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## *Collaboration, Confidentiality and Expanding Advocacy*<sup>12</sup>

By Leslye Orloff and Laurie DePalo

### Understanding Immigrant Communities<sup>3</sup>

The first step to improving the services available to immigrant victims is learning about the immigrant populations in a given area.<sup>4</sup> A network of collaborators can be more successful if there is a concerted effort to reach out to and understand the immigrant community. This can be demonstrated by asking questions that

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<sup>2</sup> In this Manual, the term "victim" has been chosen over the term "survivor" because it is the term used in the criminal justice system and in most civil settings that provide aid and assistance to those who suffer from domestic violence and sexual assault. Because this Manual is a guide for attorneys and advocates who are negotiating in these systems with their clients, using the term "victim" allows for easier and consistent language during justice system interactions. Likewise, The Violence Against Women Act's (VAWA) protections and help for victims, including the immigration protections are open to all victims without regard to the victim's gender identity. Although men, women, and people who do not identify as either men or women can all be victims of domestic violence and sexual assault, in the overwhelming majority of cases the perpetrator identifies as a man and the victim identifies as a woman. Therefore we use "he" in this Manual to refer to the perpetrator and "she" is used to refer to the victim. Lastly, VAWA 2013 expanded the definition of underserved populations to include sexual orientation and gender identity and added non-discrimination protections that bar discrimination based on sex, sexual orientation and gender identity. The definition of gender identity used by VAWA is the same definition as applies for federal hate crimes – "actual or perceived gender-related characteristics." On June 26, 2013, the U.S. Supreme Court struck down a provision of the Defense of Marriage Act (DOMA) (*United States v. Windsor*, 12-307 WL 3196928). The impact of this decision is that, as a matter of federal law, all marriages performed in the United States will be valid without regard to whether the marriage is between a man and a woman, two men, or two women. Following the Supreme Court decision, federal government agencies, including the U.S. Department of Homeland Security (DHS), have begun the implementation of this ruling as it applies to each federal agency. DHS has begun granting immigration visa petitions filed by same-sex married couples in the same manner as ones filed by heterosexual married couples (<http://www.dhs.gov/topic/implementation-supreme-court-ruling-defense-marriage-act>). As a result of these laws VAWA self-petitioning is now available to same-sex married couples (this includes protections for all spouses without regard to their gender, gender identity - including transgender individuals – or sexual orientation) including particularly:

- victims of battering or extreme cruelty perpetrated by a U.S. citizen or lawful permanent resident spouse against a same sex partner in the marriage is eligible to file a VAWA self-petition; and
- an immigrant child who is a victim of child abuse perpetrated by their U.S. citizen or lawful permanent resident step-parent is also eligible when the child's immigrant parent is married to a U.S. citizen or lawful permanent resident spouse without regard to the spouse's gender.

<sup>3</sup> For more information on this topic, visit <http://niwaplibrary.wcl.american.edu/cultural-competency>

<sup>4</sup> See Gail Pendelton, et. al., *Building the Rhythm of Change: Developing Leadership and Improving Services Within the Battered Rural Immigrant Women's Community*, produced by the Family Violence Prevention Fund, available at <http://endabuse.org/programs/immigrant/files/Rhythm.pdf>; See also SUSAN BREALL & DEBORAH A. ADLER, *WORKING WITH BATTERED IMMIGRANT WOMEN: A GUIDEBOOK FOR PROSECUTORS*, Volcano, California: Volcano Press (2000).

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help advocates<sup>5</sup> understand the immigrant experience. Agencies might also identify local and national resources that can provide culturally competent information about the immigrant communities they hope to serve.

Advocates should work with others in their communities to answer the following questions:

- What are the demographics of immigrant population(s) in the community and state?<sup>6</sup>
- What are the countries of origin of the immigrant women in the community?
- What factors may have caused these immigrant women to move to the United States? Are they fleeing civil war, persecution, or economic despair? Did they come to the United States to reunite with relatives in an established immigrant community? Did they come as wives who met their spouses through international matchmaking organizations, as wives of servicemen, or through arranged marriage to someone living in the United States from their home country?
- Do they reside permanently in the community? Do they annually migrate to the community to do seasonal work?
- Where do immigrant populations generally reside in the city, county, or township?
- Is the immigrant population isolated from the rest of the community?
- Are immigrant women isolated from the rest of the immigrant community?
- Which individuals are considered immigrant women community leaders?
- Is there a community center for immigrants?
- Where do immigrant women congregate (i.e. work, shop, worship, seek services, and organize)?
- What information about cultural or religious beliefs in the immigrant population might affect the way agencies might try to reach immigrant women?
- What are the significant immigrant populations in the area, and what language(s) do they speak?
- What attitude toward domestic violence does the immigrant community hold?
- Where can an agency find statistics or materials, either national or local, on dynamics of domestic violence experienced by this population?
- What services do non-profit or faith-based organizations offer in the immigrant community?
- Which, if any, organizations are in contact with isolated immigrant women? Do these organizations have any resources that would help educate difficult-to-reach populations? Such organizations might include Family Support Centers on military bases, women's centers at universities, or health clinics in rural communities.<sup>7</sup>

Seeking out the expertise of service providers and leaders in immigrant communities in a given area can help agencies gather this information. Agencies might also consider tapping into resources available through national advocacy groups that work on issues pertaining to battered immigrant women,<sup>8</sup> city government offices, and public libraries. Undertaking this research will help advocates form relationships with agencies that could be potential collaborative partners, while, at the same time informing their communities that their services are open to immigrants. Collaborating with other programs will benefit agencies in the end because some immigrant women are more likely to trust agencies that have a positive relationship with respected and established community leaders and other trusted community-based or faith-based organizations that work with the immigrant community.<sup>9</sup> Agencies can begin to build the kind of trust and willingness that will lead

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<sup>5</sup> The term advocate will be used throughout the chapter in reference to an attorney or advocate who serves as a guide for the battered immigrant victim.

<sup>6</sup> Demographic and other information about the immigrant communities in a given area can be found at <http://www.census.gov/>.

<sup>7</sup> LESLYE ORLOFF, ET AL., LEGAL MOMENTUM, LESLYE ORLOFF ET AL., AYUDA SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN 96-111 (LEGAL MOMENTUM, 1999). This publication is available through the Legal Momentum website at <http://www.iwp.legalmomentum.org> (publication number G.I.2.).

<sup>8</sup> Materials are available through the National Immigrant Women's Advocacy Project (NIWAP), 4910 Massachusetts Ave NW, Suite 16 Lower Level, Washington D.C. 20016, (202) 274-4457, [www.wcl.american.edu/niwap](http://www.wcl.american.edu/niwap), [niwap@wcl.american.edu](mailto:niwap@wcl.american.edu); Advanced Special Immigrant Survivors Technical Assistance (ASISTA), (515) 244-2469; [questions@asistahelp.org](mailto:questions@asistahelp.org), <http://www.asistahelp.org/>; or Futures Without Violence, 100 Montgomery Street, The Presidio, San Francisco, CA 94129; (415) 678-5500; [info@futureswithoutviolence.org](mailto:info@futureswithoutviolence.org), <http://www.futureswithoutviolence.org>

<sup>9</sup> DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN (Deeana L. Jang, et al., Family Violence Prevention Fund, eds, 2d ed. 1997); Del-An BryAnn Chen, "We Just Got Together and We

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individuals to seek assistance from them by getting involved in the immigrant community, by participating in and observing meetings, by interacting with immigrant community members, by working with trusted community based organizations, or by attending religious services. Immigrant victims are more likely to seek services of from agencies they hear about through their community leaders and others within their community.<sup>10</sup>

### Improving an Agency's Capacity to Serve Immigrant Victims

After learning about immigrant communities in the area and their needs, the next step is to turn the focus of an agency's efforts inward. Internal program assessment identifies the services that a particular agency offers to all battered women and helps assess how it can make these services accessible to battered immigrant women.<sup>11</sup>

#### STEP 1: CHANGING THE WAY AN AGENCY WORKS TO MAKE ITS SERVICES MORE ACCESSIBLE

An agency can begin by building relationships with service providers working with cultural and linguistic minority communities in the following ways:

- Making a list of organizations that work with linguistic, racial and cultural minority populations;
- Adding bilingual/bicultural professionals who work with organizations and government agencies to the list;
- Inviting these individuals and organizational representatives to a meeting to help the agency develop a plan for expanding its services to diverse communities
- Developing a plan for the cross-agency collaboration in serving battered women who are immigrants and/or from diverse cultures;
- Training professionals and staff of other agencies on domestic violence,
- Having agency staff participate in a training conducted by organizations working with diverse populations on specific issues that affect those populations;
- Identifying a liaison who will facilitate communication between an organization and other agencies and professionals so that they can collectively coordinate client services in the future;
- Working out the procedures that agencies will use to contact each other to help serve domestic violence victims;
- Working together as a team on domestic violence cases so that women from diverse cultures will have an advocate who is an expert on domestic violence, and one who has a thorough understanding of her cultural needs;
- Inviting staff members of organizations serving diverse cultural communities to join a local domestic violence coordinating council;

#### *The Need for a Core of Qualified Interpreters Trained on Domestic Violence*

To ensure that immigrant women receive effective and sensitive services, the best approach is to contract with interpreters who provide services in each of the languages represented in your community who will work with your office as needed to help you offer a full range of services. Skilled interpreters provide invaluable assistance in providing meaningful aid to immigrant victims. Formal contracting with interpreters who provide services in each of the languages represented in a given community offers the best assurance

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Enjoyed It:" An Analysis of the Georgia Coalition for Battered Refugee and Immigrant Women as a Social Movement (1998) (unpublished M.A. thesis, Georgia State University) (on file with author); Sonia Parras Konrad et. al., Rompiendo el Silencio, Manual de Entrenamiento para Activistas, Consejeras y Organizadoras Latinas, Family Violence Prevention Fund. p. 35 (October 2003).

<sup>10</sup> Some battered women prefer to seek help from a domestic violence program that is completely disconnected from their cultural community. These immigrant women may express their preference for this type of service to protect their confidentiality and to avoid being judged by the cultural standards of their community.

<sup>11</sup> Sonia Parras Konrad, Women Empowering Women: An Exciting Journey, (on file with author) (June 2003).

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that an agency will be able to offer its full range of services to battered immigrant women. These interpreters complete domestic violence training, and ally themselves with a given agency. In progressing toward this ideal approach agencies should keep in mind the following considerations:

- Agencies should include a line item in their budgets to address this need;
- Hiring a corps of interpreters avoids conflicts that arise in small ethnic communities where the interpreter may be a friend of the abuser or the abuser's family and may not respect confidentiality;
- An interim approach might include working with bilingual staff at other agencies who will assist by offering both interpretation and support for battered immigrant women; and
- An agency might also recruit a group of volunteer interpreters. These individuals may have more time constraints than contract interpreters.

**It is DANGEROUS and inappropriate to use the battered immigrant woman's companions or children as interpreters.**

- A companion may be the abuser himself;
- Victim may edit their conversation, because they fear that their words will be spread in the community or reach their abuser. In cases where children serve as interpreters, victims may censor themselves in order to protect their children; and
- Knowledge of the details of abuse may traumatize children or endanger them

### *Recruiting Bilingual/Bicultural Volunteers*

Agencies might keep in mind the following suggestions when trying to recruit bilingual/bicultural volunteers:

- Community-based organizations that serve immigrant communities can help recruit volunteers;
- Because bilinguals often read newspapers in both English and another language, placing ads in local non-English newspapers and newsletters will often yield results;
- Internship programs often attract bilingual/bicultural students. Upon graduation, these students often continue to work with battered women or immigrants, and become a group of trained persons from whom agencies can recruit staff in the future.

### *Developing the Basic Language Skills of Agency Staff*

The following actions can help agencies cultivate the language skills of their existing staffs: Paying for language-training classes for current staff members, bringing a language instructor to the agency's office to provide classes during work hours, and providing paid leave time to staff to take language classes.

## STEP 2: HIRING MULTI-LINGUAL/MULTI-CULTURAL STAFF

Agencies that place a priority on hiring bilingual/bicultural staff each time they have an openings will eventually become better providers. Attaining as much cultural diversity as possible allows an organization to better serve all members of a community in several different ways:

- Bilingual/bicultural staff supplement the work of contract employees and volunteers, and offer continuity;
- Having a multi-lingual staff offers much more than interpretation. Some clients will be more able to talk easily with someone who is more like them, from their own culture;
- Some immigrant women fear interacting with members of the majority culture whom they expect to be unfriendly or impatient. They expect to be treated as they have been by others in the community at large;
- If interpretation is to be part of their jobs, the contracts of bilingual/bicultural employees reduce other job responsibilities to allow time within the normal working day for interpretation. In that way, bilingual/bicultural employees are not penalized for not completing other job responsibilities as other employees; and

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- Bilingual staff must have the same promotional possibilities as other staff members. Successful agencies are willing to replace bilingual staff who are promoted with new bilingual/bicultural staff members.

### *Hiring Bilingual/Bicultural Staff*

These simple adjustments can make it easier for an agency to successfully hire bilingual/bicultural staff:

- Immediately changing the way staff members are recruited so that the next time an opening becomes available, hiring a bilingual/bicultural staff member is a priority
- Mailing job announcements to organizations and professionals who serve diverse communities
- Developing a list of ethnic language minority newspapers and newsletters in which to advertise
- Mailing job announcements to language departments and Latin/Asian/Afro-American studies departments of local universities
- Increasing the hiring time-frame in order to create an applicant pool that will contain significant numbers of diverse candidates
- Measuring cultural competency and language proficiency as discrete job skills.

Agencies might continually evaluate existing services that are offered to immigrant women for effectiveness. To accomplish these goals, it might be helpful for agencies to meet periodically with directors of domestic-violence and immigrants' rights agencies in their areas to discuss outreach proposals, service delivery ideas, and the systemic barriers that immigrant women encounter when they seek help.<sup>12</sup> State domestic violence coalitions can also be a good resource to help individual organizations create and share successful solutions.

When working with immigrant victims, agencies might also convene focus groups with current and former immigrant clients asking them about the effectiveness of their services and obtaining their suggestions for improvements.<sup>13</sup> Some appropriate questions for focus group participants and program staff include:

- What work should be undertaken to advance the agency's attentiveness and dedication to serving battered immigrants?
- Does the agency have an ongoing culturally sensitive training program in place that teaches staff about the special legal and social service needs of battered immigrant women and the systemic barriers that immigrant victims encounter when they seek services?
- How often does agency staff discuss diversity issues?
- Are staff/volunteers recruited from the significant immigrant populations in the area that the agency seeks to assist?
- What, if any, incentives does the agency have for current staff to take foreign language classes?
- Does the agency have adequate interpretation services?
- Has the agency subscribed to a telephonic interpretation service such as the AT&T language line, so that it can be prepared to address the language needs of isolated victims who may have language needs different from the majority of immigrants in the agency's community?<sup>14</sup>
- Has the agency designed a culturally sensitive protocol specifically for battered immigrant women?
- Does the focus of the agency's overall outreach campaign include the immigrant community?
- To what extent do the multicultural services provided by the organization, such as volunteer interpreters and educational materials, succeed in assisting battered immigrants?
- What services does the organization offer immigrant women?
- What services do immigrant clients need that the organization does not offer, and what steps can be taken to address these needs?

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<sup>12</sup> LESLYE ORLOFF, ET AL., LEGAL MOMENTUM, LESLYE ORLOFF ET AL., AYUDA SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN 96-111 (LEGAL MOMENTUM, 1999).

<sup>13</sup> GAIL PENDLETON, FAMILY VIOLENCE PREVENTION FUND, BUILDING THE RHYTHM OF CHANGE: DEVELOPING LEADERSHIP AND IMPROVING SERVICES WITHIN THE BATTERED RURAL IMMIGRANT WOMEN'S COMMUNITY (2000).

<sup>14</sup> A telephonic interpretation is where a bilingual representative may serve as an interpreter between two (or more) parties via telephone for a small fee. There are a variety of telephonic interpretation service agencies available in a array of languages.

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- How can the agency better meet the needs of immigrant victims?
- Does the agency have any rules or practices that can impede immigrant access to the full range of its services?<sup>15</sup>

### STEP 3: DEVELOPING A COMMUNITY EDUCATION & OUTREACH CAMPAIGN ON DOMESTIC VIOLENCE

In addition to improving their abilities to serve immigrant and culturally diverse communities, it is essential that agencies develop plans to educate members of the diverse communities in their areas that:

- Domestic violence is a crime
- Many professionals are willing to help abused women and children, including doctors, nurses, police, judges, attorneys, shelter workers, social workers
- Abuse victims can safely seek help without risking deportation
- Abuse victims can get help even if they plan to continue living with their abusers
- Victims can receive custody of their children and child support
- Organizations and individuals will listen to them and support them through the process of ending domestic violence in their lives.<sup>16</sup>

Working to make an agency more culturally sensitive is an ongoing process. For immigrant women to muster the courage to leave abusive relationships, they must understand their legal rights in the United States and have effective and culturally sensitive support services available to them. While battered immigrants are learning about services, staffers should take steps to increase their cultural sensitivity and to develop working relationships with organizations serving the immigrant community.

### The Need for Collaboration

Advocates with little knowledge about immigration laws and attorneys with limited domestic violence experience may be unprepared to respond to the range of problems that battered immigrant women face. A domestic violence advocate may be unaware of possible protections for immigrants under VAWA, while a family violence attorney may encourage the woman to file for divorce without informing her that she qualifies for immigration benefits that she must request within two years of divorce. Through collaboration, service providers will be fully equipped to help battered immigrant women overcome the many justice and social system barriers they encounter when they seek help.<sup>17</sup>

Domestic violence has a long history in the United States. It is a crime that crosses all race, class, and cultural lines, and it is particularly insidious because the abuser has continued access to his victim. Further, for domestic violence survivors, deciding if and how they want to use the justice system can be difficult. Questions such as, “Can I leave my batterer?,” “Can I get justice system protection to try to stop the violence without leaving my partner and breaking up the family?,” “How can I support myself?,” “Can I maintain custody of my children?,” and others race through the minds of battered women. Information on shelters, domestic violence programs, victim advocates, lawyers, and justice system relief can make a difference as women struggle to decide how to try to get protection against the violence, and whether or not this will require leaving their abuser. When agencies collaborate, battered women and their children have the best chance to obtain the help they need from the justice- and social service-systems.<sup>18</sup>

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<sup>15</sup> *Providing Materials to Non-English Speaking Communities*, 1 MICH. COALITION AGAINST DOMESTIC & SEXUAL VIOLENCE REV. 14 (1998).

<sup>16</sup> This document was developed at Ayuda Inc., Washington, D.C.

<sup>17</sup> Debbie Lee & Chris Hogeland, *Accessibility: Serving a Changing Community*, in DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN 18, 18 (Deeana L. Jang et al., Family Violence Prevention Fund, eds., 2d ed. 1997); THE SAN FRANCISCO DISTRICT ATTORNEY’S OFFICE DOMESTIC VIOLENCE FELONY AND MISDEMEANOR PROSECUTION PROTOCOL 2 (1997).

<sup>18</sup> Marti Kovener, et al., *Making Collaboration Work: The Experiences of Denver Victim Services 2000*, OVC BULLETIN (Dec. 2002).

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For immigrant women, domestic violence becomes an even more complex issue. The problems and difficult choices all battered women face are complicated by the fact that battered immigrant women stand at the intersection of several different identities including being immigrants, being women, being domestic violence victims, and, often, being women of color.<sup>19</sup> When battered immigrants turn to the justice, health, and social service systems for help, they often encounter barriers that go beyond those experienced by women and domestic violence victims generally. Legal advocates, health care providers, and social service providers may make assumptions about an immigrant victim's immigration status or cultural background. These assumptions may impede a victim's access to assistance. Language barriers emerge in the judicial, social services, and healthcare sectors particularly when adequate funds for interpreters have not been allocated, or when agencies have not hired sufficient numbers of bilingual, bicultural staff.<sup>20</sup> Battered immigrant women in the United States need access to the full range of culturally competent services available to all battered women in U.S. communities including shelter, transitional housing, health care, counseling, supportive advocates, family lawyers, protection orders, criminal prosecution of their abusers, and financial assistance. In order to provide multi-lingual and multi-cultural services to battered immigrant women, service providers should be trained in providing culturally competent assistance.<sup>21</sup> Additionally, immigrant victims need access to attorneys and advocates who know the laws governing special access to legal immigration status and public benefits for battered immigrants and are prepared to counter abusers' efforts to use immigration status against victims in family and criminal court cases and through involvement of law enforcement. Rarely can an immigrant victim of domestic violence receive all the assistance she needs from one program.

When seeking legal and economic assistance, a battered immigrant woman may face many systemic obstacles, including sexism, racism, cultural prejudices, and anti-immigrant attitudes.<sup>22</sup> By combining their efforts, lawyers, victim advocates, justice and social service system personnel, and other professionals can help battered immigrant women overcome systemic barriers that impede a survivor's ability to access the assistance necessary to reduce the violence, to escape her abuser, and to create a safe and economically secure life for her family independent of the abuser. The multitude of problems battered immigrant women face require that advocates and attorneys identify collaborators in the immigrant communities with whom they can work to facilitate the immigrant survivor's access to justice, health care, and social services.<sup>23</sup>

New National Institute of Justice-funded research conducted by Dr. Rachel Rodriguez, a Network Advisory Committee member, finds that the best models for providing effective services and interventions for immigrant domestic violence victims are true collaborations between staff from two types of programs: one partner must have expertise helping women and children who have experienced family violence, while the other must have a trusting relationship with women in immigrant communities—whether a grassroots women's group, an immigrant community organization, a health care provider, faith-based organization or legal or social service provider with a lengthy track record working with women in the target immigrant community.<sup>24</sup>

While collaboration and a coordinated community response are critical for all battered women, for immigrant victims, that collaborative team must include battered immigrant survivor victims, individuals who are

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<sup>19</sup> The "intersectional theory" examines how multiple identities compound discrimination. See Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color*, 43 Stan. L. Rev. 1241, 1242 n.3 (1991) (discussing the "intersectionality theory" and listing sources that explore the intersection of race and gender); see also SUJATA BARAI, NEGOTIATING THE INTERSECTION: HOW AND WHY PROVISIONS FOR BATTERED IMMIGRANT WOMEN HAVE BECOME A PART OF U.S. IMMIGRATION POLICY 12 (1998); Margaret Abraham, *Speaking the Unspeakable: Marital Violence Against South Asian Immigrant Women in the United States*, in 5 INDIAN J. OF GENDER STUD. 2 (1997); Kimberle Crenshaw, *Beyond Racism and Mysogyny: Black Feminism and 2 Live Crew*, in WORDS THAT WOUND: CRITICAL RACE THEORY, ASSAULTIVE SPEECH, AND THE FIRST AMENDMENT 114 (1993); .

<sup>20</sup> GAIL PENDLETON, FAMILY VIOLENCE PREVENTION FUND, BUILDING THE RHYTHM OF CHANGE: DEVELOPING LEADERSHIP AND IMPROVING SERVICES WITHIN THE BATTERED RURAL IMMIGRANT WOMEN'S COMMUNITY (2000).

<sup>21</sup> WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, WOMEN'S RIGHTS IN THEORY AND PRACTICE: EMPLOYMENT, VIOLENCE AND POVERTY (2002), 48.

<sup>22</sup> Sudha Shetty & Janice Kaguyutan, *Immigrant Victims of Domestic Violence: Cultural Challenges and Available Legal Protections* (2002), available at <http://www.vaw.umn.edu/FinalDocuments/vawnet/arimmigrant.asp>.

<sup>23</sup> LEGAL MOMENTUM & ORGANIZACION EN CALIFORNIA DE LIDERES CAMPESINAS, INC., ADVOCACY TO IMPROVE SERVICES FOR BATTERED MIGRANT AND IMMIGRANT WOMEN LIVING IN RURAL COMMUNITIES: A MANUAL 70-77 (2003).

<sup>24</sup> Research data (2002) is pending publication, available from Dr. Rachel Rodriguez, University of Wisconsin Madison, School of Nursing.

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knowledgeable about immigrant victims' legal rights, and agencies with expertise in working with immigrant populations.

Each service provider has a specialization that qualifies him or her to assist battered immigrants in a unique way. For example, shelters offer a short-term refuge from violent relationships.<sup>25</sup> However, without collaboration between groups of service providers, a battered woman might become stuck in a cycle of moving from the abusive relationship<sup>26</sup> to the shelter and back again because she was never made aware of the full range of legal and social support options open to her. On the other hand, without full information, she may pursue a legal option that could eliminate eligibility for legal relief necessary to obtain economic security and independence from the abuser for immigration status.

While each program working with a battered immigrant will have its area of specialization, collaboration between groups would increase efficiency and help to better serve the diverse needs of each individual battered immigrant. Without collaboration, a family law attorney may be unaware that by obtaining a divorce, the attorney has started a time-clock setting a two-year limit on when an immigrant victim must file a VAWA self-petition.<sup>27</sup> Family lawyers who leave domestic violence out of divorce cases, or who settle cases in a manner that denies the existence of domestic violence in the relationship cut off immigrant victims from VAWA immigration relief. A battered women's advocate could be unaware that she is in the best position to help the victim collect the evidence she will need to file her VAWA self-petition. An immigration attorney may be unaware that immigrant clients can be awarded legal custody of their children in court without regard to their immigration status.

Collaboration helps victims benefit from comprehensive services provided by diverse specialists. It also prevents specialists from becoming overwhelmed while attempting to single-handedly provide the variety of services that their battered immigrant clients need. Through collaboration, professionals can work together to provide a battered immigrant women with a full range of services that one program alone may not otherwise offer.<sup>28</sup>

Increasingly, both government and private organizations have relied upon collaborative arrangements to improve their services to domestic violence victims.<sup>29</sup> Organizations participating in a collaborative network will have a broader reach and will be able to offer more culturally appropriate and more comprehensive assistance than what had previously existed in their communities.<sup>30</sup> When collaborations incorporate community-based organizations with expertise in the language, culture, and legal rights of immigrant victims, these collaborative efforts can remove systemic barriers that hinder battered immigrants' efforts to receive culturally sensitive assistance from both the justice system and service providers.<sup>31</sup> A successful coordinated community response ideally can raise an immigrant community's awareness about domestic violence. It will also educate the general community population about the immigrant community – its assets to the community as a whole and its special needs. Involving immigrant community members and the organizations that serve immigrant communities in coordinated community response teams has the added

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<sup>25</sup> Richard A. Berk & Phyllis J. Newton, *What a Difference a Day Makes: An Empirical Study of the Impact of Shelters for Battered Women*, 48 J. OF MARRIAGE AND THE FAM. 482 (1986).

<sup>26</sup> The process of leaving an abusive partner is a long and difficult one. It is not safe to assume that the woman is out of danger after she leaves. Even if the woman establishes a new living arrangement, there is still a possibility that she will suffer continuing violence at the hands of her abuser. For further information on this subject, see Mary Ann Dutton et al., *Characteristics of Help Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY L. & POL'Y 245 (2000); The National Advisory Council on Violence Against Women and the Office on Violence Against Women of the U.S. Department Justice, *Strengthening Community-Based Services and Advocacy for Victims*, in TOOLKIT TO END VIOLENCE AGAINST WOMEN pp 2-3, available at <http://toolkit.ncjrs.org>

<sup>27</sup> INA § 204(a)(1)(A)(iii)(II)(cc), 8 U.S.C. § 1154(a)(1)(A)(iii)(II)(cc); INA § 204(a)(1)(B)(ii)(II)(cc), 8 U.S.C. 1154(a)(1)(A)(iii)(II)(cc).

<sup>28</sup> Rachel Rodriguez. Community-based evaluation in a Latina immigrant community in Wisconsin. July 2004.

<sup>29</sup> Myrna Mandell, *Community Collaborations: Working through Network Structures*, 16 POL'Y STUD. REV. 43 (1999).

<sup>30</sup> LARRY COHEN ET AL., DEVELOPING EFFECTIVE COALITIONS: AN EIGHT-STEP GUIDE 1 (1994).

<sup>31</sup> WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, WOMEN'S RIGHTS IN THEORY AND PRACTICE: EMPLOYMENT, VIOLENCE AND POVERTY (2002), 49.



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advantage of uniting immigrant community leaders, including immigrant women leaders, with leaders of the larger community in a commitment to ending domestic violence for all populations.<sup>32</sup>

### Culturally Competent Collaborations

Collaboration is necessary to help battered immigrant women because each collaborative organization can offer women something unique. Each member in the collaboration offers important services to the immigrant victim. Some professionals and other support persons will see a victim as she tries to leave, encounters problems in receiving services and legal relief, and returns to her abuser. These professionals might include health-care workers, clergy, school social workers, mental health professionals, and other professionals with whom a battered woman may be more likely to remain in contact before, during, and after she seeks help with regard to domestic violence. She may remain in touch with some or all of these professionals even if she chooses to remain with her abuser or return to him. Police, courts, battered women's advocates, attorneys, and prosecutors may only see battered immigrants when they are trying to leave their abusers or to take legal action to curb the abuse.<sup>33</sup>

One benefit of collaboration is that it allows a survivor to maximize her opportunities, without having to retell her story unnecessarily and encounter conflicting suggestions from different service providers. All service providers working with immigrant victims and partner organizations can benefit from developing good culturally competent interviewing and note-taking skills. It is important to exercise careful listening skills. While listening to a victim's story, some advocates take notes by creating two separate columns on the page. One column lists the problems and needs the immigrant victim has identified. As the victim tells her story, an advocate notes problems he or she identifies at that time. Then, as the advocate reviews the story both on his or her own and with the victim, he or she elaborates upon and expands this list of problems, issues, and needs. The second column is used to develop a list of remedies. This list is developed with the client.

After a survivor has told her story, an advocate goes over potential remedies. Every agency involved in helping a battered woman needs to remember it is most important to find solutions that best fit the woman's desires.<sup>34</sup> By effectively listening to a woman and working with her through the process of identifying needs and problems and helping her understand all of the potential remedies she may pursue, she will be better able to make informed decisions about what legal, social service, and self-help avenues to pursue. In most cases, battered women should be encouraged to first develop self-help and safety planning solutions and then move on to identify and focus on legal and social services that can help them. Women should be provided information and explanations about potential legal options: family, immigration, benefits, civil, and criminal. Keeping the kind of records discussed above<sup>35</sup> and gaining legal permission from clients to share them with other collaborating professionals working on her case can help insure that immigrant victims obtain all of the assistance they need in a consistent manner without requiring them to repeat painful stories over and over to many providers. Working together, these groups of professionals can help support battered immigrant women who return to or continue to live with their abusers.

Many immigrant battered women, in particular, seek solutions to domestic violence that do not require them to leave their abusers. Some women stay because they see no other option and return to their abusers in order to survive.<sup>36</sup> Support persons who continue to keep in contact with battered women who return to or stay

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<sup>32</sup> JOAN ZORZA & LESLYE ORLOFF, AMERICAN MEDICAL ASSOCIATION, FAMILY VIOLENCE: BUILDING A COORDINATED COMMUNITY RESPONSE: A GUIDE FOR COMMUNITIES (1994), pp. 73.

<sup>33</sup> Leslye Orloff, *Effective Advocacy For Domestic Violence Victims: Role of the Nurse-Midwife*, 41 J. OF NURSE MIDWIFERY 6 (1996).

<sup>34</sup> Woodrow Wilson International Center for Scholars, *Women's Rights in Theory and Practice: Employment, Violence and Poverty* (2002), 49.

<sup>35</sup> LESLYE ORLOFF ET AL., LEGAL MOMENTUM, LESLYE ORLOFF ET AL., AYUDA SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN 96-111 (LEGAL MOMENTUM, 1999).

<sup>36</sup> Mary Ann Dutton et al., *Characteristics of Help Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY L. & POL'Y 245 (2000); Giselle Aguilar Hass et al., *Lifetime*

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with their abusers have a special duty to continue providing support, encouragement, and assistance.<sup>37</sup> They can continue to help the women by:

- Informing victims about protective legal options, including civil protection orders available for women who do not separate from their abusers, or who return to them;
- Providing knowledge about available legal and social services in the community;
- Providing knowledge about the community-based organizations that serve culturally diverse populations in the community; and
- Identifying programs with legal expertise in working with immigrant victims.

When a range of groups agree to come to the table and agree to combine efforts to help battered immigrant women, the outcome will best fit the personal and cultural needs of battered immigrant victims.

### Building Collaborations

There is no one universal way to form partnerships between immigrant survivors and community-based organizations, shelters; immigrant-rights groups, advocates, attorneys and justice, social service; or healthcare professionals. Each partnership must be defined by the unique characteristics of the community. A combination of approaches might be helpful depending on the size, structure, and accessibility of the local immigrant population in a given area. Each method, however, includes the indispensable component of outreach. This section will discuss different ways to create successful collaborative partnerships of community members, immigrant women leaders, professionals, and advocates. This section will also discuss how professionals and organizations can work together to train each other on domestic violence and develop culturally competent services, and how programs can coordinate case management. Developing a network of accessible sensitive services is particularly helpful for battered women who have migrated from places in the U S or other countries where comparable services were not accessible or offered.

Outreach is an indispensable component of service-provision. Immigrant victims might not know that shelters, domestic violence programs, legal services, police domestic violence units, or court protection orders exist, especially if they live in rural areas or they are isolated from information coming from sources other than the abuser.<sup>38</sup> Often battered immigrant women do not know that domestic violence is a crime, that there is legal protection open to them, and that there are social and legal services programs willing to help.

### The Importance of Involving Immigrant Women in Collaborations

The key to success in developing effective, culturally competent collaboration, is involving immigrant women themselves as leaders and respected partners in the collaboration.<sup>39</sup> Generally, battered women in the United States use shelters and community agencies as their main means of intervention and support.<sup>40</sup> Battered immigrant women, however, may turn first to women friends in the community, trusted church groups, or immigrants' rights groups that can offer support and can link them to domestic violence experts. Within immigrant communities, the names of helpful and trustworthy organizations spread quickly from woman to woman through word-of-mouth. Immigrant battered women are substantially more likely to talk about domestic violence to their female friends, mothers, sisters, or other battered immigrant women in their

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*Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, in DOMESTIC VIOLENCE: GLOBAL RESPONSES 93(2000).

<sup>37</sup> Leslye Orloff, *Effective Advocacy For Domestic Violence Victims: Role of the Nurse-Midwife*, 41 J. OF NURSE MIDWIFERY 6 (1996).

<sup>38</sup> See SUSAN BREALL AND DEOBRAH ADLER. WORKING WITH BATTERED IMMIGRANT WOMEN: A GUIDEBOOK FOR PROSECUTORS, VOLCANO, CALIFORNIA: VOLCANO PRESS (2000); DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN (Deeana L. Jang, et al., Family Violence Prevention Fund, eds., 2d ed. 1997); GAIL PENDLETON, FAMILY VIOLENCE PREVENTION FUND, BUILDING THE RHYTHM OF CHANGE: DEVELOPING LEADERSHIP AND IMPROVING SERVICES WITHIN THE BATTERED RURAL IMMIGRANT WOMEN'S COMMUNITY (2000).

<sup>39</sup> Sonia Parras Konrad, *Women Empowering Women: An Exciting Journey*, (on file with author) (June 2003).

<sup>40</sup> Lesile M. Tutty et al., *Support Groups for Battered Women: Research on Their Efficacy*, 8 J. OF FAM. VIOLENCE 325 (1993).

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communities before they speak to anyone else. Furthermore, those who talk to others about the domestic violence are the ones most likely to ultimately to seek help. Breaking the silence is the first step.<sup>41</sup>

Immigrant survivor involvement is the critical link without which few immigrant victims will actually use the services that a community offers to assist them. Collaborations between agencies, the presence of bilingual and bicultural staff and cross-trained professionals, and culturally sensitive services all make it more likely that an agency will be able to reach more battered immigrants. Building good collaborations and a culturally competent program alone will not necessarily result in battered immigrants coming to use those services, however; even outreach will not necessarily change this equation. Involving immigrant women community members, immigrant organizations, or faith-based organizations with long-term track records of working in immigrant communities, as partners in collaborative efforts will break down barriers. It will also effectively communicate the availability of services and justice-system assistance to immigrant women through persons whom they trust.<sup>42</sup>

When involving immigrant community-based organizations that immigrant communities trust, agencies ought to understand and evaluate who within the immigrant community accesses the services that those organizations provide. Many organizations may provide services mostly to immigrant families for whom immigrant men are the families' primary representatives in working with the agencies. Advocates ought to identify community-based organizations, immigrant women's organizations, and faith-based organizations working in immigrant communities that offer services also, or primarily, to immigrant women, and involve these organizations in collaboration. If most of the immigrant community-based organizations involved in collaborations serve the immigrant community generally, as opposed to specializing in serving immigrant women, advocates should encourage these groups to work with immigrant women survivors.

Domestic violence service providers, legal services agencies, and immigrants' rights organizations can all reach out to immigrant women in a given community and involve women community members in working on domestic violence issues. Organizations can also support the leadership of immigrant women in this work, as staff or as volunteers, and encourage immigrant survivors to form their own community-based organizations.<sup>43</sup> Through collaboration, agencies can offer to provide development assistance and support for battered and non-battered immigrant women community leaders serving their own community, including helping them form their own supporting organizations aimed at serving the needs of, and creating links to, immigrant women in the community.

### Cross Training

One of the most effective forms of assistance that a collaborative network can provide is cross-training. Through cross-trainings, advocates and attorneys in every field can expand their knowledge about the value of issues affecting battered immigrant women. Some of the organizations that might participate in such trainings include:

- Domestic violence shelters
- Domestic violence hotlines
- Police units with domestic violence specialization
- Legal service organizations and experienced domestic violence attorneys

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<sup>41</sup> Mary Ann Dutton et al., *Characteristics of Help Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY L. & POL'Y 245 (2000); Giselle Aguilar Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, DOMESTIC VIOLENCE: GLOBAL RESPONSES 93 (2000)

<sup>42</sup> Sonia Parras Konrad, *Women Empowering Women: An Exciting Journey*, (on file with author) (June 2003).

<sup>43</sup> LEGAL MOMENTUM & ORGANIZACION EN CALIFORNIA DE LIDERES CAMPESINAS, INC., *ADVOCACY TO IMPROVE SERVICES FOR BATTERED MIGRANT AND IMMIGRANT WOMEN LIVING IN RURAL COMMUNITIES: A MANUAL* (2003); GAIL PENDLETON, FAMILY VIOLENCE PREVENTION FUND, *BUILDING THE RHYTHM OF CHANGE: DEVELOPING LEADERSHIP AND IMPROVING SERVICES WITHIN THE BATTERED RURAL IMMIGRANT WOMEN'S COMMUNITY* (2000).

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- Immigration lawyers with experience working on domestic violence cases
- Immigrant women's groups
- Immigrant community-based organizations, including immigrants' and refugee rights advocates
- Immigration law bar association members
- Faith-based organizations serving immigrant communities
- Counseling programs
- Domestic violence court programs
- Domestic violence prosecution programs

Immigrant survivors should be included in community-wide cross trainings as teachers about immigrant victims' experiences with domestic violence and as experts on outreach to immigrant women.<sup>44</sup> A broad array of professionals – shelter advocates, attorneys, social workers, immigrants' rights organizations' staffs, clergy, and justice system professionals – all need knowledge about battered immigrants' legal rights. Each of these professionals in a community will have critical forms of expertise, but will need training on other issues so that together they can form an effective, coordinated effort to help battered immigrant women. Without cross-trainings, domestic violence advocates cannot know what documents a battered woman needs for her immigration case. Immigration attorneys need contact with advocates to understand civil protection orders and safety-planning. Domestic violence attorneys and advocates might attend trainings on basic immigration law, while immigration attorneys might benefit from a training session on the issues that arise in domestic violence cases in family court. Since the details of immigration law and public benefits options for immigrant victims are constantly shifting, cross-trainings must be ongoing.

Trainings should also be held with, and, ideally, sponsored or co-sponsored by, local immigrant-service organizations so that those groups may become better prepared to address domestic violence within their immigrant communities. The attendees should be encouraged to serve as faculty in their area of expertise. Domestic violence advocates might explain safety-planning and prevention techniques, while attorneys might clarify local laws against domestic violence, the process for self-petitioning under VAWA,<sup>45</sup> and forms of immigration relief and public benefits that may be awarded to immigrant victims.

Service providers benefit from trainings run by immigrant communities because trainings expand their cultural knowledge, helping them work with immigrant clients in a more culturally appropriate manner.<sup>46</sup> Such collaboration also links service providers with community-based organizations, university-based organizations, and church groups that could possibly offer links to potential interpreters.<sup>47</sup>

Trainings may also deter domestic violence by changing immigrant community attitudes. Attendees at cross-trainings should be provided with training materials on a variety of topics. Topics might include:

- Domestic violence
- Immigration options for battered immigrants
- Social services available to battered immigrants
- Public benefits options for battered immigrants and their children
- Demographic information about the culture and the needs of immigrant communities in the area
- Needs of immigrant women in your community
- Cultural competency

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<sup>44</sup> LESLYE ORLOFF ET AL., AYUDA SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN 96-111 (LEGAL MOMENTUM, 1999).

<sup>45</sup> LEGAL MOMENTUM & ORGANIZACION EN CALIFORNIA DE LIDERES CAMPESINAS, INC., ADVOCACY TO IMPROVE SERVICES FOR BATTERED MIGRANT AND IMMIGRANT WOMEN LIVING IN RURAL COMMUNITIES: A MANUAL (2003); GAIL PENDLETON, FAMILY VIOLENCE PREVENTION FUND, BUILDING THE RHYTHM OF CHANGE: DEVELOPING LEADERSHIP AND IMPROVING SERVICES WITHIN THE BATTERED RURAL IMMIGRANT WOMEN'S COMMUNITY (2000).

<sup>46</sup> NANCY K.D. LEMON & PETER JAFFE, FAMILY VIOLENCE PREVENTION FUND, DOMESTIC VIOLENCE AND CHILDREN: RESOLVING CUSTODY AND VISITATION DISPUTES 165-66 (Janet Carter et al. eds., 1995).

<sup>47</sup> Leslye E. Orloff et al., *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA WOMEN'S L.J. 43 (2003).

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- Working effectively with interpreters

Many organizations will already have developed some of the training material listed above.<sup>48</sup> In addition to materials, cross-training attendees can be provided with lists of local organizations with which they can collaborate on battered immigrant cases. They might also receive a list of national organizations that provide state, local, and regional referrals to service providers and experts that work with immigrant victims. These organizations can provide technical assistance and links to others working with similar immigrant populations in other parts of the country. This list might include:

- National Immigrant Women Advocacy Project (NIWAP):  
4801 Massachusetts Ave NW, Washington, DC 20016; (202)274-4457; [info@niwap.org](mailto:info@niwap.org)
- Immigrant Women Program of Legal Momentum:  
1522 K Street, NW, Suite 550, Washington, DC 20005; (202) 326-0040; [iwp@legalmomentum.org](mailto:iwp@legalmomentum.org)
- National Immigration Project of the National Lawyer's Guild:  
14 Beacon Street, Suite 602, Boston, MA 02108; (617) 227-9727;  
[sandy@nationalimmigrationproject.org](mailto:sandy@nationalimmigrationproject.org)
- Family Violence Prevention Fund:  
383 Rhode Island St. Suite #304, San Francisco, CA 94103; (415) 252-8900; [info@endabuse.org](mailto:info@endabuse.org)
- National Domestic Violence Hotline:  
(800) 799-SAFE, TTY: (800) 787-3224; [ndvh@ndvh.org](mailto:ndvh@ndvh.org)

### Case Coordination

One of the key benefits that battered immigrants ideally receive from collaborative networks is a coordinated handling of their legal and social service needs by various professionals. The collaboration of service providers can ensure that any steps that various professionals take to help an immigrant victim will not impede any other advocate's or attorney's efforts. For example, family lawyers should contact an immigration expert to determine what information can be obtained through the family court case that can help the victim's immigration case. Family lawyers also need to know the findings that are needed when an immigrant victim obtains a divorce so as not to harm her immigration case. It is also important to know under what circumstances a survivor's immigration case could be harmed by receipt of certain public benefits. By contacting an immigration attorney, domestic violence advocates can learn about the types of immigration relief for which a battered immigrant qualifies.

By creating partnerships with an attorney, advocates can learn how to help battered immigrants obtain protection orders that can also help her immigration case. When advocates assist attorneys in collecting evidence for VAWA self-petitioners' cases, attorneys can offer legal assistance to many more immigrant victims. Collaboration can help promote swift approval of the VAWA self-petition. Advocates often have a closer, more trusting, relationship with victims than lawyers and therefore are often better at learning the victim's detailed story. Advocates can also help battered immigrant clients do safety-planning to enhance their safety, whether they choose to leave or stay with their abusers.

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<sup>48</sup> If organizations do not already have these materials, they need not invest resources in developing such materials as many can be obtained from national organizations and can be used locally. To obtain training materials on many of the topics listed above, contact the National Immigrant Women's Advocacy Project, 4910 Massachusetts Ave NW, Suite 16 Lower Level, Washington, DC 20016; (202) 274-4457; [info@niwap.org](mailto:info@niwap.org); <http://wcl.american.edu/niwap>; or Futures Without Violence, 100 Montgomery Street, The Presidio, San Francisco, CA 94129; (415) 678-5500; <http://www.futureswithoutviolence.org> for more general information.

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### How Collaboration Can Improve Access to VAWA Self-Petitions – A Model Approach

Beginning in 1999, Mirna Torres, an immigration attorney in New Mexico, established a model collaborative network of service providers working with battered immigrant women.<sup>49</sup> “I would go to any shelter,” says Mirna. She recounts that she put 100,000 miles on her car driving across the state of New Mexico training service providers, teachers, district attorneys, police officers, and social workers— basically anyone willing to attend the training.

Her first step was to contact shelters and offer to train their staff. The training included information on the options available to battered immigrant women, information on the self-petition and the self-petitioning process, and a list of the evidence needed for a successful self-petition. She also included bilingual information packets with samples of every document needed to file the self-petition and lists of documents that would be beneficial to include. Now, shelters often contact Mirna when they take a new client. She also receives requests from individual women who are not at a shelter. In such cases she connects these individual women with a shelter so that the immigrant victim will have access to support and resources of which she may have had no prior knowledge. The shelter can also serve as a safe address for women receiving correspondence about their self-petition.

Throughout the application process, Mirna is on hand to answer any questions that shelter workers may have. Once the self-petition is complete, it is sent to her to organize and translate. In most cases, she does not meet with the client, working instead through the trained legal advocate at the shelter, who is the most important contact with the client. She reminds attorneys that shelters and service providers are essential in this process, and that attorneys should seek assistance of shelter workers and other collaborators for case management. Mirna’s approach offers the following helpful tips:

- Organizations should keep track of anyone they train so that contact information can be distributed to battered immigrant women;
- Organizations should provide multi-lingual training and training materials;
- If an organization conducts trainings, it should be prepared to offer services
- An organization’s entire staff must be trained. Receptionists are particularly critical because they serve as the first contact with battered immigrants;
- Training staff on a regular basis accounts for turnover and any changes in policy or approach;
- Attorneys should assign a point person/case manager who will serve as the specialist in the needs of immigrant women. The case manager may also choose to take on the role of translator. Creating a case manager position allows an attorney to carry more cases because the case manager can share the workload and be the main contact with a client; and
- Organizations can create partnerships with local universities and offer internships to students to help with translation work and with organizing self-petitions.

Many of the people that Mirna initially trained have become trainers themselves after continuing their education through conferences and national training sessions. This type of collaboration is an excellent use of resources. It results in many high-quality self-petitions that are readily approved by immigration authorities and spreads precious, limited, resources so that they can be used to benefit greater numbers of battered immigrant women. It is also a very effective approach for helping battered immigrants living in rural areas or in communities lacking immigration or legal services lawyers. If one or two lawyers in each state adapted this approach, it would make a dramatic difference in battered immigrants’ ability to access help filing VAWA self-petitions.

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<sup>49</sup> This approach was developed by Catholic Charities of Albuquerque New Mexico. For more information, contact Mirna Torres at the Catholic Charities of Central New Mexico, 2010 Bridge SW, Albuquerque NM 87105. For sample materials on the subject, contact NIWAP, 4910 Massachusetts Ave NW, Suite 16 Lower Level, Washington, DC 20016; (202) 274-4457; [info@niwap.org](mailto:info@niwap.org).

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### Outreach

Steps toward improving services to battered immigrants in your community may involve:

- Identifying significant linguistic minorities and immigrant populations in the community
- Assessing a program's capacity to serve immigrant victims
- Identifying agencies in the community that can collaborate to serve immigrant victims
- Holding trainings and cross-trainings for program staff and staff at collaborating organizations on legal rights of immigrant victims and provision of culturally competent services to them
- Identifying training materials on battered immigrant women's legal rights that an organization can use to train professionals in the community, and identifying technical assistance providers who can help on individual cases
- Working with immigrant survivors and conducting outreach campaigns to inform immigrant victims about the options open to them

Once an agency has identified immigrant communities in its area and trained program staff to serve immigrant victims, it can begin a collaborative outreach effort to inform immigrant battered women of their legal rights and to inform them of the programs and services available to help victims of domestic violence.<sup>50</sup> Battered immigrant clients will not start coming to seek services just because agency staff have been trained and are now ready to serve them. For this reason, it is important to partner development of culturally competent services with an outreach and education campaign to inform immigrant women about their legal rights and the services available to immigrant victims of domestic violence and sexual assault.

Immigrant women are most likely to talk about domestic violence to other immigrant women who may be their female friends, mothers, or sisters.<sup>51</sup> For this reason, outreach efforts should be sufficiently targeted to reach immigrant women – both those who are abused themselves and the persons to whom they turn for support. Reaching the target audience requires collaboration with immigrant survivors and immigrant women's groups who are best-situated to reach the target audience, and speak to them about domestic violence.

Immigrant women should be involved from the beginning in designing an outreach campaign. Some of the objectives of an outreach campaign should include:

- Informing the immigrant community that domestic violence is a crime and explain what domestic violence is
- Raising awareness about legal relief, shelter, and social services available to help victims
- Bringing in men as a part of the solution and making them accountable for their behavior
- Strengthening girls' and women's confidence levels to resist violence in their relationships
- Being aware of the needs and perspectives of the immigrant population when presenting information
- Presenting the information in a respectful way that is tailored to the audience

Being aware of possible barriers, e.g. racism or anti-immigrant sentiment, that exist in the community<sup>52</sup>

### Working Effectively

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<sup>50</sup> LEGAL MOMENTUM & ORGANIZACION EN CALIFORNIA DE LIDERES CAMPESINAS, INC., *ADVOCACY TO IMPROVE SERVICES FOR BATTERED MIGRANT AND IMMIGRANT WOMEN LIVING IN RURAL COMMUNITIES: A MANUAL* (2003).

<sup>51</sup> Mary Ann Dutton et al., *Characteristics of Help Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 *GEO. J. ON POVERTY L. & POL'Y* 245 (2000); Giselle Aguilar Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, *DOMESTIC VIOLENCE: GLOBAL RESPONSES*, 93 (2000).

<sup>52</sup> LESLYE ORLOFF ET AL., LEGAL MOMENTUM, LESLYE ORLOFF ET AL., *AYUDA SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN* 96-111 (LEGAL MOMENTUM, 1999).

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Effective communication with the survivor is an essential precursor to deciding which collaborations will be helpful in her particular case. The goals of working cross-culturally are to obtain information from the survivor and to help her achieve ownership of her own solutions. Advocates, attorneys, service providers, and justice system personnel who work with battered women are constantly called upon to help people who may come from backgrounds different than their own. The victim seeking help may come from a different economic background, country of origin, culture, ethnicity, or religion than that of the advocate, attorney, or other worker.<sup>53</sup> To provide culturally competent services to all victims, it is essential that service providers approach their work in a manner that ensures that all battered women are given a safe place in which to tell their stories and articulate their needs, fears, and concerns.<sup>54</sup>

### Gathering Information

Because workers in domestic violence programs are typically among the first to meet with battered immigrant women, they are in a prime position to help battered immigrants begin gathering documents and information necessary for VAWA self-petitions and cancellation of removal application. In some communities, it may be difficult to identify an immigration attorney to represent the battered immigrant. In such instances, the victim advocate can provide direct assistance with the battered immigrant's VAWA case and consult with an immigration attorney elsewhere in the state during the information-gathering process in order to ensure proper preparation of the self-petition. Even in VAWA cases where a battered immigrant is represented by an immigration attorney, victim advocates can use their expertise of domestic violence to help the battered immigrant develop her case affidavit and to document the full history of domestic violence, controlling behaviors, and emotional abuse in the relationship. Battered women advocates and staff do extremely well in identifying the elements of abuse, power, and control that can be so important in building a VAWA case.

### Assisting the Battered Immigrant to Articulate her Needs

Battered women are inclined to minimize abuse as a survival mechanism but will volunteer more information if they receive culturally sensitive encouragement.<sup>55</sup> An effective style of inquiry often includes asking open-ended questions that encourage a battered woman to tell her story and express her needs, fears, and concerns from her own cultural perspective, without limitations. If she is encouraged, supported, and is made to feel safe, an immigrant victim is more likely to tell the advocate, attorney, or worker what she needs<sup>56</sup> from within the victim's own cultural context.<sup>57</sup> She should be encouraged to tell an advocate or attorney each of the things of which she is afraid and each type of help that she would need or find useful. The advocate or attorney should work with her to create a list of her needs, wants, and concerns. This list should be developed without regard to, and should not be limited by, what the advocate or the attorney might think that the legal, social service, or health care systems typically offer. The list also should be developed without regard to the advocate's or attorney's assumptions about what a particular immigrant client will need, or the course of action she should undertake. Further, it should be developed without being restricted by what the advocate or attorney thinks a victim might ultimately be able to obtain in court, from the advocate's own agency, from other programs, or through public benefits.

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<sup>53</sup> SUSAN BREALL & DEBORAH A. ADLER, *WORKING WITH BATTERED IMMIGRANT WOMEN: A GUIDEBOOK FOR PROSECUTORS* (2000).

<sup>54</sup> LETI VOLPP, FAMILY VIOLENCE PREVENTION FUND, *WORKING WITH BATTERED IMMIGRANT WOMEN: A HANDBOOK TO MAKE SERVICES ACCESSIBLE* (1995); WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, *WOMEN'S RIGHTS IN THEORY AND PRACTICE: EMPLOYMENT, VIOLENCE AND POVERTY* (2002), 48; Leslye Orloff, Address Before the American Medical Association (Mar. 11-13, 1994), *in* NATIONAL CONFERENCE ON FAMILY VIOLENCE: HEALTH AND JUSTICE (1994);

<sup>55</sup> DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN (Deeana L. Jang, et al., Family Violence Prevention Fund, eds., 2d ed. 1997); LETI VOLPP, FAMILY VIOLENCE PREVENTION FUND, *WORKING WITH BATTERED IMMIGRANT WOMEN: A HANDBOOK TO MAKE SERVICES ACCESSIBLE* (1995).

<sup>56</sup> WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS, *WOMEN'S RIGHTS IN THEORY AND PRACTICE: EMPLOYMENT, VIOLENCE AND POVERTY* (2002), 49-50; Leslye Orloff, Address Before the American Medical Association, (Mar. 11-13, 1994), *in* NATIONAL CONFERENCE ON FAMILY VIOLENCE: HEALTH AND JUSTICE (1994).

<sup>57</sup> Brittany McCarthy Barnes, *Family Violence Knows No Cultural Boundaries*, (93, no.1) *J. OF FAM. AND CONSUMER SCI.* pp 11-14 (2001).



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If a battered immigrant believes that she can only list those services or benefits she might be able to receive from one agency or in court, she may not include critical information that could help her qualify for other forms of relief or assistance and may miss key opportunities to free herself from the abuser's continued exertion of power and control over her.

Advocates and service providers should work with clients jointly to develop creative strategies to effectively address each of the items that battered immigrants include on their lists. Some of the issues survivors raise may be addressed through traditional legal or social services remedies; others may require advocates or attorneys to use the justice or social services systems more creatively. Still others may prompt battered immigrants and advocates to work together to identify which of the listed needs or concerns that might be addressed using the immigrant community programs, battered women's own resources, or those of community or faith-based organizations.<sup>58</sup>

When meeting with a domestic violence survivor, a list of appropriate questions might include:

- What are you afraid of?
- What are your concerns about your partner's reaction?
- Are you interested in staying with or leaving your abuser?
- What are your safety needs, fears, and concerns while you continue to live with your partner?
- What are your needs, fears, or concerns if you are considering separating from your abuser?
- What are your safety needs if you plan to leave your partner?
- Under what conditions do you think it will be safest to leave?
- What are the methods that your partner might use to keep you from leaving him, or to get you to return to him?
- What are the means your partner might use to continue controlling your life?
- What do you want?
- What kinds of things would help you be able to do what you want?<sup>59</sup>

### Some Specific Questions for Working with Survivors of Emotional Abuse

Many battered women and battered immigrant women do not think of themselves as domestic violence victims. Although they have suffered abuse, they may not recognize it, or they may believe that emotional abuse is not truly abuse.<sup>60</sup> Advocates should encourage survivors to discuss their complete experiences, and explore what assistance, help, protections, or remedies they might be interested in seeking. Often times using labels such as "spouse abuse," "domestic violence," "battered woman," "rape," "sexual assault," or "emotional abuse" to identify the victim's experience can actually stump the relationship between the advocate and the victim because this does not relate to such terms. Rather, more effective questions might include:

- Have you ever been told that you were stupid, or that no one else would have you?
- Did your partner ever destroy things, or cause harm to pets?
- Did your partner ever destroy or threaten to destroy things that were important to you, including special things from your country of origin?
- Has your partner ever shoved you, or used or threatened to use a weapon?
- Has your partner ever threatened to have you deported?

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<sup>58</sup> Leslye Orloff, Address Before the American Medical Association (Mar. 11-13, 1994), in NATIONAL CONFERENCE ON FAMILY VIOLENCE: HEALTH AND JUSTICE (1994).

<sup>59</sup> LESLYE ORLOFF LEGAL MOMENTUM, OVERCOMING CULTURAL BARRIERS IN WORKING WITH IMMIGRANT BATTERED WOMEN (1998).

<sup>60</sup> Mary Ann Dutton & Giselle Aguilar Hass, *Expert Testimony Concerning Battering*, in MARY ANN DUTTON, ET AL., AMERICAN BAR ASSOCIATION, DOMESTIC VIOLENCE & IMMIGRATION: APPLYING THE IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT, Appendix C. (Bette Garlow, et al., eds., 2000).

## Overview of Domestic Violence

- Has your partner ever threatened not to file immigration papers for you, not to follow through on immigration papers he had already filed, or threatened to take away an immigration visa he had already helped you to obtain?
- Has your partner ever threatened to tell the CIS that you only married him to obtain immigration papers?
- Has your partner even threatened to take your children away?
- Has your partner ever threatened to take the children so that you would never be able to see them again?
- Has your partner ever threatened to harm your children?
- Has your partner ever hit you, hurt you, or pulled your hair?
- Has your partner ever forced you to have sex when you did not want to?
- Are you, or have you ever been, afraid of your partner?

### Storing Information

Shelters and domestic violence programs can also provide a safe storage place for the collected information and documentation that will be needed in VAWA cases. Most battered women cannot keep important documents at home for fear that the papers will be found and destroyed by the abuser, or could result in a greater intensity of abuse. While women can be encouraged to leave important papers with a neighbor or friend, storage of documents and information crucial to a VAWA case with such individuals can be unsafe. The abuser may discover the location of the documents and force those individuals to turn over the documents to him, thus robbing the victim of all access to the documentation necessary to prove her VAWA case. As a result, battered women's advocates need to be able to provide these life-saving services without restrictions on what can be documented or stored in shelter records. If a victim retains an attorney as well as the help of a victim advocate, there will be at least some period of time that documents will be kept in the domestic violence program files until they are forwarded to the attorney.

Obtaining evidence for VAWA cases can be problematic if shelters and other domestic violence programs have policies against the collection and recording of written documentation in shelter records. These policies exist to protect the privacy and confidentiality of the information provided to and by domestic violence victims so that batterers cannot access this information and use it against a victim in court. While these policies generally offer added protection to battered women, battered immigrants need shelters and domestic violence programs to make exceptions to those policies. Without the help of shelter advocates in creating, collecting, and storing documents needed for a VAWA immigration case, battered immigrants will be disconnected from critical assistance. Statistics from the USCIS indicate that a significant majority of VAWA cases that are denied are those of battered immigrant women who attempt to file VAWA cases without the assistance of an attorney or a trained battered women's advocate.

### Concerns about State Confidentiality Rules<sup>61</sup>

Advocates and attorneys working with battered immigrants should refer battered immigrants to other collaborating professionals and seek confidentiality waivers that will allow professionals to share information about the victim's various legal cases. This helps to ensure better case coordination, to reduce victim trauma associated with having to repeat the story of abuse over and over again, and limits the time that each professional has to devote to investigating the case.

The majority of the information needed to build a VAWA case involves the collection and maintenance of documents that verify various aspects of the petitioner's life such as:

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<sup>61</sup> For information about federal immigration VAWA Confidentiality rules that apply to protect immigrant victims of domestic violence, sexual assault, human trafficking or other U-visa listed crime see, Leslye Orloff, "VAWA Confidentiality: history, Purpose and Violations of VAWA Confidentiality Protections" in Leslye Orloff, Ed., *Empowering Survivors: The Legal Rights of Immigrant Victims of Sexual Assault* (Legal Momentum, 2010) available at: <http://iwj.legalmomentum.org/reference/manuals/sexual-assault>

## Overview of Domestic Violence

- Records and statements that attest to the marriage between the immigrant and abuser
- Documents that certify the abuser's citizenship or legal residency
- Information about violence committed against the immigrant woman and/or her children. (For more information, please see the Model Approach on page 36)

Domestic violence victim advocates may be concerned that program records will be subpoenaed and used against battered immigrant women. However, in the majority of VAWA cases, the benefits to battered immigrant women far outweigh the risks that shelters encounter. Battered immigrant victims should have the opportunity to decide if they prefer that the shelters or other domestic violence program to maintain information needed for their VAWA cases. It is important to note that documentation should be kept for all battered immigrant women, not just for those a shelter thinks may be currently eligible for self-petitioning under VAWA. This should be done because a woman may be eligible for this or other immigration relief at a later time.

Concerns about maintaining information in VAWA cases may be alleviated if a shelter's or domestic violence program's records are protected by victim-advocate or victim-counselor confidentiality provisions under state law. Several states have statutes in place that protect all forms of communication between domestic violence counselors and victims. If a domestic violence program is in a state with these privilege laws,<sup>62</sup> it is in a battered immigrant client's best interests for an agency to help her collect and maintain extensive files, especially if the client is considering self-petitioning. Under a privilege statute, neither the victim nor the domestic violence counselor can be forced by courts to reveal information unless the victim waives her privilege. Privilege generally lasts until after the death of a victim.

Under very limited circumstances, some states will allow a court to order release of otherwise privileged information. The major circumstances are:

- A court finds that the probative value of the information outweighs the harm<sup>63</sup>
- Reports are received relating to child neglect or abuse<sup>64</sup>
- Criminal, mental health, or perjury proceeding are initiated against the victim<sup>65</sup>
- Court actions are brought against the counselor<sup>66</sup>
- Information in the records is exculpatory evidence about the abuser/defendant.<sup>67</sup>

A few of the states allow these limited exceptions only after the court privately examines the information to verify the necessity of the evidence to the hearing.<sup>68</sup> Even in those instances where all communications are not privileged, some states have laws making any information that may identify a victim confidential.<sup>69</sup> A

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<sup>62</sup> Alaska (ALASKA STAT. § 18.66.200); California (CAL. EVID. CODE §§ 1037.5 & .6); Colorado (COLO. REV. STAT. § 13-90-107); Connecticut (CONN. GEN. STAT. § 52-146K); Florida (FLA. STAT. ch. 90.5036.1(d)); Hawaii (HAW. REV. STAT. ANN. § 626-1, R505.5); Illinois (750 ILL. COMP. STAT. § 60/227); Indiana (IND. CODE ANN § 31-12-1-15); Iowa (IOWA CODE § 236A.1); Kentucky (KY. R. EVID. Rule 506); Massachusetts (MASS. GEN. LAWS ch. 233, § 20K); Michigan (MICH. COMP. LAWS ANN. § 600.2157a ); New Hampshire (N.H. REV. STAT. ANN. § 173-C:1 & 2 ); New Jersey (N.J. STAT. § 2A:84A-22.15 ); New Mexico (N.M. STAT. ANN. § 31-25-3 ); North Dakota (N.D. CENT. CODE § 14-07.1-18 ); Pennsylvania (PA. CONS. STAT. § 6116 ); Wyoming (WYO. STAT. ANN. § 1-12-116 ). In at least one state, a party has attempted to use the Freedom of Information Act to gain access to information. The court denied access, holding that confidentiality must be protected. Domestic Violence Servs. of Greater New Haven, Inc. v. Freedom of Information Comm'n, 47 Conn. App. 466 (1998).

<sup>63</sup> Iowa (IOWA CODE § 236A.1); Michigan (MICH. COMP. LAWS ANN. § 600.2157a).

<sup>64</sup> Alaska (ALASKA STAT. § 18.66.210); Hawaii (HAW. REV. STAT. ANN. § 626-1).

<sup>65</sup> Alaska (ALASKA STAT. § 18.66.210); Hawaii (HAW. REV. STAT. ANN. § 626-1).

<sup>66</sup> Alaska (ALASKA STAT. § 18.66.210); Hawaii (HAW. REV. STAT. ANN. § 626-1).

<sup>67</sup> Massachusetts (MASS. GEN. LAWS ch. 233, § 20K).

<sup>68</sup> Massachusetts (MASS. GEN. LAWS ch. 233, § 20K); Tennessee (TENN. CODE ANN. § 36-3-621(e)(1)) (reported information is confidential unless a court finds "good cause"); Washington (WASH. REV. CODE § 70.123.075).

<sup>69</sup> Alabama (ALA. CODE § 15-23-69) (based on apprehension about violence or intimidation, a prosecutor may petition the court to not compel the victim or any other witnesses testify about facts that could identify the victim unless necessary for prosecution. Any hearing as to the merits of a petition are held in camera. No such facts will be public record); Florida (FLA. STAT. ch. 39.908) (information about domestic violence clients may not be disclosed without the victim's permission except for purposes of law enforcement (for criminal violation by the victim), firefighting, medical, or suspected child abuse); Mississippi (MISS. CODE ANN. § 93-21-107(7)); North Dakota (N.D. CENT. CODE § 14-07.1-18) (domestic violence staff shall maintain the confidentiality of identifying information except where it directly relates to determination of child abuse)

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few states also maintain confidentiality of identifying information as a requirement for domestic violence program funding.<sup>70</sup> When communications between domestic violence counselors and clients are not protected, many states provide protection for communications to professionals who provide counseling or other needed services to victims. The various protections for communications may be between clients and social workers,<sup>71</sup> licensed counselors,<sup>72</sup> mental health professionals,<sup>73</sup> marriage/family counselors,<sup>74</sup> psychiatrists,<sup>75</sup> psychologists/mental health therapists,<sup>76</sup> registered nurses,<sup>77</sup> or school counselors.<sup>78</sup> As is the case with privileged communications between domestic violence counselors and victims, depending upon the state, an exception to confidentiality can apply to limited situations where:

- The client or client's legal guardian gives consent;<sup>79</sup>
- The client could commit a crime or hurt a third party;<sup>80</sup>
- There is suspicion of child abuse or a minor being the victim of a crime;<sup>81</sup>
- The client waives the privilege by filing charges against the counselor;<sup>82</sup>
- The client uses the privileged information as a defense claim in a judicial administrative, agency, controlled substance, or mental illness proceeding;<sup>83</sup>
- A court determines the probative value outweighs the harm;<sup>84</sup>

The presence of a third party is necessary to assist during interviews with the client (e.g. interpreters and other counselors).<sup>85</sup>

## Potential Documentation Problems and Solutions

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or where the staff determines that the information is necessary for safety or protective reasons); Tennessee (TENN. CODE ANN. § 36-3-621) (unless court finds "good cause"); Texas (TEX. HUM. RES. CODE ANN. § 51.007).

<sup>70</sup>Arizona (ARIZ. REV. STAT. § 36-3005A(3)); Idaho (IDAHO CODE § 39-5211(4)); Ohio (OHIO REV. CODE ANN. § 3113.36)); Iowa (IOWA CODE § 915.20.A.7).

<sup>71</sup>Arkansas (ARK. CODE ANN. § 17-103-107); Maine (ME. REV. STAT. ANN. tit. 32, § 7005); Maryland (MD. CODE ANN., CTS. & JUD. PRO. § 9-121); Michigan (MICH. COMP. LAWS ANN. § 333.18513); Minnesota (MINN. STAT. § 595.02); Nevada (NEV. REV. STAT. § 49.246); New York (N.Y. C.P.L.R. § 4508); Oregon (OR. REV. STAT. § 675.765); Vermont (VT. R. EVID. 503); Wisconsin (WIS. STAT. § 905.04).

<sup>72</sup>Kentucky (KY. R. EVID. Rule 506); Maine (ME. REV. STAT. ANN. tit. 32, § 13862); Montana (MONT. CODE ANN. § 37-23-301); Nebraska (NEB. REV. STAT. § 27-504); Oklahoma (OKLA. STAT. tit. 59, § 1910); Oregon (OR. REV. STAT. § 675.765); South Dakota (S.D. CODIFIED LAWS § 36-32-27); Vermont (VT. R. EVID. 503); West Virginia (W. VA. CODE § 30-31-13); Wisconsin (WIS. STAT. § 905.04).

<sup>73</sup>Vermont (VT. R. EVID. 503).

<sup>74</sup>Maine (ME. REV. STAT. ANN. tit. 32, § 13862); Nevada (NEV. REV. STAT. § 49.246); Oregon (OR. REV. STAT. § 675.765); Wisconsin (WIS. STAT. § 905.04).

<sup>75</sup>Maryland (MD. CODE ANN., CTS. & JUD. PRO. § 9-109); Minnesota (MINN. STAT. § 595.02).

<sup>76</sup>Maryland (MD. CODE ANN., CTS. & JUD. PRO. § 9-121); Minnesota (MINN. STAT. § 595.02); Vermont (VT. R. EVID. 503); Wisconsin (WIS. STAT. § 905.04).

<sup>77</sup>Wisconsin (WIS. STAT. § 905.04).

<sup>78</sup>Kentucky (KY. R. EVID. Rule 506).

<sup>79</sup>Arkansas (ARK. CODE ANN. § 17-103-107); Maine (ME. REV. STAT. ANN. tit. 32, § 7005); Maryland (MD. CODE ANN. CTS. & JUD. PRO. § 9-121); Michigan (MICH. COMP. LAWS ANN. § 333.18513); Montana (MONT. CODE ANN. § 37-23-301); New York (N.Y. C.P.L.R. § 4508); Oklahoma (OKLA. STAT. tit. 59, § 1910); Oregon (OR. REV. STAT. § 675.765); South Dakota (S.D. CODIFIED LAWS § 36-32-27); Vermont (VT. R. EVID. 503); West Virginia (W. VA. CODE § 30-31-13); Wisconsin (WIS. STAT. § 905.04).

<sup>80</sup>Arkansas (ARK. CODE ANN. § 17-46-107), Montana (MONT. CODE ANN. § 37-23-301), New York (N.Y. C.P.L.R. § 4508), Oregon (OR. REV. STAT. § 675.765), South Dakota (S.D. CODIFIED LAWS § 86-32-27), Vermont (VT. STAT. REV. Rule 503), West Virginia (W. VA. CODE § 30-31-13).

<sup>81</sup>Arkansas (ARK. CODE ANN. § 17-46-107), Maryland (MD. CODE ANN., CTS. & JUD. PRO. § 9-121), Montana (MONT. CODE ANN. § 37-23-301), New York (N.Y. C.P.L.R. § 4508), Oklahoma (OKLA. STAT. tit. 59, § 1910), Oregon (OR. REV. STAT. § 675.765), South Dakota (S.D. CODIFIED LAWS § 86-32-27), Vermont (VT. STAT. REV. Rule 503), Wisconsin (WIS. STAT. § 905.04).

<sup>82</sup>Arkansas (ARK. CODE ANN. § 17-103-107); Maryland (MD. CODE ANN., CTS. & JUD. PRO. § 9-121); Montana (MONT. CODE ANN. § 37-23-301); New York (N.Y. C.P.L.R. § 4508); Oklahoma (OKLA. STAT. tit. 59, § 1910); Oregon (OR. REV. STAT. § 675.765); South Dakota (S.D. CODIFIED LAWS § 36-32-27); West Virginia (W. VA. CODE § 30-31-13).

<sup>83</sup>Kentucky (KY. R. EVID. Rule 506); Maryland (MD. CODE ANN., CTS. & JUD. PRO. § 9-121); (MICH. COMP. LAWS ANN. § 333.18513); Nebraska (NEB. REV. STAT. § 27-504).

<sup>84</sup>Kentucky (KY. R. EVID. 506); Maine (ME. REV. STAT. ANN. tit. 32, § 7005); Nebraska (NEB. REV. STAT. § 27-504); Nevada (NEV. REV. STAT. § 49.246); Vermont (VT. R. EVID. 503); Wisconsin (WIS. STAT. § 905.04).

<sup>85</sup>United States v. Kovel, 296 F.2d 918, 922 (2d Cir.1961).

### CONFIDENTIALITY

There is certain information that advocates may discover in preparing a VAWA case that should trigger the referral of immigrant victim to an immigration attorney and possibly also a family law attorney. Whether or not a state provides confidentiality protections to victim advocates, advocates should refer victims to attorneys when a battered immigrant client reveals information about:

- Drug or alcohol abuse
- Potential child abuse
- Mental health issues
- Criminal court involvement

If an immigrant client has been or is currently a defendant in criminal proceedings, omit this step and contact an immigration attorney with criminal law experience immediately. A conviction and any criminal history may prevent the client from successfully obtaining VAWA relief.<sup>86</sup>

When no confidentiality protection exists in a given state, advocates may consider using the following options when assisting a battered immigrant:

- Discussing and assessing with the battered immigrant whether any information collected could be used to harm her or her children if discovered by the opposing party;
- Helping the battered immigrant woman identify information that may have potentially harmful repercussions for a custody case if her abuser obtained that information from shelter records; and
- Discussing this possibility with the battered immigrant and allowing her to make an informed choice about whether she wants the domestic violence program to maintain that information for her.

In many cases, information that initially appears to be damaging may not be if the advocate collects this information and helps the client file for VAWA immigration relief. Once the information supporting the VAWA, T-Visa or U-Visa case is submitted to the immigration authorities, it is important to store the information in a location that can be kept confidential. If your state does not have victim-advocate confidentiality laws and an attorney has been assisting your client in filing for VAWA immigration relief, it is best for copies of the materials collected and developed for the client's immigration case to be kept by the lawyer in files protected by attorney-client privilege. It is also important for advocates and attorneys to know that abusers can be stopped from using Family court proceedings and discovery to obtain VAWA confidentiality protected information about both the existence of a VAWA, T or U-Visa case and any information submitted by the victim to the Department of Homeland Security in such a case.<sup>87</sup> Under federal law and the abuser cannot obtain it from immigration authorities and should not be able to circumvent VAWA confidentiality protections in state court proceedings.<sup>88</sup>

The information that may be most damaging is information regarding home-country conditions that are unfavorable to the victim or her children. Fortunately, this information will only need to be collected in VAWA cancellation of removal cases, which require the aid of a lawyer. An advocate can help a battered immigrant obtain a lawyer and keep country-condition information in the lawyer's files where it is protected by attorney-client privilege. Her abuser may use country condition information or information about the impact the domestic violence has had on the victim, coupled with information about the victim's immigration status, to convince a court to award him custody of children, arguing that the victim could be deported to a country considered to be an unhealthy environment for the children.

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<sup>86</sup> See Self Petitioning Chapter of this manual

<sup>87</sup> For a full discussion of VAWA confidentiality protections including sample motions and responses that can be filed in family court see Leslye Orloff, "VAWA Confidentiality: history, Purpose and Violations of VAWA Confidentiality Protections" in Leslye Orloff, Ed., *Empowering Survivors: The Legal Rights of Immigrant Victims of Sexual Assault* (Legal Momentum, 2010) available at: <http://iwp.legalmomentum.org/reference/manuals/sexual-assault>

<sup>88</sup> IIRAIRA § 384; 8 U.S.C. § 1367 (1996). . See *Hawke v. Dep't of Homeland Sec.*, No. C-07-03456 RMW (N.D. Cal. Sept. 29, 2008), Order Denying First Amended Petition at 8-9 (denying criminal defendant's request to produce wife's immigration records for use in criminal battery proceedings).

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Any information that advocates help victims collect may be included as evidence in their VAWA or U-Visa immigration cases allowing victims to gain access to legal immigration status. When immigration authorities approve immigrants' VAWA immigration cases based on the information collected, victims are granted legal permission to live and work in the United States. The benefits of this legal immigration status for most victims will far outweigh any risks associated with the domestic violence advocate keeping information being collected for their VAWA cases in the domestic violence program records.

Once her self-petition is approved, a victim will be able to demonstrate to a family court judge in a custody case that there is no likelihood that she will be deported to her home country. Any information her abuser may have obtained from shelter records concerning conditions in her home country or her immigration status will no longer be harmful to her or the children, since she will have protection from deportation. The advocate should take the following steps relations to the information that battered immigrants may need shelter advocates to collect for VAWA cases:

- Inform battered immigrant women about any state domestic violence counselor- privilege laws;
- Inform battered immigrant women of the potential risks should the collected information be subpoenaed. battered immigrants must then be allowed to decide whether to risk the possibility of disclosure;
- In cases where battered immigrants decide they need to have the information protected, secure representation by an attorney and transfer all relevant information and files to the attorney so that they will be protected by attorney-client privilege,
- Be creative. There will be cases in which it may be best to have records covered by attorney-client privilege, but an attorney cannot be located. In these cases, advocates might consider taking encoded notes, storing records in another location besides the domestic violence program,<sup>89</sup> or identifying a mental health provider who can keep the records confidential; and
- Use common sense and be sensitive when working battered immigrant women. By assisting in collecting information for VAWA cases, domestic violence advocates and shelter staff help battered immigrant women liberate themselves from their abusers. Advocates must realize that their help is greatly needed to assist battered immigrant women, many of whom will have few other options.

We recommend that all potential VAWA applicants should start preparing documentation for their self-petitioning cases as soon as possible. In addition, advocates should obtain civil protection order for all clients where orders are available under state law, given the circumstances of the particular client's case. Protection orders can provide helpful evidence for the battered immigrant's case (See Chapter \*\* of this manual for a full discussion of protection order issues).

When working with battered immigrants, advocates should keep in mind the following points:

- No one should apply for either self-petitioning or cancellation of removal without the assistance of a trained immigration advocate or attorney who understands VAWA immigration provisions;
- Advocates helping immigrant victims to file self-petitions should secure the assistance of an attorney to review the proposed package of materials and to identify any missing items;<sup>90</sup>
- Successful VAWA applications result from collaborations between battered women's advocates and immigration advocates/attorneys;
- Poor representation or self-representation could result in denial of the self-petition;
- Clients in removal proceedings need the assistance of an immigration attorney who has experience in working with battered immigrants to assist them;<sup>91</sup> and

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<sup>89</sup> Depending on state case law, shelter records may still be subject to subpoena even if they are located outside of the shelter. Consult with an attorney in the relevant state to clarify this.

<sup>90</sup> For a referral to an immigration attorney who can help advocates by reviewing materials, contact NIWAP, 4910 Massachusetts Ave NW, Suite 16 Lower Level, Washington, DC 20016; (202) 274-4457; info@niwap.org

<sup>91</sup> Contact NIWAP, 4910 Massachusetts Ave NW, Suite 16 Lower Level, Washington, DC 20016; (202) 274-4457; info@niwap.org or ASISTA at (515) 244-2469; [questions@asistahelp.org](mailto:questions@asistahelp.org); <http://www.asistahelp.org>

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- It is recommended that clients anticipating divorce should file their self-petitions prior to and if possible receive approval prior to the final hearing the divorce case. VAWA approval can help battered immigrants in divorce cases to secure custody of children and counter a range of immigration status related issues the abuser might raise at trial.

### Tips on Keeping Information Confidential

It is important that an immigrant victim have a safe address to receive mail concerning her immigration case and other correspondence. Many immigration attorneys and advocates allow the immigrant to use their office address for all immigration applications so that the mail will not end up in the hands of an abuser. Other ways to prevent this from happening, whether the victim still resides with the abuser or not, include the following:

- Do not provide the Post Office with a forwarding address. After one year of forwarding, any additional mail will be returned to the sender with a sticker showing the new address.
- Submit a copy of the protective order to the Post Office so that only government officials, law enforcement officers, and individuals with a court order are permitted to obtain the domestic violence victim's address.
- Obtain a post office box. The post office cannot reveal the residential address of a post office box owner.
- If employed, ask the employer if correspondence with the court can be mailed to the work address.
- Request an unlisted phone number and address from the local telephone company.

### Using Collaborative Relationships to Reform Systemic Practices that Harm Battered Immigrants: Two Examples

Problems in the legal and social service systems frequently deter battered immigrant women from accessing vital lifesaving services.<sup>92</sup> United States law provides that domestic violence services are to be made available to all domestic violence victims, without regard to their immigration status.<sup>93</sup> Unfortunately, many immigrant women do not know their rights or that understand domestic violence is a crime. Obstacles that immigrant victims encounter may be different in urban and rural communities.<sup>94</sup> Immigrants living in communities with a significant population of immigrants from the same country of origin will have a different experience accessing services than immigrants living alone with their abusers in communities where no one else, or very few others, speak their language. Some of the problems immigrant victims experience in

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<sup>92</sup> DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN (Deeana L. Jang, et al., Family Violence Prevention Fund, eds., 2d ed. 1997); Mary Ann Dutton et al., *Characteristics of Help Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO. J. ON POVERTY L. & POL'Y 245 (2000); Del-An BryAnn Chen, "We Just Got Together and We Enjoyed It:" An Analysis of the Georgia Coalition for Battered Refugee and Immigrant Women as a Social Movement (1998) (unpublished M.A. thesis, Georgia State University) (on file with author).

<sup>93</sup> Department of Justice, Attorney General Order No. 2129-97, 62 Fed. Reg. 61344 (Nov. 17, 1997).

<sup>94</sup> The above information was adapted from: LEGAL MOMENTUM & ORGANIZACION EN CALIFORNIA DE LIDERES CAMPESINAS, INC., ADVOCACY TO IMPROVE SERVICES FOR BATTERED MIGRANT AND IMMIGRANT WOMEN LIVING IN RURAL COMMUNITIES: A MANUAL 18-19 (2003).

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many communities, both urban and rural, when they turn for help to the U.S. courts and social services systems can include:

- Problems with the police response to domestic violence calls from non-English-speaking immigrant victims
- Problems in accessing shelters and other domestic violence services, particularly if the victim is undocumented;
- Lack of interpreter services for the courts, the police, and/or social services programs
- Judges who turn immigrant victims away when they seek protection orders
- Court officials who are unwilling to help immigrant victims or explain the process by which the courts can offer them protection
- Immigrant victims who are turned away from public benefits offices when they and/or their children legally qualify for benefits

Generally, advocates and attorneys can take a four-step approach to advocacy and systems reform to address problems that immigrant victims may encounter when seeking help from legal, social services and health care systems.

- **First**, advocates must assess and document the problem.
- **Second**, grassroots advocacy is necessary in all immigrant communities to notify women about their legal rights and options. Advocates should identify others in the community who can work as allies with immigrant women's advocates in seeking the systemic reforms needed. This should include other professionals in the community, and, where possible, allies within the problematic agency who wish to help officially or unofficially in remedying the problem.
- **Third**, advocates and allies should request a meeting and participate in a series of meetings with representatives from the problem agency to craft and implement a plan that will help solve the problem that has been identified.
- **Fourth**, advocates should monitor ongoing implementation efforts and document both improvements and ongoing problems. This may require that advocates and other professionals who are offering assistance to accompany immigrant victims seeking services and documenting victims' experiences with agency personnel, so that continuing problems and future problems can be remedied.

Ideally, this process will lead to development of a collaboration and building of trust relationships between professionals working for the police, shelters, and the courts. Advocates for immigrant victims should seek to become actively involved in coordinated community responses to domestic violence that exist or may be developed. Immigrant community advocates, advocates who participate in these coalitions representing the immigrant populations, other advocates, and attorneys with experience in serving immigrant victims in the communities in which they live and work serve a critical function of ensuring that the work of these collaborative teams will offer effective assistance to all battered women. Where such coordinated community responses do not yet exist, advocates should be aware that the work they will do to improve services for immigrant victims could serve as a basis for the development of a coordinated community response team that could assist all battered women in the community.<sup>95</sup> This chapter will outline two examples of how collaborations can be used to resolve problems in a community.

### EXAMPLE 1: LACK OF POLICE RESPONSE

One of the primary problems that immigrant victims of domestic violence face, particularly in rural communities, is lack of police response or appropriate police response to calls for help from domestic violence victims.<sup>96</sup> Problems range from the police never responding at all or never arriving at the home

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<sup>95</sup> Marti Kovener, et al., *Making Collaboration Work: The Experiences of Denver Victim Services 2000*, OVC BULLETIN (2002).

<sup>96</sup> Edna Erez & Joanne Belknap, *Battered Women and the Criminal Justice System: The Service Providers Perspective*, 6 EUR. J. ON CRIM. POL'Y & RES. 37-57 (1998); Del-An BryAnn Chen, "We Just Got Together and We Enjoyed It." An Analysis



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from which the victim called for help, to police arriving but speaking only to the abuser and never speaking to the victim.<sup>97</sup> Many programs working with immigrant domestic violence victims have had significant success in working with their local police departments to improve police response to immigrant victims of domestic violence. Additionally, recent changes in immigration laws have significantly improved options of attaining legal immigration status for immigrant victims of domestic violence and sexual assault, particularly those who report domestic violence or other crimes to police and who are willing to cooperate in the prosecution of their abusers or perpetrators. Thus, there are new opportunities for police to offer improved assistance in cases of immigrant victims. Police, prosecutors, and/or other justice system personnel, however, need to learn about these new laws and the important role they as justice system professionals can play in helping battered immigrants access legal immigration protections.

### *STEP 1: Assessing the Problem:*

Advocates can document the problems that immigrant women in the community have when they seek help from the police by undertaking the following activities:

- Interviewing women who have had problems and write down their stories. For each call to the police for help, or for each time they went to a police station and had a problem, advocates should obtain the following information in writing:
- Time, date, and location from which the call was made
- Why the police were called, and by whom
- Exactly what happened the day that the police were called, including a summary of the history of violence, physical, sexual, and emotional, in the relationship;
- Any visible physical injuries or impairment of movement from internal injuries that the victim or the children suffered;
- Whether any children were harmed or witnessed or heard any of the abuse and how they were affected;
- Whether the abuser had any visible physical injuries. If so, where they occurred and how he sustained them (for example, if the battered woman trying to defend herself or he sustained the injury because of how he was hitting her);
- Visible evidence of the violence was present at the home (e.g., destroyed property, torn clothing, turned-over furniture, children very upset);
- The names of any witnesses to the incident, including children, family members, friends, neighbors;
- Names and badge numbers of any officers who responded to the call;
- Whether the police responded to the call and how long it took for them to arrive;
- The effect that any delay in arriving or the fact that the police did not arrive, had on the immigrant women and her children or inattention the police had on the immigrant woman and her children (e.g., Did the violence increase? were there additional injuries caused after the call? Did the children become more upset or did the violence shift to the children?);
- What the police did when they arrived at the location of the call -- with whom they spoke and in what language, how they communicated with a non-English speaking victim, and how they communicated with the abuser;
- How the response of the police affected the victim, particularly whether she feel more endangered;
- Whether the response she received from the police led her to be willing to call the police again if she or her children are abused in the future, what response she would have preferred, and what she was expecting when she called; Whether the abuser was arrested if there was physical evidence of the abuse at the scene of the crime; and
- Any additional information the police provided the victim, particularly whether they discussed her legal rights, protection orders, shelter, domestic violence, or hospital services available to her.

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of the Georgia Coalition for Battered Refugee and Immigrant Women as a Social Movement (1998) (unpublished M.A. thesis, Georgia State University) (on file with author).

<sup>97</sup>LESLYE ORLOFF ET AL., LEGAL MOMENTUM, LESLYE ORLOFF ET AL., AYUDA SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN 96-111 (LEGAL MOMENTUM, 1999). Leslye E. Orloff et al., *Battered Immigrant Women's Willingness to Call for Help and Police Response*, 13 UCLA WOMEN'S L. J. 43 (2003).

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If an organization has been able to gather several stories from women in the community, these can be arranged into a booklet by type of problem.<sup>98</sup> This booklet can be used to help both gather support from allied organizations and to present to the police so that they can better understand exactly what happened and the effects of their actions on victims, and identify how the problem can be corrected.

Collecting data from migrant and immigrant women in the community documents the nature of the problems and how widespread the problems are. Documentation can be gathered in a variety of ways. Advocates can interview group members. They can survey women in the community who attend a particular health clinic, who send their children to a particular school, or who attend particular community events where a booth providing information and conducting the survey can be set up. Gathering data through surveys will collect less information in each case than can be collected through stories.

Gathering general data through a survey should supplement writing up personal stories of women. Data can help demonstrate how big the problem is (one officer or department-wide); however, stories will often be the most effective tool in getting police and other professionals to want to solve the problem. This is because the stories can demonstrate the harm that is being caused to the women, and children in the community, and how changes in policies and practices can improve victim safety. Additional Data to be collected in addition to stories might include<sup>99</sup>

- Number of calls made to the police
- Response time, or lack of response
- How often the police communicated with the victim when they arrived
- How often the police spoke the victim's language
- Who the police used as interpreters
- Evidence of abuse at the home that the police could see
- Nature of the police response
- Whether the abuser was arrested

Combining stories and data can sometimes be the most effective approach. For example, if women in the community identify three problems with the police response (the police do not come, they come and only speak to the abuser in English, and they come to see evidence but do not arrest the abuser), then an agency might collect data documenting how often these problems are occurring and gather one or two good stories to illustrate each problem.<sup>100</sup>

### *STEP 2: Identifying and Building Relationships With Allies:*

Once advocates for migrant and immigrant women have documented the problem they want to work to resolve, the next step is determining whether there are others in the community who are willing to help advocate for changes with the police. Building alliances with others in the community has many benefits. It provides advocates with an important opportunity to educate professionals who come in contact with immigrant victims about the special needs and special legal rights of migrant and immigrant victims of domestic violence. Often allied professionals are not fully educated about application of state and federal laws to help immigrant victims, and do not offer the full range of assistance they could to immigrant victims because of misunderstandings about the law or immigrant culture, or because of language barriers. Involving

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<sup>98</sup> ROBIN L. CAMPO ET AL., *UNTOLD STORIES: CASES DOCUMENTING ABUSE BY U.S. CITIZENS AND LAWFUL RESIDENTS ON IMMIGRANT SPOUSES* (Leni Marin ed., 1993). For more examples of these please see the National Network to End Violence Against Immigrant Women website at <http://www.endabuse.org>; LEGAL MOMENTUM IMMIGRANT WOMEN PROGRAM, *CROSSING THE THRESHOLD TO SAFETY: STORIES OF IMMIGRANT CRIME VICTIMS WHO WILL BENEFIT FROM ATTAINING U-VISAS* (2001); Mary Ann Dutton & Giselle Aguilar Hass, *Expert Testimony Concerning Battering*, in MARY ANN DUTTON ET AL., *AMERICAN BAR ASSOCIATION, DOMESTIC VIOLENCE & IMMIGRATION: APPLYING THE IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT* (APPENDIX C) (Bette Garlow et al. eds., 2000).

<sup>99</sup> Sample interview questions on police response to calls for help from immigrant battered women are available from NIWAP, 4910 Massachusetts Ave NW, Suite 16 Lower Level, Washington, DC 20016; (202) 274-4457; [info@niwap.org](mailto:info@niwap.org).

<sup>100</sup> ROBIN L. CAMPO, ET AL., *UNTOLD STORIES: CASES DOCUMENTING ABUSE BY U.S. CITIZENS AND LAWFUL RESIDENTS ON IMMIGRANT SPOUSES* (Leni Marin, ed., 1993).

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other professionals in the community in advocacy efforts also increases the effectiveness of any strategy because other professionals who work with battered immigrants become invested in assuring effective policy reforms.<sup>101</sup> Finally, contacting allied groups working on domestic violence issues can provide an opportunity for advocates to become involved in representing migrant and immigrant community issues and perspectives on coordinated community response teams operating in the advocates' communities. To identify potential allies, advocates should:

- Identify, contact, and ask to meet with domestic violence organizations working in the community and your state domestic violence coalition. To find programs working in a given area, advocates can call state domestic violence and/or sexual assault coalitions who can provide a list of organizations that should be serving domestic violence or sexual assault victims in the target community;
- Explore with other battered women's advocates working in the area whether the police treatment that migrant women are receiving in the community is the same or different from the problems that all battered women encounter. Agencies should investigate whether other groups have already undertaken action to improve police response in domestic violence cases. Those other groups should be able to help identify allies both within and outside of the police department who can be consulted about strategy;
- Identify other professionals who encounter battered women and migrant and immigrant women who could join efforts to meet with the police. These persons might include health professionals, counselors, therapists, teachers, clergy, social workers, prosecutors, judges, lawyers, or others;<sup>102</sup>
- Work with other battered women's advocates and other professionals to determine whether there are individual police officers in the community who care about and have been helpful in domestic violence cases or who interact well in their dealings with the migrant or immigrant community, who can help formally or informally to develop the best strategy for approaching the police department seeking reforms.
- These officers may be able to provide information about who they believe will be the best person to approach, and what information that person will need in order for an initial meeting to be most successful. Some friendly officers may be willing to meet with advocates and allies to develop a strategy. However, many more may be more willing to provide necessary information off the record and work from the inside on behalf of advocates without having any formal meetings or official relationship. If an officer provides information off-the-record, their trust be protected, or an agency may undermine the ability of that friendly officer to be helpful in the future on other battered women's issues.
- Once an agency has identified allies, it can set up a meeting with them to discuss strategy on approaching the police about the problems identified. It can distribute the stories and data collected to all persons who will be attending, in advance of the meeting. As the strategy is developed at this meeting, advocates for immigrant and migrant women may need to ensure that they maintain a key leadership role in the group. While allied groups may have more experience working with the police and other justice system officials, immigrant and migrant women's advocates bring with them the key community and cultural competency expertise, and must play a leadership role in the advocacy strategies, although they can share leadership of meetings and strategy sessions equally with other allies.

### *STEP 3: Developing Solutions*

- Once allies have been identified, the next step is to set up a meeting to begin the process of working with the police to develop workable solutions to the problem. To accomplish this, advocates should:

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<sup>101</sup> SUSAN BREALL & DEBORAH A. ADLER, WORKING WITH BATTERED IMMIGRANT WOMEN: A GUIDEBOOK FOR PROSECUTORS (2000); DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN (Deeana L. Jang, et al., Family Violence Prevention Fund eds, 2d ed. 1997); U.S. Department Of Justice, *Training for VAWA Grantees: The Legal Rights of Immigrant Victims of Domestic Violence and Sexual Assault*, ADVOCACY ON BEHALF OF BATTERED IMMIGRANT VICTIMS 96-107 (2002).

<sup>102</sup> Legal Momentum, *Building the Capacity for Services Addressing the Needs of Battered Immigrants*, REPORT ON A FIVE-STATE CAPACITY BUILDING SUMMIT JULY 30- AUGUST 2, 2000 (2000).

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- Join together with allies to request a meeting with the police chief or sheriff, or the person who has been identified as the best person to approach about the problem that has been identified;
- Request the meeting in writing, and include the stories collected as an attachment. The tone of the letter should be cordial. It should state that the agency wishes a meeting to discuss particular problems with police response to domestic violence calls placed by immigrant and migrant women, and that the advocates seek their advice and help in addressing the problem. The letter should clearly state that the advocates and allies requesting the meeting want to work together with the police to craft a solution that will work well both for victims and the police; and
- At meetings with the police advocates should:
  - Outline the problem for the police, emphasizing the human impact on women and children of the problem;
  - Work with police and allies to try to identify what may be the source or sources of each problem. These could include
    - No interpreters available and no plans for how police should secure assistance of appropriate interpreters;
    - Need for police officer training aimed at dispelling myths about battered immigrants' rights to assistance from the legal system;
    - Lack of information on undocumented battered immigrants' rights and training that police need to help all victims without regard to the victim's immigration status;
    - Need for training on VAWA and U-Visas and other; legal immigration options for battered immigrants;
    - Need for training generally on domestic violence issues; and
    - Particular officer indifference to the needs of battered, migrant, or immigrant women and children.
  - Discuss with police officials the goals of the immigration relief open to immigrant victims and how problem policies undermine the victim's ability to obtain immigration relief created by Congress for immigrant victims under VAWA; and
  - Discuss how police, advocates, and allies can work together to craft and implement solutions to the identified problems. Potential solutions may include
    - Working with the police to identify a pool of trained interpreters who can be paid to assist police on domestic violence calls and investigations;
    - Conducting a domestic violence training for police on domestic violence and battered immigrant's legal rights in criminal, family law, benefits, and immigration matters;
    - Offering to provide police with access to experts on VAWA immigration cases including crime victims' visas (U-visas). These experts, who may be in other parts of the state or country, can provide to police information on laws, strategies and immigrant women's rights, on an as-needed basis to police;<sup>103</sup>
    - Asking that a liaison officer be designated to work with migrant and immigrant women's advocates as policies designed to implement changes are put in place in the community; and
    - Having bilingual officers with special training on domestic violence and immigrant victims assigned to respond to domestic violence calls.

### *STEP 4: Monitoring Change:*

Once advocates and allies have met with the police and developed a plan to reform police practices to be more responsive to the needs of immigrant victims, advocates will need to develop an approach to

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<sup>103</sup> For names of programs in your state working with these specific immigration issues, please contact NIWAP, 4910 Massachusetts Ave NW, Suite 16 Lower Level, Washington, DC 20016; (202) 274-4457; [info@niwap.org](mailto:info@niwap.org); <http://wcl.american.edu/niwap> or see the Directory of Programs Serving Battered Immigrant Women distributed by Legal Momentum available at <http://iwp.legalmomentum.org/reference/service-providers-directory>.

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monitoring implementation of the plan to ensure that the needed improvements take place.<sup>104</sup> Advocates should:

- Meet on a monthly basis with a member of the police force who has been designated to work with advocates on the plan, so that police and advocates can update each other on successes and problems in implementing the plan. This will provide an opportunity for police to seek the advice of advocates on how they might best address unanticipated problems that arise from the police perspective with the plan. It will also provide advocates with a forum to update police on ongoing problems;
- Develop together with the police a bilingual commendation/complaint form. This form can be used by migrant and immigrant women to inform police officials about how officers handle domestic violence calls. The form should ask victims who call for help to tell the police about cases in which they felt that the police response was very good as well as inform police of ongoing problems. In many communities, commendations that draw the attention of supervisors to officers, giving them recognition for a job well done are most effective in reforming the response of all officers. The forms should also be used to identify for police ongoing violations of new policies so that department officials can take steps to correct these problems, and be made aware of problems with individual officers. This will help superior officers identify when additional training may be needed; and
- Continue to collect stories that document immigrant women's experience with the police as part of advocates work in monitoring police implementation of the policy reforms agreed to by the police. Collecting stories is essential to documenting how the policy reforms have helped immigrant and migrant victims of domestic violence.<sup>105</sup> These success stories can be used to encourage ongoing cooperation between advocates and the police. It is also important to document ongoing problems that migrant and immigrant women experience with the police so that implementation problems can be addressed. In collecting stories on successful police interventions and implementation problems, advocates should seek answers to many of the same questions described above in the section on "Assessing the Problem."

### EXAMPLE 2: ACCESS TO SHELTER AND DOMESTIC VIOLENCE SERVICES

A second important problem that immigrant and migrant women encounter in both rural and urban communities is the inability to access services that are supposed to be available to offer protection for all battered women. These include domestic violence shelters and other service offered by domestic violence organizations. It is important for advocates for battered women, migrants, and immigrants to know that immigrants who are victims of domestic violence, child abuse, sexual assault and other violent crimes must be able to access victim services in the same manner as all other crime victims.<sup>106</sup> As a matter of federal law, battered immigrants cannot be legally turned away from shelters or other domestic violence services based on their immigration status, lack of legal immigration status, or their inability to speak English.<sup>107</sup> Programs that discriminate against immigrant or migrant victims could risk their government funding.<sup>108</sup> In many instances, advocates seeking to stop domestic violence programs from turning away immigrant victims have been successful in changing these practices by educating shelter advocates, staff, and boards about immigrant victims, including undocumented immigrant victims' legal rights to access shelters and domestic violence services.

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<sup>104</sup> Adapted from: LEGAL MOMENTUM & ORGANIZACION EN CALIFORNIA DE LIDERES CAMPESINAS, INC., *ADVOCACY TO IMPROVE SERVICES FOR BATTERED MIGRANT AND IMMIGRANT WOMEN LIVING IN RURAL COMMUNITIES: A MANUAL* (2003).

<sup>105</sup> ROBIN L. CAMPO, ET AL., *UNTOLD STORIES: CASES DOCUMENTING ABUSE BY U.S. CITIZENS AND LAWFUL RESIDENTS ON IMMIGRANT SPOUSES* (Leni Marin ed., 1993); LEGAL MOMENTUM IMMIGRANT WOMEN PROGRAM, *CROSSING THE THRESHOLD TO SAFETY: STORIES OF IMMIGRANT CRIME VICTIMS WHO WILL BENEFIT FROM ATTAINING U-VISAS* (2001); Legal Momentum, *Building the Capacity for Services Addressing the Needs of Battered Immigrants*, REPORT ON A FIVE-STATE CAPACITY BUILDING SUMMIT JULY 30- AUGUST 2, 2000 (2000).

<sup>106</sup> Department of Justice, Attorney General Order No. 2129-97, 62 Fed. Reg. 61344 (Nov. 17, 1997).

<sup>107</sup> Office for Civil Rights, U.S. Department of Health & Human Services, Fact Sheet: Access to HHS-Funded Services For Immigrant Survivors of Domestic Violence (Jan. 19, 2001), available at <http://www.hhs.gov/ocr/immigration/bifsltr.html>.

<sup>108</sup> See LESLYE E. ORLOFF, ET AL., *FACILITATING ACCESS TO TANF FOR BATTERED IMMIGRANTS: A PILOT TRAINING MANUAL FOR TANF ELIGIBILITY WORKS*; Legal Momentum, (on file with author).

## Overview of Domestic Violence

Advocates should undertake strategies similar to those discussed in detail above for advocacy with the police to secure reforms in domestic violence service programs that will ensure that battered migrant and immigrant women can access shelters and domestic violence services. The advocacy strategy below provides an outline for advocates of how they can secure better access for immigrant victims to domestic violence services. This outline will not be provided in as much detail as the outline for police advocacy discussed above. Since the four-part strategy is similar, this outline will highlight how the first two steps in the strategy can be amended effectively to devise solutions to difficulties in accessing shelter and domestic violence services.

### *STEP 1: Assessing the Problem:*

In many instances, collecting stories of one or two immigrant victims turned away from shelter or services may be sufficient documentation to collect before approaching a domestic violence program about this problem, as the problem often arises from shelter staff and advocates who do not have sufficient information about immigrant victims' legal rights. In some communities, advocates are influenced by those in the community who seek to encourage discrimination against immigrants. In most instances, problems of shelter access may be remedied by educating both shelter staff and board members on immigrant victims' legal rights.

When these problems exist, advocates should document the problems that migrant and immigrant women in the community have when they seek help from domestic violence shelters, homeless shelters, and other domestic violence programs by

- Interviewing women who have had problems accessing domestic violence services and writing down their stories. It is useful to include
  - Time, date, and location of the program from which the victim sought services;
  - A description of what happened, and what the victim was told when she sought services;
  - How and why she came to seek domestic violence services, including a summary of the history of violence, physical, sexual, and emotional, in the relationship;
  - Any visible physical injuries or impairment of movement from internal injuries on the victim or the children;
  - A description of the children she had with her, their ages and genders, and whether the children were harmed by experiencing or witnessing the abuse;
  - The names of any persons who helped her or referred her for assistance to the local shelter or domestic violence program;
  - With whom did the victim spoke at the shelter, and in what language, and generally how the program communicates with a non-English speaking victim; and
  - How the response of the domestic violence program affected the victim, what she did after being turned away from the shelter, and whether she or her children re-injured.

In cases in which a battered migrant or immigrant woman has been turned away from a domestic violence program and was told that it was because she did not have legal immigration documentation or citizenship, or because she was non-English-speaking, collecting stories and approaching the program directly with the stories and information about their legal obligations should be sufficient to correct the problem.

However, there will be cases in which immigrant and migrant victims turned away from services are provided with other reasons. They may be told that the shelter is full. This may be true, and the shelter may be telling this to all who seek their services, not just to immigrants and migrants. Most domestic violence programs do not have sufficient resources to serve all who need their help.<sup>109</sup> However, in some communities, only immigrants or migrants seeking services are turned away. To document this problem, advocates will need to collect data on how often immigrant women are turned away. Data should be collected using the same approach discussed above for addressing problems with the police.

### *STEP 2: Identifying and Building Relationships With Allies and Developing Solutions:*

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<sup>109</sup> Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection For Battered Women: An Analysis of State Statutes and Case Law*, 21 HOFSTRA L. REV. 801 (1993).

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Generally, advocates for battered immigrant and migrant women should be able to approach shelters and other domestic violence service providers directly to raise problems immigrant victims are having with shelter and domestic violence service program access. In approaching battered women's advocacy organizations, advocates for battered migrants and immigrants should seek a meeting to discuss building a relationship that will help the domestic violence, and the immigrant women's programs work together to better serve migrant and immigrant victims of domestic violence. These meetings should have two purposes: first, they seek to remedy the immediate shelter access problem, and, second they begin to build a collaborative relationship that will enable both organizations to better serve battered immigrants and migrants.

Advocates for immigrant and migrant women should bring to the meeting written copies of the stories they have collected, copies of the U.S. Attorney General's Order, and other training materials on services necessary to protect life and safety that must, as a matter of law, be provided to all persons without regard to immigration status.<sup>110</sup> At the meeting, advocates should educate the shelter director or domestic violence program director about the legal requirements of offering services equally to all victims, and the potential implications for government funding of the program if immigrants continue to be turned away from services. The rest of the meeting and future meetings should:

- Address concerns that the domestic violence program staff and/or board may have about immigrant victim's legal rights
- Offer training on cultural competency in serving immigrant victims and on the special legal rights of battered immigrants
- Develop collaborative solutions to problems that the shelter may raise as posing barriers to the domestic violence program offering the full range of domestic violence services to immigrant victims.

### Recognizing and Working to Avoid Problems with Collaboration

Despite the fact that collaborations benefit both advocates and survivors, a successful collaboration is not always easily obtained. Forming successful collaborations takes time, patience, and commitment. Where domestic violence advocates and attorneys have had little or no contact in the past, establishing connections among these groups may be difficult. Asking questions, listening well, maintaining an open mind, and preserving multiple types of program flexibility allows groups to work together in order to support battered immigrant women.<sup>111</sup> Advocates will have to actively seek out attorneys willing to be trained and educated about domestic violence and immigrant women's needs with whom advocates can work in a collaborative respectful relationship. Similarly, attorneys must continually reach out to advocates in the community that they are trying to serve and should build strong working relationships with advocates who can be trained to help the attorney obtain documentation for a battered immigrant's immigration case.

Unfortunately, conflict may arise as advocates, attorneys, and others try to work together. For example, because domestic violence advocates see safety as the most important issue, they may not realize that fears about immigration status prevent immigrant victims from even talking to advocates because victims believe doing so may lead to their deportations.<sup>112</sup> Immigration attorneys may believe that immigration status should be the main focus of all efforts and may not understand the importance of also addressing a victim's safety needs. Family lawyers may focus on helping a woman obtain custody, child support, and a protection order, but may miss an important opportunity to collect evidence for her immigration case through protection order or family court discovery. Domestic violence advocates may want a woman to pursue criminal charges that

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<sup>110</sup> See Department of Justice, Attorney General Order No. 2353-2001, 66 Fed. Reg. 3613 (Jan. 16, 2001).

<sup>111</sup> DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN (Deeana L. Jang et al., Family Violence Prevention Fund eds., 2d ed. 1997).

<sup>112</sup> Del-An BryAnn Chen, "We Just Got Together and We Enjoyed It:" An Analysis of the Georgia Coalition for Battered Refugee and Immigrant Women as a Social Movement (1998) (unpublished M.A. thesis, Georgia State University) (on file with author).

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could lead to an abuser's deportation before a victim advocate has been able to work with the immigrant victim to determine whether the abuser's deportation will enhance a victim's safety, or enhance the danger to her and her family members living abroad.

Often times, collaborations are not as successful as they could be because not everyone is at the table. Immigrants' rights groups need to be part of the collaboration working to end domestic violence. Immigrants' advocates can offer services and insight to the immigrant community that they work with on a daily basis. Immigrant women leaders and representatives from the community-and faith-based organizations working in immigrant communities must also be included in collaborations so that the needs of immigrant populations are taken into account.<sup>113</sup>

Confusion may arise from the different terminologies used by various collaborations. Even after collaboration and group education, a group may find itself being confused, or disagreeing, because the different professions might use the same word to convey somewhat different concepts. Different professions or the same profession in different states have various meanings for words such as "competency" and "confidentiality". This can be easily overcome by keeping a running glossary of terms and abbreviations listing the various meanings assigned by different members of a collaborative group.<sup>114</sup> A similar problem arises because of differing ethical principles and statutory requirements that govern the professional conduct of different collaborators. This is very important to discuss in a group because of the effect that issues of confidentiality and reporting can have on domestic violence victims and immigrant women.<sup>115</sup>

Hypothetical cases will help individuals within a group understand the other members' views and issues. Different confidentiality standards that govern the wide range of professions in a collaborative group will, in some cases, make it difficult, if not impossible, for a group to discuss specific cases.<sup>116</sup> In these cases, a group can often discuss pertinent issues in terms of hypothetical cases.<sup>117</sup> Hypothetical cases are also useful when different professions have radically different perspectives that can create a lack of respect or trust. This can easily happen when differences are not acknowledged, or the group does not fully use the skills, insights, and knowledge of its members.<sup>118</sup> When groups are divided, hypothetical cases might provide each member of the group with a better understanding of the other professions' perspectives. Respect for each others contributions can increase once a case is discussed. Hypothetical cases also allow each professional to discuss what is ethical for him or her and his or her professional limitations, so that the group can find an advantageous way to resolve problems without compromising any professional's ethical principles.<sup>119</sup>

Many community collaborators face two apparently contradictory problems during their formation: the first the important need to bring in community representatives to help and the second is having too many volunteers wanting to be included in a coordinating group. Those not included may feel excluded.<sup>120</sup> It may be effective to appoint community volunteers to subcommittees, or develop them as other resources. This will allow the collaboration to benefit from all volunteers' good intentions and energy. At other times, some community leaders that collaborators might feel are necessary to include will have little personal interest or commitment in participating. A group must then decide if there is a general interest in helping these individuals to educate themselves about domestic violence, in order to, persuade them to become genuinely committed to improving the community's response to domestic violence.<sup>121</sup>

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<sup>113</sup> Research data (2002) is pending publication, available from Dr. Rachel Rodriguez, University of Wisconsin Madison, School of Nursing.

<sup>114</sup> JOAN ZORZA & LESLYE ORLOFF, AMERICAN MEDICAL ASSOCIATION, FAMILY VIOLENCE: BUILDING A COORDINATED COMMUNITY RESPONSE: A GUIDE FOR COMMUNITIES (1994).

<sup>115</sup> The definition of "domestic violence" and mandatory reporting requirements differ in each state. To access the different definitions of domestic violence by state, see <http://www.womenslaw.org/definitions.htm>.

<sup>116</sup> JOAN ZORZA & LESLYE ORLOFF, AMERICAN MEDICAL ASSOCIATION, FAMILY VIOLENCE: BUILDING A COORDINATED COMMUNITY RESPONSE: A GUIDE FOR COMMUNITIES (1996).

<sup>117</sup> *Id.* Some groups have created their own confidentiality requirements to prevent discussion of specific cases outside the group.

<sup>118</sup> *Id.*

<sup>119</sup> *Id.*

<sup>120</sup> Judge Leonard P. Edwards, *Reducing Family Violence: The Role of the Family Violence Council*, 43 JUV. & FAM. CT. J. 1, 3 (1992).

<sup>121</sup> JOAN ZORZA & LESLYE ORLOFF, AMERICAN MEDICAL ASSOCIATION, FAMILY VIOLENCE: BUILDING A COORDINATED COMMUNITY RESPONSE: A GUIDE FOR COMMUNITIES (1994).



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Despite the problems that can arise in developing collaborative community responses to domestic violence that include representatives of groups knowledgeable about the needs of immigrant victims, there is much that each member of a community collaboration and immigrant victims can gain. Many of the obstacles that could mar collaboration and participation by immigrant survivors and immigrant community organizations can be overcome with patience, understanding, and learning about each other. The benefits of such collaborations, both for service providers and the community, far outweigh any of the difficulties. As will be discussed in the concluding section of this chapter, many of the laws, policies, and protections available to battered immigrant women and children today were developed as a result of similar collaborations.

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