRMoran@franklincountyohio.gov

Taking Precautions

101 PERSONAL SAFETY TIPS for JUDGES and COURT STAFF

Since the tragic murders of a judge, court reporter, and court service officer at the Fulton County Superior Courthouse in Atlanta, Georgia, on March 11, 2005, deadly shootings and serious security incidents continue to plague our nation's courts. Each one serves as a painful reminder that judges and court staff are at risk and at all times should be aware of their environment, take safety precautions, and use security procedures. The safety tips below are useful reminders for personal safety.

Home and Personal Life

1. Do not let your guard down at home. Practice good safety techniques.
2. Do not keep or carry a weapon unless it is in proper working condition and you have been trained in the correct use of it.
3. Do not answer your door (or any door) without looking through a peephole or knowing who is on the other side.
4. Do not use the title "Judge" on personal checks, credit cards, airline tickets, etc.
5. Do not use your judiciary authority or title to perform peacekeeping functions when you are away from your court. Leave that to the police. Be a good witness.
6. Do not volunteer personal information to strangers or identify yourself as a judge. If asked, identify yourself as an attorney, government employee, etc.
7. Do not unreasonably expose yourself to persons with communicable diseases (e.g. HIV virus, hepatitis, tuberculosis, etc.).

8. Do not forget to have a Personal and Family Information Sheet secured with the local law enforcement agency in your jurisdiction so that it can be used in an emergency situation.

Home Telephone

9. Do not have a listed or published telephone number or address.
10. Do not announce your name and phone number on the outgoing message on your home answering machine.
11. Do not tell anonymous callers on your home telephone your name or the phone number they have reached.
12. Do not allow strangers to overhear your personal telephone calls.
13. Do not expect privacy when talking on a cellular or cordless telephone.
14. Do not return office telephone calls from your residence phone if "Caller I.D." is not in operation in your area and if you do not have "Caller I.D. Blocking." Otherwise, the

person you call will obtain a digital readout of your home telephone number.

15. Do not call "800" numbers or make collect calls unless you want your phone number to appear on the call recipient's phone bill.

Home Mailing Address

16. Do not use your street address on your personal mail's return address if you can use a post office box.
17. Do not put your name on your return address if you use a residence street address or deposit your mail in outgoing office mail.
18. Do not take magazines to the courthouse until you remove mailing labels containing your name and address.

Commuting

19. Do not always drive the same route to and from your home and office.
20. Do not arrive at or leave the courthouse at the same time every day.
21. Do not leave the courthouse during the day without confidentially letting someone know where you are going, what you will be doing, and

when you should be expected to return to the building.

22. Do not be paranoid, but be aware if someone is staring at you or following you.
23. Do not drive to your street of residence if you even *think* someone might be following you. Gas is cheaper than your life, so drive another block or two before deciding whether or not to go home.
24. Do not enter or leave the courthouse in darkness if you can avoid it.
25. Do not transport your judicial robe in your vehicle by hanging it up unless it is covered up. If not concealed, lay it on the seat or in the trunk to hide it.

Courthouse Parking Lot

26. Do not reserve your parking space with a sign that says "Judge" or your name.
27. Do not have a personalized license plate that says "JUDGE" on it.
28. Do not go to your vehicle if someone is watching you that had business within your court. Either wait, or walk to a vehicle first that is not yours, and then act like you forgot something and return to the building.
29. Do not leave your car unlocked or the windows down.
30. Do not enter your vehicle without first looking under

the car and inside for any signs of hidden persons or tampering.

At the Courthouse

31. Do not conduct court sessions or hearings in the absence of a court security officer.
32. Do not sit on or behind a bench that is not elevated.
33. Do not sit on a bench that does not have protective material behind it to stop bullets.
34. Do not run from the bench if shooting begins in your courtroom. Drop behind it and lie flat.
35. Do not allow law enforcement officers to enter your courtroom with a weapon if the officer is a party to a case pending in your court. This is especially important in domestic relations cases.
36. Do not allow anyone to approach the bench without first asking for and receiving your permission.
37. Do not ever let a party or criminal defendant think your decision was "personal" or that you have some personal dislike or animosity toward them.
38. Do not allow disruptive persons to remain in your courtroom if you can have them legally removed.

39. Do not hesitate to request additional security for a high-risk trial or a high-risk person.

40. Do not be reluctant to ask for ask for more money for court security at budget hearings.
41. Do not forget to wear your judicial robe in the courtroom. It will normally command respect, and like a police uniform, it will make you more difficult to recognize off of the bench when you have removed your robe (your 'uniform').
42. Do not operate your court without "Rules of Courtroom Decorum" that are prominently posted and vigorously enforced.
43. Do not allow the number of persons in your courtroom to exceed fire code. In addition to fire safety, this can be used to exclude any unruly or intimidating spectators.
44. Do not drink from glasses or water pitchers that have been left unattended in the courtroom on the bench.
45. Do not think that just because you have never had court violence that it will never happen in your courtroom.

In Your Chamber

46. Do not display family photographs in your chambers where visitors can see them. Turn them toward you.
47. Do not allow persons in the custody of law enforcement to be brought to your residence or chambers. Meet them in the courtroom or police station.

48. Do not hesitate to call a court security officer to your chambers at the first hint of a security problem.
 49. Do not allow anyone to be seated in your office or chambers in your absence without your prior consent.
 50. Do not leave valuables or sensitive papers in sight and unlocked when you leave your office. This is especially important if maintenance or cleaning persons will be entering during your absence.
 51. Do not allow anyone to close the door to your chambers other than you, your court security officer or someone you have instructed to do so.
 52. Do not use hollow core doors on your chambers.
 53. Do not discard sensitive materials or information in your home or office trash can in a legible form that could be read by scavengers.
 54. Do not leave file cabinets, desk drawers, briefcases, etc. unlocked when you leave your office.
 55. Do not photocopy sensitive data without accounting for each original and copy.
- Throughout the Facility**
56. Do not have heavy or sharp items on the bench or your desk where others can grab them. Leave them in drawers.
 57. Do not leave your lunch in a common area accessible to the public. If you do, label it with another name or a symbol.
 58. Do not walk past windows or sit in a courtroom that has windows without blinds.
 59. Do not run into the hallway if you hear gunfire in the courthouse. Seek immediate cover and have your chambers and courtroom secured.
 60. Do not allow the public access to your mail room.
 61. Do not issue combination lock codes or building keys without keeping records and periodically changing codes and locks.
 62. Do not be afraid to visualize court security problems and think about what you can do to reduce risks and what options are available to you if an incident occurs.
 63. Do not assume that duress alarms are in working condition. Test them regularly.
 64. Do not use an audible duress alarm that will force a person to quickly flee or fight. They might fight! Use a silent alarm.
 65. Do not allow intoxicated persons to enter or remain in the courthouse.
 66. Do not leave your court security manual or security materials where others can access them.
 67. Do not allow architects to design your courtroom, chambers, or courthouse without receiving your input.
 68. Do not allow budgets to be prepared without providing for court security.
 69. Do not use the main, public courthouse doors if you can avoid doing so.
 70. Do not be reluctant to have your staff make a "coded" mark on any case file folder that can indicate a potentially violent or unstable person.
 71. Do not hire, appoint, or accept a court security officer until you have reviewed their résumé, personnel file and background check.
 72. Do not allow your staff to tell strangers where you are or give out your schedule.
 73. Do not get onto an elevator with persons you do not know or are not comfortable with.
 74. Do not try to get up if you have been shot. Play dead and do not move. Wait for help. Do not invite another shot.
 75. Do not become physically involved in subduing, chasing, or apprehending disorderly persons or escapees.
 76. Do not forget to teach your staff and your family what you have learned about judicial safety and security.
 77. Do not forget that none of the other judges killed or wounded went to work or home thinking they would be attacked. Be alert and aware!

Telephone and Mail

78. Have a tape recorder and telephone microphone to tape record any office or telephone conversations in both your office and home.
79. Do not continue to talk on the telephone with a person who is hostile or threatening unless the person identifies himself or herself to you.
80. Do not open any envelopes or parcels that look suspicious or have no return address, especially if you were not expecting such.
81. Do not throw away "hate mail." Keep a file containing them (or notes of conversations) that may be helpful to you and detectives down the road.
82. Do not open unlabelled packages or gifts delivered to your home or office.

Public and the Media

83. Make restaurant reservations and give fast food orders using a nickname or a name you will remember and recognize when called but is not so unusual as to attract attention.
84. Do not use public restrooms unless unavoidable.
85. Do not sit near front windows in restaurants.
86. Do not eat food prepared or served by persons you have had in your court as criminal defendants or losing parties.
87. Do not publicly announce

that you are going out of town for work or vacation.

88. Do not wear shirts or caps in public that identify you as a judge.
89. Do not become intoxicated in public, thereby becoming vulnerable.
90. Do not ride in parades unless there are provisions made for security and crowd control.
91. Keep a press-clipping file so you will know what information the public has received about you.
92. Do not be quoted in the news in such a manner as to make the public think that you fear violence or that you think you are not at risk. Such comments can be taken as an invitation or a challenge.
93. Do not tell the media (or publish reports) about the kind of security you have in place or what weaknesses your court has that need to be improved.
94. Do not update photographs on file with the news media or the government if you can avoid it. An exception is the photograph that should accompany the Personal and Family Information Sheet, which is confidentially maintained
95. Do not allow the media to show photographs of

your family or your residence after there has been an incident of court-related violence.

96. Do not allow the media to learn the names, ages, or schools of your children.

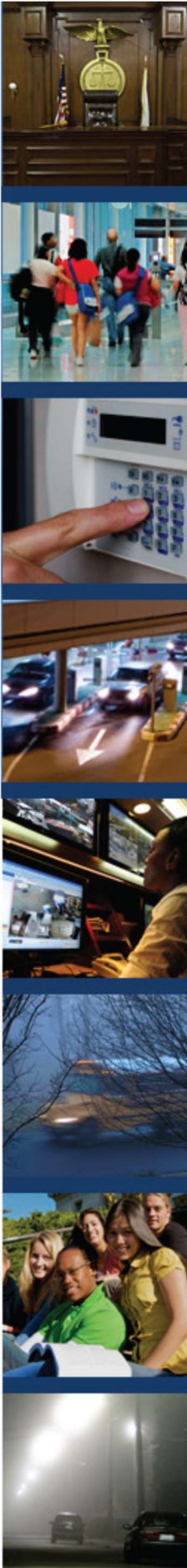
Campaign

97. Do not place your residence address on campaign materials.
98. Do not appear at campaign fund raising events unless you have arranged for security. Consider control of admission by invitations or limit ticket sales or distribution.
99. Do not personally post or remove your campaign signs.
100. Do not campaign door-to-door alone.
101. Do not overdo it with your campaign signs at your residence or bumper stickers on your personal vehicles.

NOTE: Review this list periodically to refresh your memory. Awareness of these tips for your personal safety and security will improve your chances for survival in an incident. Tips are used with the permission of the Johnson County, Kansas Sheriff's Department.

Further information contact:
National Center for State Courts
Court Consulting Services
707 17th Street – Suite 2900
Denver, CO 80202
(303) 305-4315





All-Hazards Planning



All-Hazards is a term that grew in popularity and use as part of modern emergency management planning.



What happens when disaster strikes? Are you and your family prepared for natural disasters like floods or tornados, technical or accidental hazards such as a black out or house fire, or even a terrorist attack?

When properly used, All-Hazards planning for safety and security can be indispensable during an emergency. All-Hazards planning does not mean planning for every single possible threat. Quite frankly, that would be impossible. Instead, the term refers to putting in place sound plans and practices that will be beneficial in many, if not all, emergency circumstances. Examples include:

- Create an evacuation plan and safe location. This may include alternative shelter.
- Develop a family communications plan – including circumstances when cellular phones, Wifi, etc. are not available or fail.
- Make an emergency supply kit containing first aid items, shelf-stable food, water, extra clothing and copies of important documents.
- Sign up to receive emergency alerts and keep local emergency contact numbers on hand and with your kit.

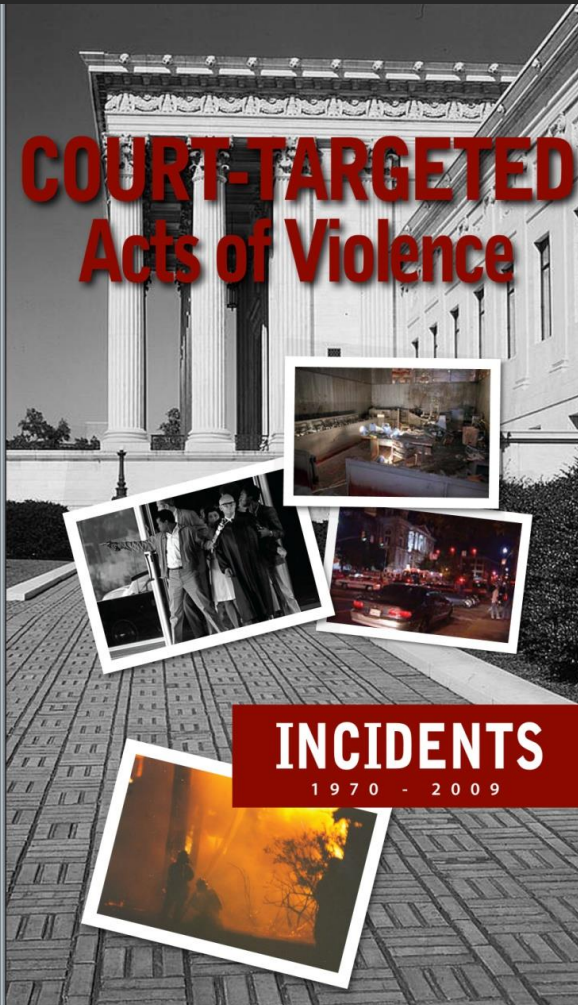
For further information about an All-Hazards planning, see both the FEMA and the Department of Homeland Security's Ready.gov websites listed below.

<https://www.fema.gov/pdf/plan/slg101.pdf>

<https://www.ready.gov/planning>



JUDICIAL COUNTER-VIOLENCE INITIATIVE



**CENTER FOR JUDICIAL and
EXECUTIVE SECURITY (CJES)**

**JCVI/C-TAV
EXTENSIVE RESEARCH
ANALYSIS**

**185-DOCUMENTED STUDY
INCIDENTS**

Steven K. Swensen, Director CJES, LLC

CTAV STUDY UPDATE

CENTER FOR JUDICIAL AND EXECUTIVE SECURITY

Seventy-one (71) further researched incidents: 256-Total Documented Incidents

- **33 – Arson-Attacks**
- **35 – Shootings**
- **2 – Bombing**
- **1 – Shooting/Arson-Attack**

1970-79 – Six (6) CTAV Incidents

1980-89 – Ten (10) CTAV Incidents

1990-99 – Sixteen (16) CTAV Incidents

2000-09 – Thirty-Nine (39) CTAV incidents



CTAV STUDY UPDATE

CENTER FOR JUDICIAL AND EXECUTIVE SECURITY

- **2010 – Sixteen (16) Incidents**

15-state/local; 13-shootings; 3-arson attacks/IIDs

- **2011 – Fifteen (15) Incidents**

15-state/local; 10-shootings; 5-arson attacks/IIDs

- **2012 – Thirteen (13) Incidents**

12-state/local; 11-shootings; 2-arson attacks/IIDs

- **2013 – Eighteen (18) Incidents**

15-state/local; 14-shootings; 2-bombings/IED; 2-arson attacks/IID

- **2014 – Sixteen (16) Incidents**

13-state/local; 13-shootings; 3-arson attacks/IIDs



NATIONAL TRENDS & ASSESSING COURT SECURITY

OTHER INCIDENTS / ATTACKS / ASSAULTS



- 2005 to Present

- **584-Incidents**

Violent assaults, knifings, murder-for-hire; assassination plots; suicides; violent prisoner escapes; poison toxins, etc.

CJES Courthouse Risk Identification Template

Identified Risk(s)	Location(s)	Existing Level of Risk	Counter-Measure(s)	Level of Protection	Revised Level of Risk
Shooting (baseline)					
Bombing (baseline)					
Arson-Attack (baseline)					
Assault (baseline)					
Escape (baseline)					
ChemBio (baseline)					
Natural Disaster (baseline)					
HazMat (baseline)					
Medical (baseline)					
Fire (baseline)					
Violent Protest (baseline)					

CJES RISK METHODOLOGY FORMULA; RATING LEVELS; and LINGUISTIC/NUMERIC CONVERSION TABLE

$$R = SC/I \times CP[I/E] \times CP[S] \times CP[LDV]$$

Risk: the severity of consequences (impact) times the conditional probability of an incident/event occurring; times the incident/event succeeding and times a limitation, deficiency, or vulnerability being exploited, compromised, or circumvented by a threat source.

LOW			MODERATE			HIGH			CRITICAL		
L/L	M/L	H/L	L/M	M/M	H/M	L/H	M/H	H/H	L/C	M/C	H/C
.01	.12	.24	.25	.37	.49	.50	.62	.74	.75	.87	.99

Note: Levels of Protection parallel CJES/FTRL rating levels

HOME SECURITY AUDIT AND RECOMMENDATIONS

Even though reports indicate that judges and other judicial branch personnel are more likely to be injured in a fall at home or in an automobile accident than in a work-related assault, increased violence in recent years has resulted in three judges being murdered at home. These deaths were directly connected to cases over which they presided. The home security audit that follows is designed to identify security risks and provide judges and other judicial branch personnel with basic personal security recommendations that can be used to protect them and their homes.

PERIMETERS/EXTERIOR OF THE HOME

1. Does the home have perimeter lighting? Yes No

Recommendation: It is important that the entire yard is illuminated at night, without shadows.

Recommendation: Install motion detector lights for interior and exterior protection. Outside motion detector lights can be installed to automatically turn on interior lights, giving the impression someone has entered a room, at the same time the outside lights turn on.

2. Does the home have trees and shrubs that are overgrown to the point where they block easy view from within? Yes No

Recommendation: Trim or remove thick shrubbery from window areas and replace them with shrubs that have thorns, like roses, near windows.

Recommendation: Trim or remove trees that may provide access to upper floor windows or balconies, and make sure trees or shrubs do not block a clear view of entries and windows from the street.

3. Does the home have outbuildings (detached garage, pool house, storage buildings) located on the property? Yes No

Recommendation: Include all outbuildings into the main security system. Install quality residential locks on the buildings.

4. Do all perimeter doors provide protection from intruders? Yes No

Recommendation: All perimeter doors should be solid core wood or steel with a deadbolt lock, in addition to any other locking device.

The door should have a peep hole installed to view any visitors prior to granting access to the home. No glass should be on the door that can be broken to gain entry. It is important that a three-inch strike plate for screws be installed in all entry doors.

Recommendation: Secure sliding glass doors with pins to prevent both horizontal and vertical movement, especially when the home is left vacant for an extended period of time. Sliding glass doors should be hung so that the sliding door is mounted on the inside. The door should be reinforced with a “jimmy-proof” bar to prevent forced entry.

Recommendation: Re-key or replace locks if keys are lost or stolen or if you move into a previously occupied residence. Make sure that you follow strict key control with keys used to access the home.

Recommendation: Be sure to restrict the number of keys to your residence. Keep keys in your possession; **DO NOT** hide keys outside under the mat, over doors, in mail slots, or in potted plants.

5. Are basement windows to the home secured? Yes No

Recommendation: All basement windows should be secured from inside the home. Glass basement windows should be replaced by polycarbonate material or reinforced with decorative security bars. All ground shrubs in proximity to the basement windows should be trimmed or removed so that they do not provide potential intruders with cover from observation.

6. Does the home have an attached garage? Yes No

Recommendation: Whenever possible, park vehicles in the garage. Always enter the vehicle from inside the garage. Always keep the garage doors closed and locked when not in use. In order to limit your exposure outside the vehicle during the hours of darkness, install an automatic garage door opener and make sure all family members know how to operate the garage door manually in the event of an emergency. Ensure that the door from the garage into the main house itself is a solid core door with a deadbolt locking device.

Recommendation: If there is a vehicle parked outside, make sure the area is well-lighted. If at all possible, have a remote starter installed in all vehicles, especially if they are parked outside. This device will allow you to start your vehicle from a safe distance.

7. Does the mail box or the entry of the home personally identify the occupants? Yes No

Recommendation: So judges and their family members cannot be easily identified and then targeted, names of residents should not be displayed on mailboxes

INTERIOR OF THE HOME

1. Does the home have an anti-intrusion alarm system? Yes No

Recommendation: Consider installing an anti-intrusion alarm system in the home that is tied into the local police department or a certified central alarm monitoring organization. Instruct family members on the operation of the system. Consider installing a local enunciation system or siren. The advantage of a siren is to alert neighbors to notify authorities, should the direct-connect alarm lines be compromised.

Recommendation: As an added security measure, alarm systems can be customized to provide monitoring for fire, medical alert, and closed circuit television (CCTV) surveillance of home exterior. The presence of cameras on the outside of the home is a definite deterrent to would-be intruders.

Recommendation: If you have a monitored intrusion detection system, display the monitoring company's decal or sign prominently on doors, windows, and in the yard to announce the presence of a security alarm system in the home.

2. Do you have smoke/heat detectors installed throughout the home? Yes No

Recommendation: Smoke alarms and heat detectors should be installed throughout the home. They should be hard-wired into the home's electrical system with a battery backup in the event of a power failure. In addition, install and maintain all-purpose fire extinguishers throughout the home, especially in the kitchen.

Recommendation: Establish and periodically test fire evacuation procedures for all family members.

3. Is the exterior door leading from the basement to the upper floor made of solid core and equipped with a deadbolt lock? Yes No

Recommendation: As with other exterior doors in the home, it is important that the basement door be of solid core wood or steel construction and equipped with a quality deadbolt lock to prevent entry by intruders.

4. Can the interior of the home be accessed through windows or other openings from the second floor or roof? Yes No

Recommendation: All second floor windows and roof skylights must be secured to prevent access by intruders who could use drainpipes and other means to access the roof or upper floors.

5. Does the home have louver-type windows? Yes No

Recommendation: Louvre windows should be replaced with solid windows made with tempered or shatterproof material.

6. Do all windows have adequate window coverings? Yes No

Recommendation: Windows should be equipped with internal blinds, curtains, drapes, or shutters to prevent someone from seeing inside.

CONDOMINIUM AND APARTMENT SECURITY

Security in condominium and apartment complexes must be a cooperative effort between residents, management, maintenance workers, and police. All must work together to provide the best possible security for the building. Most of the recommendations for single-family dwellings apply to condominiums and apartment complexes. The following is an audit that is particular to those type buildings.

1. Do all doors and windows have locks that will secure the condominium/apartment while it is vacant? Yes No

Recommendation: Examine all locks on doors and windows to ensure they are working properly. Before leaving the condominium/apartment, make sure all doors and windows are locked. Always double-check locked access windows that are at ground level.

2. Does your complex have a separate “Laundromat” area? Yes No

Recommendation: If at all possible, avoid using the Laundromat in your complex by yourself. Always team up with a neighbor who you know and trust.

3. Does your complex have a building association or a way to alert residents of an emergency? Yes No

Recommendation: Develop an apartment alert system with neighbors in the complex to help protect each other’s property. A well-organized and active tenant association will assist in deterring intruders.

Recommendation: Get to know the tenants in the complex. After you meet them, make a personal contact list for future use.

4. Does the complex have an electronic access system to control entry into the building? Yes No

Recommendation: Do not allow access to strangers by “buzzing” them into the building. If someone enters the building by following you in, and that person is unknown to you, do not ride the elevator with them. If needed, exit the building and then re-enter later.

Recommendation: Report suspicious strangers, sounds, or actions to police, then notify the complex manager.

MAIL SECURITY

If you receive mail at your home, be wary of suspicious letters or packages. Do not open a letter that appears to be unusual in any way, particularly if it has a perceptible bump, which might be an explosive device. Notify law enforcement immediately of any unexplained package in or near your home. You should notify law enforcement when mail items have any suspicious features, such as:

- Excessive weight, size, or postage
- Springiness in the top, bottom, or sides of the envelope
- Wires or strings protruding from or attached to the envelope
- Envelope has uneven balance or a peculiar odor
- Stiffening of an envelope with cards or other material (such stiffening could be a spring-loaded explosive striker)
- No return address or the place of origin is unusual or unknown
- Name is misspelled

All such items should be isolated. Only trained law enforcement professionals should be allowed to open suspicious mail.

FAMILY SECURITY RECOMMENDATIONS

Recommendation: If at all possible, your home telephone number should be unlisted.

Recommendation: Family members, including care givers, should never tell anyone you are out of the house. They should be instructed to take messages from callers only.

Recommendation: Emergency police and fire numbers should be programmed into the telephone using the “In Case of Emergency” (ICE) concept. If you do not have a programmable phone, you should post emergency numbers near the main telephone in the home.

Recommendation: Do not discuss family plans with outsiders. Even your friends should not be informed. In general, do not discuss your family’s comings and goings.

Recommendation: Family members should not stop at the same supermarket at the same time on the same day each week. Vary your daily activities.

Recommendation: Children should be instructed not to open doors to strangers. All visitors should be viewed through a peephole with the door locked. Intercom systems should be used to aid in the identification of strangers.

Recommendation: If it is necessary to leave children at home, keep the house well-lighted and notify the neighbors.

Recommendation: Advise your children to:

- Never leave home without advising parents where they will be and who will accompany them.
- Travel in pairs or groups.
- Walk along busy streets and avoid isolated areas.
- Use play areas where recreational activities are supervised by responsible adults and where police protection is readily available.
- Refuse automobile rides from strangers and refuse to accompany strangers anywhere on foot—even if the strangers say mom or dad sent them or said it was okay.
- Report immediately to the nearest person of authority (teacher or police) anyone who attempts to molest or annoy a child.

Recommendation: Be wary of strangers. Be watchful of strange cars that seem to cruise the neighborhood or strange persons who suddenly start to frequent the neighborhood streets. Record information that may be helpful to police.

Recommendation: Observe cars parked in the neighborhood with one or more persons inside or persons who seem to be doing nothing in particular.

Recommendation: Never reveal to any stranger that you are home alone.

Recommendation: Know where your children are at all times. Maintain a daily itinerary and stress the importance of notifying other family members of changes in the schedule.

Recommendation: As mentioned above, have unlisted telephone numbers for ALL family members.

Recommendation: Always request salesmen, repairmen, meter readers, delivery personnel, and even policemen (in civilian clothes) to show their identification prior to admitting them into your home. If in doubt about their identity, place a call to their business to confirm employment. Never accept a phone number that they offer; always use the telephone directory or call the information operator.

Recommendation: Do not put your home telephone number on stationary or on any name and address stickers in order to preclude undesirable telephone calls.

Recommendation: When harassing or obscene telephone calls are received, take action to change your phone number immediately. Family members should never engage in a telephone conversation with unknown or unidentified persons.

Recommendation: Children must follow a school schedule, but if they are driven to school, varied routes should be followed. Children should be escorted to and from bus stops. Neither hiking nor walking to school is recommended.

Recommendation: Inform school authorities that children should not be released from school, athletic events, and club meetings on the strength of a telephone call. Advise the school authorities to confirm the call with your home or office.

Recommendation: Instruct the school administration that if an authorized person does not explain a child's absence from school shortly after school starts, they are to call the child's home or your office to determine the child's status.

Recommendation: Do not open doors to strangers or accept delivery of packages unless the sender is known. Instruct children and in-home help on this procedure. Install a chain lock on the main entry door so that you may accept small packages or letters by partially opening the door. Do not rely heavily on this type of lock, as an intruder can break them away by forcing the door.

Recommendation: Check references of service personnel, domestics and childcare providers, and any other employees who have routine access to your residence or property.

Recommendation: When receiving a wrong number telephone call, never give your name or number. Just state that the caller has the wrong number.

Recommendation: When a stranger requests to use your telephone for an emergency, never allow entry into the home. Offer to summon assistance, and use the phone yourself.

Recommendation: Never answer your telephone with your name; a simple hello is acceptable.

Recommendation: Report all suspicious activity to the local police.

TRAVEL RECOMMENDATIONS

Whether you are going to the store or Europe, the fact that you have left your home or office changes your security status **SIGNIFICANTLY**. Travel decreases your security because you are not adhering to your routine, but instead, you are exposed to unfamiliar surroundings. If you plan to travel outside your home area or overseas, you should check with your director of security for additional security measures that can be taken to protect you and your family.

VEHICULAR TRAVEL RECOMMENDATIONS

Recommendation: Do not pick up strangers or give a ride to a stranger or volunteer your car to a group of strangers even though you may have a friend with you in the car.

Recommendation: If you should have car trouble on the road, drive to the side of the road and place a handkerchief or white cloth on the radio antenna or door facing traffic. Either place a cell phone call or wait for help to come.

Recommendation: If you are driving and an attempt is made to force you off the road, move toward the center of the roadway and quickly proceed to a busy street and seek assistance. As you proceed, blow your horn to attract attention to your plight.

Recommendation: Do not stop to aid other motorists or pedestrians, regardless of the circumstances. If you believe the emergency is genuine, use a cell phone or proceed to a public phone and report the matter to authorities, then let them handle the emergency.

Recommendation: If you suspect you are being followed:

- Circle the block to confirm the surveillance.
- Do not stop or take other actions that could lead to a confrontation.
- Do not drive home.
- Do not try to evade or elude the follower.
- Obtain a description of the vehicle and its occupants.
- Go to the nearest police or fire station and report the incident.
- Have an alternative safe place to go in the event you cannot get to the police station.
- Report the incident to police once you are safe.

Recommendation: Avoid using magnetic key boxes hidden in the wheel well of your car.

Recommendation: Park your car in a secured garage; do not park your car on a public street.

GENERAL SECURITY RECOMMENDATIONS

Recommendation: Place the police emergency telephone number (911), and the police non-emergency number next to the phone in your home for immediate use; program it into your telephone system if possible. Do not answer the telephone with your name or official title.

Recommendation: Ladders and scaffolding should be kept in locked outbuildings or garages.

Recommendation: Advise the local police department of your occupation and address. Complete and submit a judicial profile for you and your family (attached), to the chief security officer for use in emergencies. Judicial profiles should be protected as “confidential-restricted access” documents.

Recommendation: Consider moving all fuse and switch boxes into the home if possible. Place locks on those that remain outside or in outbuildings/garages.

Recommendation: Consider a trained watchdog for the family residence. In addition to being a natural deterrent, it is another means of alarming the home.

Recommendation: Be constantly aware of surveillance. Usually a potential victim is watched for several days before an act of violence is carried out.

Recommendation: Prepare an inventory of household and personal possessions, describing the articles and listing the serial numbers for reference.

Recommendation: In order that personal items (jewelry, appliances, TV sets, radios, etc.) can be identified if lost or stolen, a code number should be engraved on each item with an etching machine.

Recommendation: A small safe or security box, which can be bolted down to a closet floor,

should be used to secure personal jewelry, cash, and personal documents that are frequently used. Consider a safety deposit box for items used less frequently.

Recommendation: When the home is left vacant, install timers on televisions, radios, and lights in order to give the impression that the home is occupied.

Recommendation: Have “Caller ID” for incoming telephone calls to your home. Use “Caller ID” blocking to prevent your telephone number from being displayed on outgoing calls.

Recommendation: Become familiar with the streets and roads surrounding your home. Have a planned escape route from your home to a designated safe place in case of fire or intrusion.

Recommendation: Plan and practice driving to area emergency services, such as hospitals, police stations, and safe places.

Recommendation: Make sure your trash is kept in a secure place, such as a locked outbuilding.

Recommendation: Keep the names, addresses, and telephone numbers for all staff members handy in the event of an emergency.

Recommendation: If you have household employees, make sure they have been screened with background checks.

**For further information contact:
National Center for State Courts
Court Consulting Services
707 17th Street – Suite 2900
Denver, CO 80202
(303) 305-4315**



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How Situational Awareness Can Prevent Violence Targeted at Judges

By John F. Muffler, M.S., Administrator, National Center for Judicial Security, United States Marshals Service

It is a simple, indisputable fact: you determine who wins and who loses. These decisions, based on the facts presented and under guidance from existing law, may profoundly affect someone's livelihood and liberty. Those on the losing end are left to question themselves, their counsel, your decision, and maybe the fairness of the judicial system. Regardless of the amount or type of loss, be it a driver's license, social security benefits, or custody of a child, to time in prison, people on the losing end see you as the ultimate decision maker and the reason they did not receive the desired outcome from their court proceeding. Being aware of how, when or why the person on the losing end may react is a fundamental primer for your security and safety and will benefit your impartial decision making.


Sir Isaac Newton's "Third Law of Motion" may have been about physics, but the rule applies beyond science. It relates directly to threats and inappropriate communications received by judicial officials and courts across all levels of our government. There is not a judge in the United States, at any level, who is immune from inappropriate or threatening behavior as a result of his or her position or work on the bench. Administrative law judges, appellate judges, family and trial court judges, tribal court judges, military judges and any other person responsible for deciding (action) someone's dispute will or have been threatened (reaction) because they are judges.

In many judicial act cases, the assailant plotted or approached and conducted some form of surveillance on the judges either at their courts or at the judges' residences. The attack or approach behavior likely was not the result of a chance encounter. At a minimum, there was contact or a pre-incident indicator from the threatener to the judge or his or her staff during the legal process. Accordingly, you may be vulnerable to attack because of your position and attackers have been known to take their vengeance out on family and staff members, collaterally or directly, if they cannot get to you.

"To every action there is always opposed an equal reaction."

Newton's Third Law of Motion

It is important that you understand what situational awareness is and that communication between you, your family, court staff

and, if you are fortunate enough to have them, security personnel, is open and honest. Situational awareness is being observant of your physical surroundings, identifying where the security risks are, where they may occur, or better, why they may occur. It starts with being aware that your ruling can cause a spontaneous, emotional reaction or planned response, and that the response can have devastating consequences. While the rules of the *Judicial Code of Conduct* state that your decision should never be based upon "what may happen after I rule" you should be aware of what steps you can take to help mitigate the risk to you and your loved ones when you do rule. 

5 Steps to Increase Your Situational Awareness as a Judge **

1. Communicate with everyone—family, staff and security. Staff will have more frequent contact with parties to the case and that information, benign or otherwise, may help you make the proper security decision.
2. Listen to your instincts, to that feeling in your stomach or the hair on the back of your neck. Call a recess if you feel emotions are high or that something could happen. Get back up. If possible, contact building security or law enforcement and explain your fears.
3. Avoid ruling from the bench if at all possible. Rule from chambers or, if allowable, send the ruling in the mail. Ruling this way will remove you and your staff from any spontaneous outburst.
4. Many judges rule from makeshift courtrooms. Recognize that you do not want to be far from the door. Reposition furniture in your courtroom to allow you the best possible way to get to a safe location or a location where other people can help.
5. People planning to do harm are vulnerable to detection. These pre-incident indicators come in the form of approach behavior, unusual contact, or inappropriate communication to name a few. Awareness of your surroundings and past inappropriate or threatening communication may help you detect possible threats.

Recognize that the threats are real. Understand that you are in a position of advantage as a judge. You can view the behaviors of all parties in the courtroom and as the decider of fact, you have the legal acumen to understand that the decision you render may cause a negative reaction. The combination of these two factors should play heavily into your situational awareness and enhance your ability to rule effectively as a judge.

*** This is a collection of points made by judges to the author while teaching as an NJC faculty member over a period of 4 years.*



AMERICAN JUDGES ASSOCIATION

Making Better Judges through Improving Decision Making

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In 2007, the American Judges Association (AJA) issued a white paper highlighting the research on procedural fairness and advocating efforts to ensure that court processes follow procedural fairness principles. The Conference of State Court Administrators passed a resolution in 2008 endorsing the paper and its recommendations.

This fall, AJA, in coordination with the National Center for State Courts, intends to issue a second white paper to expand this initial work on effective judicial decision making.

Judges make decisions every day affecting the lives of many. The quality of those decisions is crucial to the effective operation of the American court system.

The objectives for the project are to:

- Build awareness among the judicial community of the implications of cognitive and neuroscience research on judicial decision making,
- Develop strategies to improve decision making based on the science and relevant to judicial audiences, and
- Generate an action agenda to implement recommendations emerging from the research and discussions with the judicial community.

For further information, please contact AJA President Kevin Burke at kevin.burke@courts.state.mn.us, or Dr. Pam Casey at pcasey@ncsc.org.

SCREENING FOR SUCCESS:

I. Essential Conditions for Mediation

- A. Safety and freedom from violence, coercion, harassment and threats may not be negotiated or compromised.
- B. Parties must have the capacity and ability to mediate.
- C. If special conditions are required to proceed, parties can make informed choices about mediating in light of the required special conditions.

II. Purpose of Screening.

Pre- mediation screening can identify, in advance, cases that will require specific protocols and other safeguards and cases in which mediation is not appropriate.

III. Screening Goals

- A. Find out if the parties have a history of harassment, threats, violence or coercive control.
- B. Assess the parties' and determine if the parties have the capacity to mediate
- C. Determine if mediation should proceed.
- D. Allow the parties to make informed decisions about their dispute resolution process.
- E. Help mediators provide a safe, appropriate and effective process in each case that is mediated. Protect the safety of participants through use of specialized process that includes specific safeguards in cases that are mediated.
- F. Enable mediators to decline to mediate, without subjecting a party to risk of additional harm, when mediation is not appropriate.

III. Pre-screening Considerations and Processes

- A. Parties may be afraid to disclose abusive, threatening or controlling behaviors of the other party.

- B. Mediations, and even screening can re-traumatize persons who were subject to abuse, threats or coercive control by another party. Asking for details of abusive, threatening or controlling behaviors of another party can be either harmful or empowering depending on the individual.
 - C. When screenings are scheduled, parties should be asked to notify the screener, in advance, if they have safety concerns about coming to the screening. Participants should be permitted to schedule a screening appointment that does not require the parties to be in the same location at the same time.
 - D. Separate waiting areas should be available and all waiting areas should be monitored to prevent a party from harassing or intimidating the other party while waiting for the screening.
 - E. Parties should be permitted to have an attorney, advocate or support person present during the screening.
- IV. **Three-Tiered Screening Process.** A three-tiered screening process provides the most thorough screening. Mediators can adjust this process to meet their own screening needs and practice realities.
- A. Documentary review
 - B. Written questionnaire
 - C. Confidential separate interviews
- V. **Documentary Review**
- A. Court Records
 - 1. Restraining Orders and Protection Orders
 - 2. Criminal charges and convictions
 - 3. Pleadings and affidavits in court cases
 - B. Police Reports and Arrest Records
 - C. Benefits of Documentary Reviews
 - 1. Provides information about previous behavior of parties including past disregard of law.
 - 2. Informs mediator of Court imposed contact restrictions.
 - 3. Helps with assessment of levels of dangerousness.
 - 4. Promotes efficiency – Courts and mediation centers can screen large caseloads prior to sessions. Much of this

screening can be done electronically, and it often can be performed by support staff.

- D. Disadvantages of Documentary Reviews
 - 1. Absence of documentation does not indicate absence of abusive or controlling behaviors.
 - 2. Many forms of intimidation and control are not criminal behavior.
 - 3. Records may not be easily accessible.
 - 4. May be the “tip of the iceberg.”
 - 5. May interfere with mediator neutrality and impact the role of the mediator.

VI. **Written Questionnaire**

- A. The written screening instrument should ask explicit questions about violence, coercive control and fear of the other party. A written questionnaire can inquire about past and present behaviors, attitudes, fears and special concerns.
- B. The questionnaire should include questions about actions including physical abuse, sexual abuse, emotional abuse, weapons, property damage, threat, contacts with law enforcement, contacts with social services, and restraining or “no contact” orders. Questionnaire may inquire about mental illness, drug addiction, alcoholism, and other conditions that could impact a parties’ ability to negotiate.
- C. The questionnaire should also include questions about attitudes including control, fear, superiority, manipulation, externalizing of responsibility, denial/minimization and blaming.
- D. Questionnaire must be written in specific and accessible language and must be easy to read and complete.
- E. Parties must be provided with safe place to complete questionnaire.
- F. Parties must be informed about how the questionnaire will be used and who will have access to it. Confidentiality of questionnaire as well as exceptions to confidentiality must be explained. Fear of how the questionnaire will be used may affect disclosure.
- G. Written questionnaires can be efficient and cost effective.
- H. The party’s comfort level with written communication can be a benefit or a disadvantage. Some people respond better in writing

while others are not able to effectively communicate in writing or are not comfortable putting concerns into writing.

- I. Lack of rapport and closed questions can also limit disclosures.

VII. **Confidential Separate Interview**

- A. A confidential separate interview can be very effective because it provides an opportunity for the screener to build rapport with the party and allows the screener to follow up and get additional detail about fears and concerns. The screener can adapt the phrasing of the questions and how they are asked to the needs and communication style of the party being screened.
- B. Ideally the confidential, separate interview with each party should be in person. If the interview must be done by telephone, the screener should try to insure that no one else is present in the room during the interview.
- C. Screeners should be neutral and have no interest in the case (i.e. not be the Judge assigned to the case or an advocate for either party).
- D. The screener may or may not be the mediator for the case. An advantage of having the mediator conduct the screening personally is that it helps the mediator build rapport. It also provides the mediator with detailed information about the parties and the situation prior to the initial session. A disadvantage is that information provided during the screening may impact the mediator's neutrality.
- E. Screener should try to develop rapport with each party and make him or her as comfortable as possible with the process.
- F. During the interview, the screener should inquire about any responses to the written instrument indicating violence, coercion or fear of the other party. Even when violence is not reported on the written screening instrument, the screener should inquire whether there has been any violence, threats or intimidating behaviors because some parties are not comfortable giving such information in writing.
- G. Screeners should be able to recognize "body language" and other non-verbal clues that could indicate fear or intimidation.

- H. Screener should look for power imbalances, ability to negotiate and ability to advocate for self.
 - I. Screener should explain limitations on confidentiality and privilege and what will be done with information that is disclosed.
- III. **Designing the Conditions for Mediation to Proceed when special conditions are indicated.**
- A. **Location of Mediation Session.** Parties must be provided with a physically safe location for mediation. Metal detectors, panic buttons and the presence of security officers make a courthouse a good location for mediation sessions with parties who have a history of violence, abusive behavior or coercive control. Private mediation offices in busy buildings with security are another possibility. Mediations should not be held in suites or buildings in which the mediator will be alone with the parties. There should always be someone nearby in case the mediator needs assistance with a volatile situation.
 - B. **Room Arrangement / Set up.** Mediators should pay special attention to the room set-up.
 - 1. **Seating Arrangements.** Plan the sitting arrangements for the mediator and parties in relation to the room entrance and exits. Two exits are ideal. Mediator should sit closest to door.
 - 2. **Size of room.** The room should be large enough to seat the parties a distance from each other.
 - 3. **Presence and size of table.** A table provides a physical barrier between the parties as well as a writing surface. Consider placing an empty chair between the parties.
 - 4. **Proximity to security and / or other people.** Mediation room should be easily accessible to security and / or other people who may be called upon if a problem arises.
 - 5. **Telephone.** A telephone (regular or cell phone) should be in the room for use by mediator if needed.
 - C. **Staggered Arrival and Departures.** Arrange staggered arrivals and departures. Arrange to have parties escorted to their vehicles, if needed.

- D. **Separate Waiting Areas.** The parties should not be together in a common waiting area before the session begins or during breaks.
- E. **Separate Pre-Session Check in with parties.** Check in with each party before beginning each mediation session and ask if anything has happened since the screening or the last session that might impact the mediation.

IV. **Structuring the Actual Mediation Session.**

- A. **More Structured Mediation Model.** Use a more structured model of mediation in which the mediator exerts more control over content and timing of parties' communication with each other and over the content of the session agenda.
- B. **Structured Agenda.** Develop a structured Agenda for the mediation and follow the Agenda closely.
- C. **Shorter Sessions.** If the parties will be meeting in a joint session, it may be easier for them to have shorter sessions to reduce the stress on the parties.
- D. **Separate Meetings or caucuses.** Meet separately with each party for a portion of each mediation session to check if either feels coerced to agree to things requested by the other party. In some cases, the majority or all of the mediation should be done by "shuttle diplomacy" vs. "face to face process" (parties in separate rooms and mediator goes back and forth) to reduce direct interaction between the parties. If there is a Protection or "stay away" order, it may be necessary to do a shuttle mediation to comply with the terms of the Order.
- E. **Behavioral Ground Rules.** Set up ground rules to reduce opportunities for a party to exert control over the other during the mediation session. Examples include:
 - 1. Asking the parties to look at and speak to the mediator rather than each other.
 - 2. Strictly enforcing the "one person speaks at a time" ground rule
 - 3. Asking the parties not to yell or make insulting or threatening comments to each other. (Caucus immediately if this behavior begins and is not controlled by a reminder from the mediator).

4. Asking the parties to remain seated during the mediation session.

F. **Never Leave Parties Alone in Room Together.** Never leave the parties alone in room together.

G. **Third Parties in the Mediation Session.** Third parties, including a support person for one or both parties, may provide objective data and information to help the parties evaluate their options. Possible third parties in mediation include the following:

1. Support Person for Survivor
2. Attorneys
3. Guardian ad litem
4. Financial Experts
5. Mental health counselor
6. Child counselor, child development expert.

V. **Ongoing Screening**

A. Throughout the mediation process, the mediator should be informally monitoring for safety issues and parties' ability to negotiate.

B. If threats, harassment or coercive control is revealed for the first time after mediation has commenced, the mediator should caucus separately with each party and conduct an informal screening to determine if it is appropriate to continue the mediation. The mediator should use discretion in deciding whether to call the caucus immediately after the revelation or to wait until a little later in that mediation session so the caucus does not appear to be tied to the revelation.

C. Take all discussions of fear and safety seriously.

VI. **Mediation Techniques and Strategies**

A. **Terms of Agreement.** Be aware of the terms of the agreement. Be prepared to terminate the current session or the mediation in its entirety if one party starts to agree to terms that are so unjust as to offend basic sensibilities.

B. **Use Questions to Assist Parties in Making Detailed Agreements.** Using probing questions, guide the parties in developing detailed agreements, clear plans for how they will

implement these agreements and contingency plans for situations in which outside events necessitate temporary changes.

- C. **Caucus Frequently.** Caucus more often to check in with each party. Parties may find mediation more challenging than they expected and may want to change the structure of the process or discuss things with the mediator privately.
- D. **Mediator Termination of the Mediation.** Mediators and parties always have the option to terminate the mediation. In cases, where there is a history of harassment, intimidation or coercive control, the mediator may find that a party is having difficulty negotiating, or is capitulating to demands of the other party, the mediator may need to terminate the mediation.

VII. **Writing Detailed Agreements**

- A. Agreements need to be written very clearly and have very detailed and specific provisions.
- B. Vague terms may not be specific enough to be clearly enforced.
- C. Terms of agreements should minimize the amount of discussion and negotiation required of parties outside of session. Details of how the agreements will be implemented should be resolved in the mediation session and not left for the parties to resolve between themselves at a later time.

VIII. **Safe Termination Protocols.** Special protocols should be followed when a mediator needs to terminate a mediation and one or more parties is extremely angry, distraught, or has threatened or harassed other party during mediation.

- A. **Terminate from Caucus.** Terminate the mediation in caucus, not in a joint session.
- B. **Do Not Blame Parties.** Do not blame any of the parties for the termination of the mediation in comments to the parties and in mediation outcome notices filed with the Court.
- C. **Do Not Disclose Information Provided by One Party.** Do not advise parties that the mediation is being terminated due to the behavior or statements of any of the parties.
- D. **Some Possible Suggested Language for Termination After Mediation Has Commenced.**

1. After observing the issues between you and your interactions with each other, I know from my experience that it would be very difficult for you to reach agreements. So rather than taking up your time and resources, I am terminating this mediation. I would suggest that you review this case with your attorney or seek legal advice.

2. In my experience, I have found that some types of issues are better handled by a Judge or Magistrate than in mediation. Some of the issues and concerns that you have mentioned are the types of issues that are better addressed in a Court proceeding. Therefore, I am terminating this mediation so that you can present your concerns to the Court.

Materials Prepared by:

Marya Cody Kolman and
Christy Cumberlander Walker

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