

Working With Battered Immigrant Women:

A Handbook
to Make Services Accessible

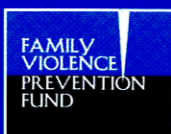


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*Produced by
Family Violence Prevention Fund*

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to Make Services Accessible



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This handbook is a product of the collaborative efforts of the members of the Advisory Committee that was formed to provide input on this project. Their efforts to help create this handbook represent their dedication and commitment to advocate on behalf of battered immigrant women. Their rich experience and expertise in enabling battered immigrant women to build a life free from violence guided the development of this handbook. The following women are the members of the advisory committee:

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DORIS MUÑIZ-COUTO of the Family Violence Prevention Fund is a 40 year old feminist psychologist in the process of knowing what violence has done to her own life, and nevertheless is trying to make the most out of every day. This project has meant to her an opportunity to develop another tool for women's advocates to make their work an empowering experience to other women. She recently moved to San Francisco from Puerto Rico, so being primarily Spanish speaking she fully recognizes the significance of language and culture in anyone's life.

Deepest appreciation goes to Leti Volpp who is the author of this handbook. Her great ability to synthesize and articulate the input of the Advisory Committee was key in creating this material. Her expertise and activism in the areas of immigrants' rights and domestic violence have made a difference in the lives of battered immigrant women and children.

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LENI MARIN
Senior Program Specialist
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June 1995



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FOREWORD

Battered immigrant women face innumerable barriers in asserting their rights and receiving access to justice. Furthermore, the heightened anti-immigrant sentiment as embodied in dangerous policies such as Proposition 187 in California (which may soon be adopted in other states and/or on a federal level) increase the fear and isolation of battered immigrant women, preventing them from seeking any kind of assistance. The already fragile legal, civil, and human rights of battered immigrant women and children are in constant jeopardy given this current climate.

In this sense, this handbook is very timely. Now, more than ever, it is of vital importance that those of us working with battered immigrant women become knowledgeable about the legal rights and options available to them. Domestic violence shelter workers, crisis line volunteers, legal assistance workers and other social service providers can advocate on behalf of battered immigrant women and provide leadership in expanding accessible services to them. Our substantial awareness of the issues faced by battered immigrant women will be the basis for designing programs that are both culturally and linguistically appropriate to their needs. It is also equally important that we take special effort to debunk injurious stereotypes and myths against immigrants that are detrimental to the safety of battered immigrant women and children.

Finally, it will be our collaborative effort towards building bridges amongst us in the domestic violence, immigrants' rights, women's rights and civil and human rights arenas that will enable us to systematically integrate the needs of battered immigrant women into our respective agendas. In the end, it is the courage and determination of battered immigrant women themselves to eliminate violence in their lives that will continue to inspire all of us in our work.

LENI MARIN
Senior Program Specialist
Family Violence Prevention Fund
June 1995



This Handbook is For You



This handbook is for you, advocates and volunteers at shelters, legal assistance programs, and other organizations helping battered immigrant women. We created the handbook in the hope that sharing our experience would help encourage other advocates and volunteers to provide greater and more accessible services to battered immigrant women. The handbook serves as a companion piece to the manual *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women*, and to the brochure “You Have a Right to be Free from Violence in Your Home: Questions and Answers for Immigrant and Refugee Women,” both available from the Family Violence Prevention Fund.

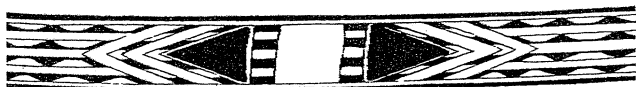
In general, immigration status is not relevant to a battered immigrant woman using your program’s services. The fact that a woman may not be a U.S. citizen or lawful resident should not affect your ability to provide her with services. Her immigration status is only relevant for you to know if it may protect her from abuse, through knowing the risks she may be facing, and helping her become a permanent resident if she is eligible, as discussed below.

In a short time, this handbook will:

- ❖ Enable you to become more knowledgeable about, and sensitive to, what battered immigrant women experience.
- ❖ Teach you how to more effectively advocate for battered immigrant women.
- ❖ Teach you when and how immigration status is used as a tool of domestic violence.
- ❖ Explain what options a battered immigrant woman can have; what documents you should make sure she has before she leaves her home; and when to make certain she sees an immigration attorney.

To help a battered immigrant woman, you do not need to be an expert in the technicalities of immigration law. Your role as an advocate is to empower her by knowing the range of her options, and helping her find the assistance she needs.

I. Who Are Immigrant Women?



Immigrant women are a diverse group, and include women who have lived in the United States for one month, as well as women who have lived here for forty years. Immigrant women can be heterosexual, lesbians, bisexuals, poor, wealthy, white, or women of color. The immigrant woman who may contact you for help may have entered the United States as a refugee fleeing persecution in her country of origin, as a relative with family members in the United States, as a student, as a tourist, or as a worker seeking better economic conditions.

This handbook focuses on the needs of newly arrived battered immigrant women whose immigration status is not permanently established, because they are undocumented, conditional residents, or here on visas. Typically, their batterers control and manipulate their unsettled immigration status as a means of keeping them in abusive relationships. These women experience the complex intersection of domestic violence with their immigration status.

Their option to reside legally and permanently in the United States may have been restricted by domestic violence. Your role is to learn about possible options, assist battered immigrant women in accessing them, and to respect the decisions they make. It is up to the immigrant woman to decide whether she wants to reside in the United States or return to her country of origin.

II. *What is Domestic Violence?*



To best assist battered immigrant women, it is important to understand the nature of domestic violence. Domestic violence is the abuse of power and control in an intimate relationship.

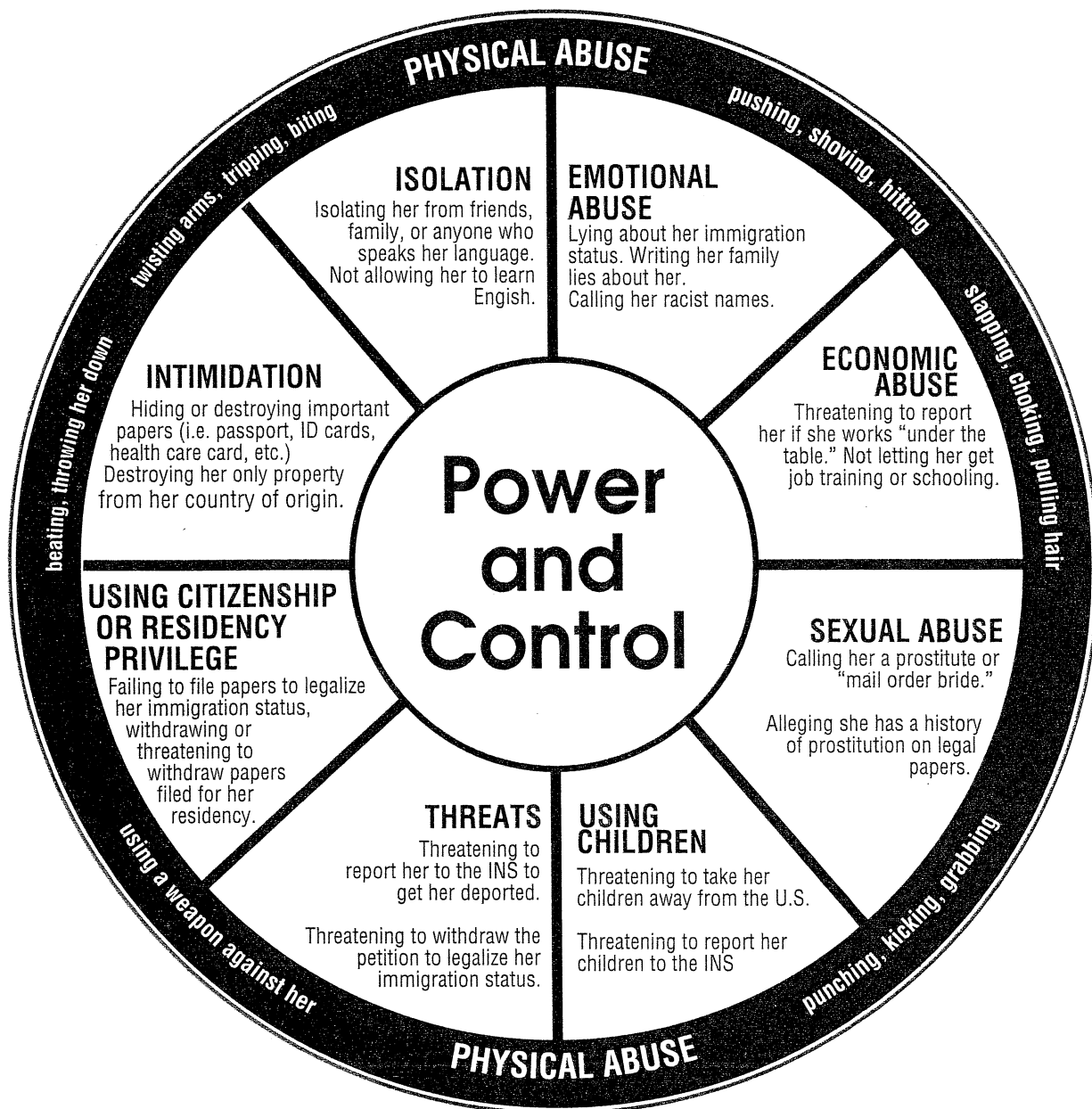
DOMESTIC VIOLENCE IS:

1. A pattern of assaultive and coercive behaviors, including physical, sexual, and psychological attacks, as well as economic coercion that adults or adolescents use against their intimate partner.
2. A pattern of behaviors including a variety of tactics — some physically injurious and some not, some criminal and some not — carried out in multiple, sometimes daily episodes.
3. A combination of physical force and terror used by the perpetrator that causes physical and psychological harm to the victims and children.
4. A pattern of purposeful behavior, directed at achieving compliance from or control over the victim.
5. Behaviors perpetrated by adults or adolescents against their intimate partner, in current or former dating, married or cohabiting relationships of heterosexuals, bisexuals, gay men and lesbians.

Adapted from materials written by Anne Ganley in "Improving the Health Care System's Response to Domestic Violence: A Resource Manual for Health Care Providers," produced by the Family Violence Prevention Fund in collaboration with the Pennsylvania Coalition Against Domestic Violence. Written by Carole Warshaw, M.D., and Anne L. Ganley, Ph.D., with contributions by Patricia R. Salber, M.D.



The Power and Control wheel developed by the Domestic Abuse Intervention Project in Duluth, Minnesota shows the various tactics of abuse that batterers use to control their partners.



This version of the Power and Control wheel, adapted with permission from the Domestic Abuse Intervention Project in Duluth, Minnesota, focuses on some of the many ways battered immigrant women can be abused.

The violence can take the form of physical injury, sexual assault, threats, isolation, and/or emotional abuse. Domestic violence usually involves systematic control by the batterer, who can abuse power over his or her partner in many different ways.

This handbook primarily focuses on intimate relationships, although domestic violence can include elder, child, and sibling abuse.

DOMESTIC VIOLENCE AND IMMIGRANT WOMEN

When a battered woman is an immigrant, her batterer may be using her immigration status as a means of abusing her. For example, the batterer may threaten to report her to the INS if she is undocumented, or may hide her passport to try to prevent her from leaving the relationship. See the power and control chart on the previous page for some of the many ways a batterer can abuse a battered immigrant woman.

When helping a battered immigrant woman, be sensitive to the language you use. “Domestic violence” may be an unfamiliar term.

Listen to the terms the woman uses to describe her abuser, try not to impose your terms on her, and make sure she understands the words you use. When discussing the abuse, try to name the behavior, and not the person. For example, it may be more helpful to talk about specific acts of violence, rather than telling her “you are a battered woman,” or that her abuser is “a batterer.” But also remember that if the woman is battered, it is very important to name the problem to her as domestic violence.

Help the woman identify what the problem is by listening to what she describes as her needs, and discussing with her how they can be met.

***D**o not assume that the pattern of domestic violence in all relationships will appear the same — there is no “typical” domestic violence relationship.*

III. Preparing Yourself to Better Advocate for Battered Immigrant Women



A. STEREOTYPES, MYTHS, AND FALSE IMAGES OF IMMIGRANTS

Battered immigrant women face many barriers to getting assistance. One barrier you can take responsibility for is to try to rid yourself of any assumptions you may have about immigrant women. Prevalent stereotypes include the ideas that *all* immigrants:

- ❖ are undocumented
- ❖ are poor
- ❖ are people of color
- ❖ are heterosexual
- ❖ have many children
- ❖ cannot survive economically if undocumented
- ❖ do not want to or will not use the legal system
- ❖ have an immigrant status which cannot change
- ❖ come only from certain countries.

Prevalent myths include the ideas that immigrants:

- ❖ have no right to be here
- ❖ came here for welfare benefits
- ❖ are passive
- ❖ are childlike
- ❖ married just to get a green card

- ❖ are so called “mail order brides”¹
- ❖ come from cultures where domestic violence is part of or is acceptable in their culture.

Many people assume that battered immigrant women are only battered by other members of their immigrant community. Others assume that battered immigrant women are only battered in mixed-race relationships. Be conscious that a battered immigrant woman and her abuser may be from the same or different communities.

Reading this list of stereotypes and myths is a preliminary step. We encourage you to contact immigrant groups in your community and locate written resources to educate yourself further about immigration and immigrants.

B. MAKING YOUR PROGRAM ACCESSIBLE

We strongly encourage you to assess the accessibility of your program to battered immigrant women. Through examining your accessibility, you will be taking a big step toward breaking down the barriers that may keep an immigrant women from getting help from your program. It will take a collaborative effort by more than one individual to make a program accessible, but the genuine concern and commitment of one person can make a big difference. This handbook contains many suggestions to help you make that difference.

1. DO COMMUNITY OUTREACH

You should identify the population groups that you are not serving and identify agencies and organizations serving those communities to help you learn about those communities’ needs. These agencies can help you identify persons who can serve as translators and peer support for battered immigrant women who come to your program for help. Locate any immigrant organizations in your area which battered immigrant women could contact. These groups are critical in providing support,

¹ This is a derogatory term which has evolved to characterize dating and marriage relationships between people from different countries.

and in combatting feelings of isolation. Collaborate and partner with organizations established within immigrant communities.

2. PROVIDE LANGUAGE ACCESSIBILITY

The absence of language accessibility is a major issue for battered immigrant women. To make a program language accessible requires a significant and long-term commitment. But making such a commitment is a fundamental step to creating a program that can help immigrant women.

Your agency should have multilingual staff and volunteers to assist women in the diverse populations that live in your community. If you do not have multilingual staff or volunteers, you should, as a first step, develop a referral list for translators. All translators that you identify should participate in a domestic violence training prepared by you in coordination with a local service agency that serves that immigrant community. If you need to use a translator, make sure you know she or he has received adequate training on domestic violence. If a client comes to your organization with a translator, you should find out who they are, assess whether they pose any safety risk to the client, and assess whether they are charging a fee from your client.

When deciding whether your client needs a translator, be aware that you should provide her with assistance in the language she most comfortably speaks. Even if she speaks limited English, she may prefer to speak to an advocate in her primary language. You should provide her with services in that language.

You should know that using the battered immigrant woman's children or other relatives as translators is not acceptable, because of the burden it puts on them and the danger it may pose for them.

Anti-immigrant sentiment and racism create another issue of accessibility. Educate yourself as to what immigrant women are facing inside and outside of your program, in terms of the impact of anti-immigrant and racist attitudes on their lives, so you can better understand the barriers they face.

3. RECRUIT MULTILINGUAL AND MULTICULTURAL PEOPLE

To become a truly accessible organization to immigrant women, the next step you must take is to improve the diversity of your staff and volunteers, through recruiting and hiring multilingual and multicultural persons to staff your organization.

In addition, your program should have materials translated into all the languages spoken by the communities you seek to serve. These materials will tell battered immigrant women that your program is there to serve them. Also, prepare a referral list for multilingual counselors you can recommend to your client.

4. CONDUCT ONGOING TRAININGS

Consider ongoing trainings for your staff and volunteers on how to help battered immigrant women. Provide your regular trainings in languages other than English as one way to work towards recruitment of multicultural and multilingual volunteers and staff.

5. ASSIST WITH TRANSPORTATION

Another accessibility issue is transportation. Be aware that you may need to explain to some immigrant women in detail how to use public transportation and how to reach their destination. Some women may require accompaniment when they go to appointments, since they will not be comfortable navigating a transportation system that they have seldom used, and that is not in their primary language. You may need to

provide transportation for immigrant women in emergency situations, especially to bring them for the first time to a shelter.

C. ISSUES TO BE CONSIDERED BY SHELTER PROGRAMS

You may need to make exceptions to some shelter rules for battered immigrant women, to ensure that your shelter program is truly accessible. For example, you may allow non-English speaking battered immigrant women to be accompanied by a trusted person who speaks their language to your shelter or to the shelter's drop-off point, where they will be met by a shelter worker and one of the shelter's translators.

1. EMPLOYMENT CONSIDERATIONS

If your shelter has a requirement that residents leave their job site for security reasons, make sure you clearly explain why you have such a requirement, and consider creative alternatives to the requirement. Many immigrant women will be reluctant to leave what may be their only job opportunity and may therefore not utilize your program. You will need to balance the immigrant woman's need for economic survival with her safety. We suggest you do this by being flexible, and by making exceptions to shelter rules if you can create a safety plan around the woman's job.

It is often extremely difficult for undocumented women to find employment. Some women may have legal immigration status that depends on working for a particular employer, who is their immigration sponsor. You will need to balance the immigrant woman's need for economic survival with her safety when considering shelter rules on her continued employment.



2. LENGTH OF STAY

You may need to extend the length of stay for battered immigrant women, to ensure sufficient time to make a successful transition from the shelter. Otherwise, battered immigrant women may not be able to fully explore the resources that will help them move on to a violence-free life, such as job opportunities, job training, school, childcare, and transitional housing.

3. CULTURALLY APPROPRIATE ENVIRONMENT

You should ensure that a culturally appropriate environment is available for immigrant women and children, who need to feel at home in the shelter. Be aware that some immigrant women are not used to Western

style beds or to separate beds for their children. You should provide food that immigrant women are familiar with. If shelter residents share responsibilities for cooking, immigrant women should be given the opportunity to cook the food they are accustomed to. Also, be aware that there may be racial tension in your shelter between residents from different communities, or between residents and staff of different backgrounds. Develop a policy for residents and staff to follow which will ensure the safety and well being of all residents of your shelter.

D. CULTURAL ISSUES

Frequently, many assumptions are made about a battered immigrant women's culture. For example, claims may be made that, "in her culture, domestic violence is accepted as normal behavior;" or "in her culture, women are passive." While domestic violence happens all over the world, it is not more a part of culture in any other country than it is a part of culture in the United States. Domestic violence is not based on ethnicity, and is not to be tolerated in any community or society.

Be aware of what a battered immigrant woman may have gone through to come to the United States, and what it may mean for her to escape the violence. If she leaves the relationship she may need to leave the only community she knows in the United States. She could have been very isolated by the batterer, who may have prevented her from meeting other persons in this country. Or she may not know anyone in this country who will support her. Like any battered woman, a battered immigrant woman may be feeling pressures from her community and family not to seek help. Her community and family may blame her for the

Be aware that culture is not homogeneous, but varies widely. There is no typical battered immigrant woman from any particular community. Sometimes the batterer will try to use "culture" as an excuse for behavior.

violence, and may reject her if she leaves the relationship. If she lives in an extended family, she may also be subject to abuse by other family members. Of course, members of her family may also be an important source of support for her.

She may feel she has no other option than to stay in the relationship and may be very scared to live on her own. If she is a lesbian or bisexual, she may be facing even more difficult pressures, since she may be experiencing homophobia from within and outside her community.

Be aware that when a battered immigrant woman contacts you for help, she may convey her situation indirectly. She may say she is calling not on her own behalf, but for a friend. The focus of her request for help may be the batterer -- she may say she wants to know where the batterer can learn to change his or her behavior. She may call saying she is looking for a place to live, or that she needs to get a job. She may initiate the conversation by describing crisis situations that do not seem connected to her being a battered woman. You should help her identify what her needs are, and explore with her how those needs can be met.



E. BATTERED IMMIGRANT LESBIANS AND BISEXUALS

Battered immigrant lesbians and bisexuals may call your program for help. Make sure that you know about the issues they may be facing, such as isolation within their communities, immigration law which historically discriminated against gays and lesbians -- and currently excludes anyone who is HIV-positive -- and homophobia within their ethnic community or any other community. Programs for battered women tend to be designed for women battered by men. In many instances, men calling shelters are treated with greater suspicion than women who call. This greater accessibility to women's programs by female batterers makes it more difficult to ensure safety for lesbians and bisexuals battered by women. Battered lesbians and bisexuals may also face hostility and ostracism within shelter programs due to the homophobia of residents and staff.

Rather than trying to refer lesbians and bisexuals to other agencies, develop your own program and policies so you can provide them with a safe and supportive environment. Make sure your multilingual materials indicate your program is there to assist battered immigrant lesbians and bisexuals.

*E*ducate yourself as to the resources battered immigrant lesbians and bisexuals may need and how you can make yourself and your program accessible. Be aware that few resources exist for battered immigrant lesbians and bisexuals, who experience compounded invisibility.

IV. General Issues in Assisting Battered Immigrant Women



A. HER EXPECTATIONS

You should be careful to address certain expectations that battered immigrant women may have of your program. For example, a battered immigrant woman may not know what a battered women's shelter is, but may think it is a homeless shelter for both men and women. She may think there are no immigrant women or women from her community at your program. She may not want to use your program because she thinks there will be nobody she can identify with. Conversely, she may not want to use your program if other women from her community are there because she is ashamed, or for safety reasons, because other residents may know her batterer. She may not know how you can help her, or that you can offer her low or no fee services. If you are a legal assistance program, she may not understand what legal help you can provide. She may not know her legal options, nor how to exercise her rights.

B. HER FEARS

It is important to recognize and acknowledge the many fears battered immigrant women face. As with any battered woman, she may be fearful for her own safety, and for the safety of any children she may have. She may also fear for the safety of her family in her country of origin, who may have been threatened by her batterer, or by her batterer's family.

She may fear what she will lose if she leaves the abusive relationship: she may be leaving the only people she knows, the only things with which she is familiar in the United States, and her entire support network. She may fear whether she can survive with limited or no English, whether she can survive economically, and whether she will lose her children.

C. IMMIGRATION STATUS

One of the most significant fears many battered immigrant women face is related to their immigration status. Some battered immigrant women may be reluctant to discuss immigration status because they fear deportation for themselves, their children, or their batterer. If a battered immigrant woman is deported, she may lose custody of her children, may not be allowed to enter the country to see her children for five years, may return to poverty, famine, or political persecution, and may no longer be able to financially assist her family in her home country. She may be deported to a country whose laws do not protect her from domestic violence. She may be ostracized by friends and family members because she got a divorce, or sought a protection order against her abuser.

Many battered immigrant women who have legal immigration status do not know that their batterer cannot take that status away. You should know that if an immigrant woman is a U.S. citizen, lawful permanent resident, or has a valid visa, she *cannot* be deported unless she entered the



United States on fraudulent documents, violated conditions of her visa, or has been convicted of certain crimes.

D. CONFIDENTIALITY

It is important for you to avoid frightening immigrant women by asking about their immigration status. You should also be careful about recording information about immigration status that may compromise battered women in any subsequent immigration proceedings. In situations where you are required to report immigration status, you may choose not to ask about immigration status, and to report that the immigration status of every person assisted is “unknown.”

Crisis lines and shelter programs do not need to know a battered woman’s immigration status to provide assistance. However, when assist-

ing an immigrant woman it is important to explain the different risks she may face, and the different options she may have which are dependent on her immigration status. You can go over her risks and her access to remedies without knowing her individual status. You can also provide general information on immigration status to enable her to explore her concerns, doubts and questions.

If you think your knowing her status could help protect a woman, you may want to discuss it with her (for example, if her immigration status is dependent on her marriage and she is served with divorce or annulment papers, or if she is a conditional resident eligible for the two remedies discussed in the sections on “Working With her Immigration Status”. If you are a counselor, the

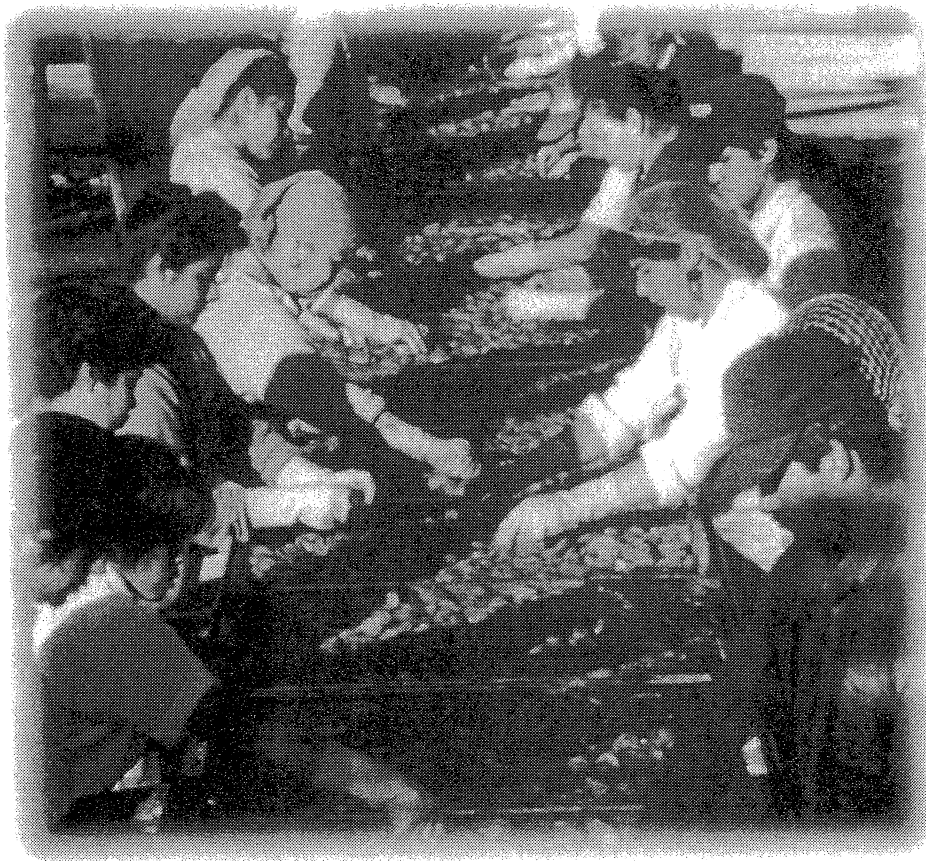
Some battered immigrant women may be reluctant to discuss immigration status because they fear deportation for themselves, their children, or their batterer. If a battered immigrant woman is deported, she may lose custody of her children, and may not be allowed to enter the country to see her children for five years.

counselor-victim privilege should apply to any conversation you have with the woman about her status, and this privilege should protect you from disclosing her immigration status in any subsequent proceeding. If you work at a legal services program, the attorney-client privilege should apply. However, even if you think a privilege may apply, we encourage you not to write down any information about a battered woman's immigration status.

E. HOW TO IDENTIFY HER STATUS

Some women may self-identify their immigration status. If a woman does not self-identify her status and you feel it is important to know her status to better protect her, follow these steps.

1. Reassure her that you are asking about her status so you can best help her (to increase her safety, and to know if she needs immediate legal referral).



2. If you know that the information she tells you will be kept confidential, tell her so.
3. Reassure her that you will not deny her any services, whatever her immigration status may be. Tell her that she does not need to tell it to you if she prefers not to.
4. Use sensitive language. For example, do not bluntly ask questions using language such as, “are you an illegal alien?” Instead, you may say, “Do you know your immigration status?”

Sometimes the status a woman tells you will be incorrect, since she may not know what it is, or the batterer may have lied to her about her immigration status. *Do not call the Immigration and Naturalization Service (INS) yourself to verify her status.*

F. DEPORTATION ISSUES

A battered immigrant woman cannot be deported if she is a U.S. citizen, a lawful permanent resident, or if she possesses a valid visa, so long as she did not enter the U.S. on fraudulent documents, violate conditions of her visa, or was convicted of certain crimes. If she is undocumented, or a conditional permanent resident, find her an immigration attorney who can try to help her legalize her status. Until then, help her develop a safety plan.

G. WHEN TO MAKE SURE SHE SEES AN IMMIGRATION ATTORNEY

You should make sure your client sees an immigration attorney if she is served with divorce or annulment papers and she falls into specific immigration categories (see “Annulment and Divorce” section) or if she is a conditional resident who may be eligible for two remedies to help her legalize her status (see “Working with Her Immigration Status”).

Unless you are at a legal services organization, you should not try to give her legal advice. For descriptions of different immigration statuses used in this handbook, see the Appendix.

V. How to Help When a Battered Immigrant Woman Calls



1. IS SHE SAFE?

When a battered immigrant woman contacts you for help:

- ❖ **Determine whether she is safe.** If she is in immediate danger, follow your program's policy on calling the police. If she wants you to call for her, tell her you will, keep her on the line, and make sure you get her address and phone number. If she does not feel safe talking, suggest she go to a neighbor's house or other safe place to call, where she can speak freely. Any woman - including an undocumented immigrant woman - who is in serious and immediate danger should be encouraged to call the police if she needs protection or is in fear for her life.
- ❖ **Ask her what language she most comfortably speaks.** If you can find someone else who can speak her primary language, get her phone number to return the call, and find out at what times you can safely call her at that number. Assure her that you truly want to help her, and that someone will call her. If you cannot find someone who speaks her primary language, you can try to struggle through a short-term crisis call. Tell her how long the conversation will take. Reassure her that the information she tells you is confidential, and that you are not an agent of the government. Recognize and acknowledge her courage in calling you.
- ❖ **Be as flexible as possible.** Listen to where she is coming from and what she is asking for. Be creative in helping her come up with strategies to deal with her concerns. Use open ended questions such as,

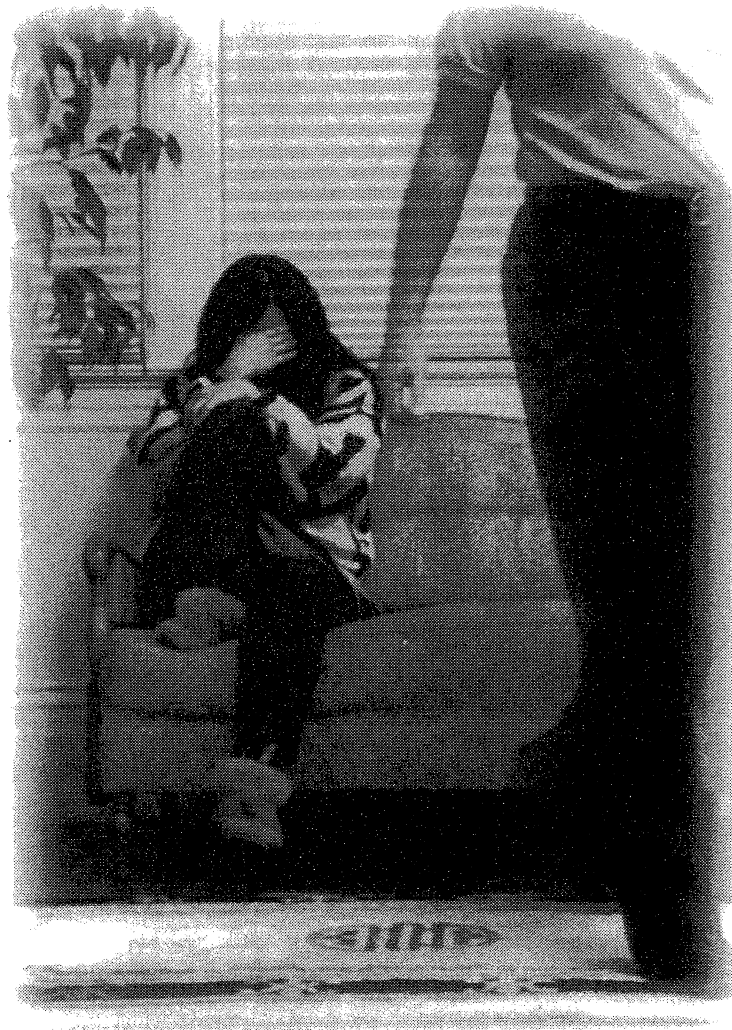
“do you want to tell me about your situation,” rather than “are you a battered woman?”

2. CALLING THE POLICE

a. Her fears

The battered immigrant woman may be scared to call the police because:

- ❖ In some women’s home countries, the police serve as an arm of the military and may have persecuted people like herself.



- ❖ The batterer may have threatened to call the police against the woman, telling her that she would be arrested for causing trouble.
- ❖ She may fear deportation.
- ❖ She may have called before and had a bad experience with the police.
- ❖ If she is lesbian or bisexual, she may fear a homophobic response by the police.

Familiarize yourself with the policies and practices of your local police. Find out both what the official policy is of your police department towards undocumented immigrants and domestic violence cases, and what individual police officers actually do. Civil rights groups, immigrants' rights groups and immigration attorneys can help you determine the police practices in your area. If she is undocumented, she may fear that the police may report her to the INS, but this is an unlikely result. Also discuss with her any possible fears she may have regarding deportation of her partner, and know whether that is a real risk in your community.

b. If she wants police involvement:

- ❖ Know that her seeking help will probably not result in a batterer's deportation, even if the batterer is undocumented, and the crime is very serious.
- ❖ Remind her that the most important thing for her to be concerned about is her safety and the safety of her children.
- ❖ Make sure you discuss other safety options with her and do not focus only on the police.
- ❖ Tell her to get the name, badge number, and phone number of any officer who responds (which may help her if she needs to interview the officer as a witness, or to file a complaint against the officer for inadequate assistance).

- ❖ Make sure she knows what an incident report is and how important it can be to document her experience with a report.
- ❖ Explain that the report can assist her in obtaining legal protection and, in some cases, legal immigration status.
- ❖ Encourage her to get the incident report number for future reference.

c. If she does not want police involvement:

- ❖ Support her ability to make informed choices about her life by supporting her decision.
- ❖ Discuss with her other options available, focusing on her safety.

d. For better advocacy:

- ❖ Find out whether your local police department is staffed by people who speak your client's language.
- ❖ Get to know those officers and develop a relationship with them.
- ❖ Call those officers specifically if you need them to assist with a vacate order, to enforce a civil protection order, or if you have problems with other officers.
- ❖ Make sure that the police give battered women a translated list of updated resources to call.
- ❖ Find out what kind of emergency protection order the police can issue to help her, and what programs are available to help her obtain one if the police do not issue them in your jurisdiction.
- ❖ Find out whether the police will perform a standby so she

can retrieve her belongings or remove her children from the home.

3. MAKING A SAFETY PLAN

You may need to make a safety plan with a battered immigrant woman whether or not she is prepared to leave her abusive partner. When making safety plans:

- ❖ Consider her options with her to help her determine what will keep her safest.
- ❖ Go over with her what she will do when the next incident happens.



- ❖ Discuss with her the warning signs of her partner's abuse, and how she can protect herself.
- ❖ Know that she could choose to leave in the future, or she could leave at that moment.
- ❖ Explain that police standby may be an option.
- ❖ Be aware that there is no guarantee of her safety.

VI. If She Wants to Leave the Situation



There are important considerations to discuss with her when helping her think about whether or not to leave her home. They include safety issues, taking her children with her, and bringing important documents. Documents the battered immigrant woman should try to take with her include:

- ❖ birth certificates for herself and her children
- ❖ passports for herself and her children
- ❖ green cards for herself and her children
- ❖ social security cards for herself and her children
- ❖ documents from any public assistance
- ❖ immunization records for children
- ❖ documents related to health care
- ❖ leases
- ❖ checkbooks

- ❖ credit cards
- ❖ paycheck stubs
- ❖ marriage license
- ❖ copies of tax returns for herself and the batterer.

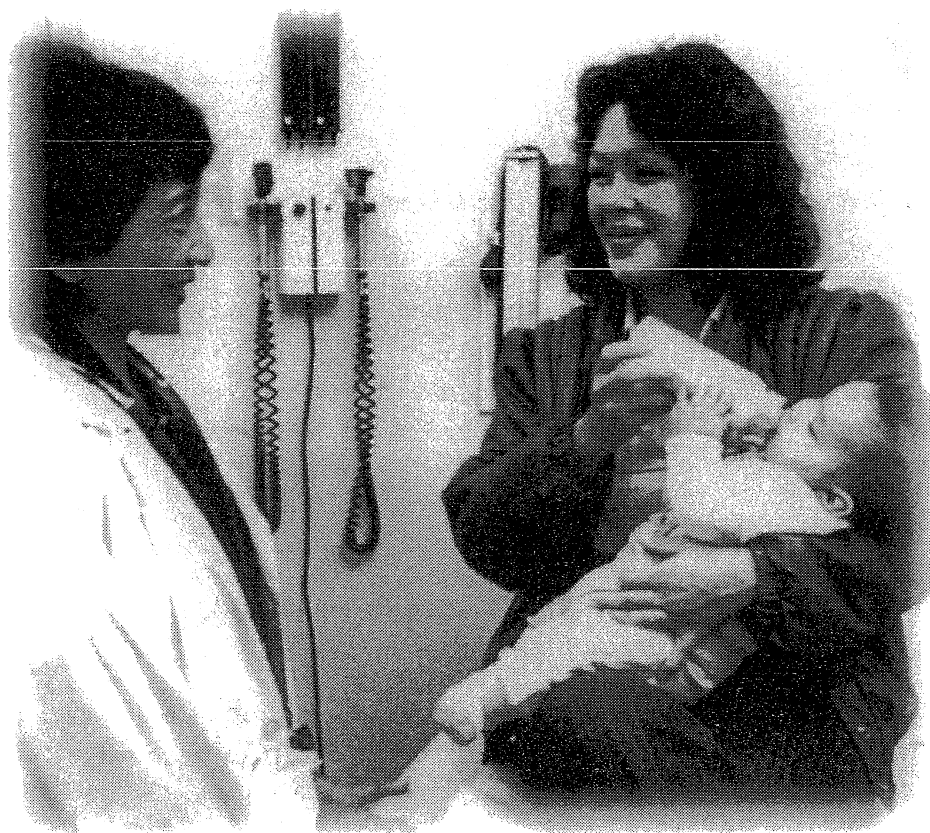
If your client is married to the abuser, she may need to prove that she married him in good faith, so she can have access to certain legal remedies described below. If this is the case, she should also try to bring:

- ❖ pictures of the marriage and relationship
- ❖ love letters
- ❖ names and numbers of friends, relatives and witnesses who are familiar with the wedding and marriage
- ❖ bills, leases, or bank account records showing that she and the batterer had joint liability for any property or accounts
- ❖ letters addressed to her or her and the batterer at the family home.

A. ACCESSING HEALTH CARE

Battered immigrant women may fear accessing health care because of anti-immigrant legislation requiring health care providers to deny non-emergency care and report suspected undocumented persons seeking care to the INS (such as Proposition 187 in California). Inform yourself as to any such laws in your area and whether or not they are implemented or enforced. Be aware that it is illegal for a health care provider to fail to provide emergency services to anyone because she or he thinks the patient may not have legal immigration status. When discussing health care with battered immigrant women, be sure to:

- ❖ Explain to your client how health care workers can help by providing the medical attention she may need because of the abuse and in documenting the abuse.



- ❖ Be aware of mandatory reporting requirements for health care workers, and explain whether the abuse would be reported to the police if she seeks health care.
- ❖ Work with local hospitals to ensure that health care providers in the emergency room will be able to communicate with immigrant women.

B. ACCESSING THE LEGAL SYSTEM: CRIMINAL AND CIVIL REMEDIES

Going to court is a difficult experience for anyone not acquainted with the legal system. Battered immigrant women with limited English speaking abilities may find the court process even more difficult. In addition, a battered immigrant woman may not believe the legal system can help her or is even accessible to her. The legal system in her country of origin may be an arm of a repressive government, and may have

provided no remedies for domestic violence. She may come from a country where oral testimony is not admissible as evidence, and thus may not know that her testimony about the violence she experienced can significantly affect the outcome of a case.

To help your client access the legal system, you can:

- ❖ Find out what interpreting services are available and ensure she has the translation she needs.
- ❖ Assist her in filling out any forms and legal documents.
- ❖ Accompany her to court.
- ❖ Explain to her the difference between civil and criminal remedies.
- ❖ Review with her the different options she has in responding to her situation.
- ❖ Discuss with her the limitations of the legal system.
- ❖ Develop safety plans with her that may include, but are not limited to, legal intervention.

1. CRIMINAL REMEDIES

A woman may decide to call the police either to intervene to protect her during a domestic violence incident or because the batterer has violated a civil protection order obtained by the woman. If the police arrest the batterer and take the batterer into custody, a prosecutor will decide whether or not to pursue criminal charges. If this happens, there will be a series of hearings and possibly a trial. Battered women may be able to get emergency protection orders from the police or the court which require the batterer to stay away for a short period, or may seek longer term protection with criminal stay-away orders pending a case in criminal court.

Many battered women need advocates to assist them if they are involved in the criminal process. Testifying in a criminal case can be traumatic and frightening. Immigrant women with limited English language abilities who are unfamiliar with the U.S. court system will need

an advocate with whom they can communicate easily, who can explain the unfamiliar court process, and who will support them through it.

Inform your client about the criminal justice process, her role in it, and the possible outcomes of a criminal case so that she can decide whether to turn to the criminal justice system for assistance. Remember that the batterer may not necessarily receive jail time as the outcome of a criminal case.

2. CIVIL REMEDIES

Civil remedies against domestic violence are available for all individuals meeting the requirements of the state civil codes, and are available to help all persons who live in your state, regardless of immigration status. Civil remedies include termination of marriage, civil protection or restraining orders, restitution (paying the woman back for expenses caused by the violence, such as medical bills or broken furniture) and custody and support of children.

a. Getting Her a Protection Order

Going to court is a difficult experience for anyone not acquainted with the legal system. Battered immigrant women with limited English speaking abilities will find the court process even more difficult, due to the lack of bilingual attorneys, court advocates and proficient interpreters.

A protection order can prohibit the abuser from contacting, attacking, striking, sexually assaulting, locating, or telephoning the battered woman, her children, and/or other family members. It can also exclude the batterer from the woman's home or the family home.

In most states, along with this prohibition, a battered woman can also obtain the custody of her children, child support, and control over her property. Battered women are eligible for protection orders, regardless of their immigration status, but for a protection order to be effective, the batterer must be concerned about legal consequences, and the battered woman

must be willing to call the police to enforce it. Be prepared to discuss with battered immigrant women the benefits and drawbacks of protection orders. It is important to know whether women battered in same-sex relationships are eligible for civil protection orders in your state.²

In virtually all states a protection order can also be issued for situations where the battered woman decides to remain in a relationship with the batterer. Protection orders in such cases might order that the abuser not molest, assault, harass, threaten, or physically abuse the woman, and might order the abuser into a treatment program. This kind of protection order can be valuable if the immigrant woman chooses not to leave the relationship, and if the batterer fears the legal consequences of violating the order. Batterers who are also immigrants may be more likely to fear the legal system.

If your client wants a protection order, you can assist her in obtaining one. Ensure that all the important details of the history of violence by the abuser are documented in the protection order papers that are filed with the court. The battered woman's immigration status does not need to be documented in the protection order.

Be aware of the different kinds of protection orders available in your state. Familiarize yourself with the process of each order, including court fees, and process service.

The amount of documentation you provide for battered immigrant women on her petition for a civil protection order can improve her ability to get the order, and can greatly assist her later in any immigration case. Help your client document a history of violence through the following evidence:

- ❖ a chronological history of events
- ❖ police records
- ❖ apologetic notes or letters from the batterer, saying, e.g. "I'm sorry," "Don't be afraid of me"

² As of December, 1993, the civil protection order statutes of thirty four states, Puerto Rico, and the District of Columbia covered same-sex relationships by providing protection to those who have lived together or who have had an intimate relationship. Other jurisdictions, such as New Jersey and Ohio, provide protection through the way courts have explicitly interpreted their civil protection statutes to cover same-sex relationships. You should ascertain whether women battered in same-sex relationships have access to civil protection orders in your area.

- ❖ threatening notes or letters
- ❖ torn or burned clothes
- ❖ criminal court records
- ❖ medical records
- ❖ photos
- ❖ statements of witnesses
- ❖ statements from you or other service providers
- ❖ any protection orders
- ❖ her own statement.

b. Annulment and Divorce

You may need to help battered immigrant women ascertain whether divorce or annulment will affect their immigration status. Annulment must be avoided for any battered immigrant woman who attained her



residency through the marriage, as she can lose her residency and become subject to deportation. If a battered immigrant woman is not a U.S. citizen, lawful permanent resident, or legal refugee, annulment or divorce can terminate her legal immigration status, or eliminate her options/rights to receive legal immigrant status. Refer her to an immigration attorney *immediately* if she is not in one of those categories and she is served with divorce or annulment papers. To locate an immigration attorney or advocate in your area, call the National Immigration Project of the National Lawyers Guild, at (617) 227-9727.

If, after consulting with an immigration expert, you find that divorce or annulment will not be detrimental to her immigration status, she has the option to get an annulment or divorce. She should be able to get an annulment or divorce even if she was not married in the United States, and even if her husband does not agree, no matter what her immigration status is. However, some judges have refused to grant divorces to “non-immigrant” women who entered the U.S. for a temporary purpose.

If a woman’s husband does not agree, it may mean that she will be subject to a longer waiting time between the separation and when she can file for divorce. The waiting time period where both parties agree to the divorce is often six months, and one year if only one party wants the divorce. Separation can be measured from the time the parties last had sexual relations. Some battered immigrant women may believe that they must continue sexual relations with their husband until the divorce. But their continuing to do so can preclude them from obtaining a divorce. Also, in some jurisdictions, continuing to cook and do laundry for the batterer may prevent a court from finding that a couple has separated. It is important for you to be aware of these issues so you can help battered immigrant women who want a divorce to separate from and ultimately divorce their abusers, so long as there is no concern with negative consequences for their immigration status.

c. If the Batterer Threatens to Take the Children Away

Battered immigrant women, including undocumented women, can, and very often do, obtain court orders awarding them custody of their children. All states base custody decisions on the best interests of the children, and many do not award custody to abusers. Some batterers try to use the fact that a battered woman is undocumented as a basis to obtain custody. If this happens, assist the battered woman in locating a family

law practitioner who is familiar with the domestic violence laws of your state. If that lawyer wishes assistance with the case, they can call AYUDA at (202) 387-0434 for advice.

If the batterer is threatening to take the children away, or take them out of the country, assist the woman to immediately get a custody order. In many jurisdictions this custody order can be obtained as part of a temporary or permanent civil protection order. This order can prohibit the batterer from removing the children from the United States. If the children are U.S. citizens, assist the woman in sending a copy of this order to the embassy of her batterer's home country and a copy to the U.S. Department of State to prevent the government from issuing passports and visas for the children. Copies of the order should also be given to the children's schools, and make sure the schools know not to release the children to anyone but their mother.

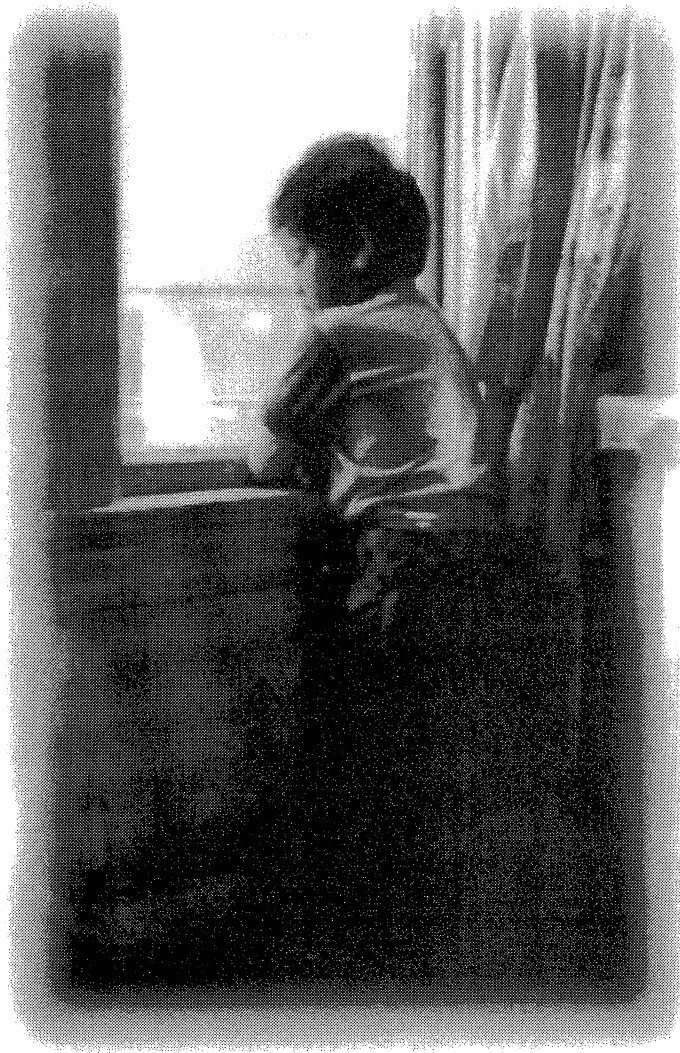
If a battered immigrant woman has children, when creating a safety plan, encourage her to keep in a safe, readily-accessible place:

- ❖ recent photos
- ❖ passports, visas, residency cards
- ❖ birth certificates for her children
- ❖ immunization records
- ❖ records related to the children's school and health care
- ❖ a list of addresses and phone numbers of the batterer's friends and relatives in his or her country of origin.

C. HER ELIGIBILITY FOR BENEFITS

A battered immigrant woman may be worried that she will not be able to support herself if she leaves her home or if she must leave her job. Explain to her what free or low cost services you provide, and whether these services include free housing and food for her and any children she may have. Discuss whether you may be able to help her keep her job or find another.

In many states, if the batterer is the father of children and is employed or has an income, he may be ordered to pay the mother money each month to support the children. If a woman gets divorced, her husband can



also be ordered to pay her spousal support each month. Be aware of the laws in your state, and how such payments can safely be given to the woman. This can often be arranged through a registry at your local court which forwards the money to a P.O. Box or an address, such as your program's address, that is not disclosed to the batterer.

Let battered immigrant women know what public benefits they may be eligible for. If they are lawful permanent residents or refugees or asylees, they are currently eligible for federal public benefit programs, although this will change if current federal legislation passes. If they are temporary non-immigrants, are here through Temporary Protected Status (TPS), or are undocumented, they are currently only eligible for limited programs, namely federal housing, emergency Medicaid, WIC, and AFDC for any U.S. born children they may have.

Be aware of any changes that may occur in availability of benefits for

battered immigrant women. Many proposals to cut such benefits are under consideration by the federal government and in many states.

Some battered immigrant women may be sponsored by family members. The income and resources of those family members may be considered available to the immigrant and thereby impact the calculation of the immigrant's access to certain benefit programs. Thus, women with a sponsor may be specifically vulnerable to abuse by that sponsor, since they often feel an obligation to the sponsor.

VII. Working with Her Immigration Status —When Knowing Her Status Could Help Protect Her



Immigration law is extremely complicated. Try not to assume what the options are for battered immigrant women, but explain that there may be options available to her, and have a good legal referral ready. If you are not an attorney, make clear that, while you are not an attorney, you will work together with one to help her. Many immigrant battered women are in particular need of domestic violence advocates who will work closely with immigration and family law attorneys to help ensure that they get the relief they deserve. (See page 44 of this handbook for information on locating immigration attorneys and advocates.) Make sure that the lawyers you work with understand the dynamics of domestic violence and how to best help battered women in your state. To locate a family law attorney call your local domestic violence coalition, which should know which family law attorneys in your area are trained on domestic violence.

REMEDIES TO OBTAIN LEGAL PERMANENT RESIDENCY

Immigrant battered women are often dependent on their abusive partners to obtain permanent residence status in the United States. Under immigration law, immigrant women who have been married to U.S. citizens or lawful permanent residents for less than twenty-four months at the time residency is granted receive what is known as “conditional residency” for two years. Within ninety days before this two year waiting period ends, the couple must file a joint application to have the condition removed, so they can obtain permanent residence status for the woman. They may have to return to INS for an interview and show that their marriage is not a sham, and that it has not been terminated.

This waiting period and joint application requirement have trapped many battered immigrant women, since many abusers have used their control over this process as a means of further abusing their partners. For many years, citizens and residents married to immigrant women used immigration law as a tool to hold their spouses and children in abusive



relationships. They did this by refusing to file immigration papers for their wives or by withdrawing papers that had been filed.

As a result of these problems, two laws were passed to allow battered women to file for a waiver of the joint filing requirement, and to allow battered women married to U.S. citizen or resident spouses to file their own immigration papers. The two laws are the Immigration Marriage Fraud Amendment (IMFA, 1990, waiver for battered conditional residents), and the Violence Against Women Act (VAWA, 1994, self-petitioning and suspension of deportation). These laws unfortunately do not apply to battered women who were never legally married (including, of course, same-sex couples whose marriages are not recognized by the U.S. government as legal), or who are married to spouses who are not U.S. citizens or permanent residents.

These remedies are important, because helping battered immigrant women become permanent residents will provide them with greater safety, since they will no longer be dependent on abusive husbands for their immigration status.

A. IMMIGRATION MARRIAGE FRAUD AMENDMENT (IMFA)

This section applies specifically to women whose spouses have begun the immigration process for them, and who have received a conditional residency card.

This waiver, enacted in 1990, was designed to help the conditional permanent resident married to a U.S. citizen or permanent resident, whose spouse *already* filed an application for her to become a permanent resident, and has assisted her in obtaining her conditional residency, but has failed to take any further steps. If an immigrant woman fits that criteria, she can receive a waiver, meaning she can still obtain her permanent resident status without the assistance of her spouse, if she can successfully show either that:

- ❖ she entered her marriage in good faith but that it was terminated
- ❖ she or her child was subject to battering or extreme cruelty by her petitioning husband during the marriage

- ❖ deportation of the woman would result in extreme hardship.

These are described in detail below. You can help a woman in this situation by assisting her in gathering the documentation she needs to successfully show she meets these conditions. While you should never attempt to apply for this waiver for her by yourself, there is important background information you can help her with. You must work in a team with her and with an immigration attorney or advocate, and explain to the woman that her role in helping present her case is very important.

For battered immigrant women who have conditional residency, the following three processes can allow them to obtain legal permanent resident status.

1) **Waiver for Terminated Marriage**

If she was married, but legally terminated her marriage, and you want to help her prepare for a waiver for that reason, you need to help her show that her marriage was entered into in good faith. Useful documents for this purpose include:

- ❖ proof of joint ownership or a lease showing joint tenancy of property or other financial resources, such as joint bank accounts, income tax insurance, medical plans, etc.
- ❖ birth certificates of children born of the marriage
- ❖ affidavits from persons who knew the couple or other documentation showing that a bonafide marriage relationship existed
- ❖ invitations and pictures from a marriage ceremony
- ❖ evidence of any joint activities, such as vacations or trips together, joint memberships in clubs, attendance at family, work, holiday and other social events, etc.

2) **“Battered Spouse” Waiver**

If the woman or her child was battered or subject to extreme cruelty by her husband during the marriage, she may be eligible for a “battered

spouse waiver.” To help show that your client was battered or subject to extreme cruelty, useful evidence includes:

- ❖ any evidence of domestic violence (such as torn or stained clothing, damaged property, etc.)
- ❖ any photographs of injuries due to domestic violence
- ❖ any actions the woman may have taken to protect herself from the violence, such as
 - calling the police
 - going to an emergency room
 - entering a shelter
 - getting counseling
 - seeking a protection order.

The easiest way to help a woman document a case for a battered spouse waiver is to put the information in a **chronological history**. You may want to start with the most recent acts of abuse first, since they are freshest in her mind.

- a. For each incident, always ask if the battered woman has called the police for help at any time and if so, whether a report was taken. It is also important to know if a neighbor, friend, or relative contacted the police.
- b. Ask whether anyone saw her injuries from the abuse or witnessed the abuse. She should get names, addresses and phone numbers of any witnesses. These people can be interviewed to document the abuse. If there was contact with the police, there may be:
 - a police report; and/or
 - a record in the police dispatch logs that a call was answered at the battered woman’s address.

She, or any friend or neighbor who called the police, should be asked if they remember the officer's name or badge number. If so, the officer should be interviewed and a statement taken if no report was made. Battered women should always be encouraged to find out the officer's name, phone number, and badge number anytime the police are called for future incidents.

- c. Ask the woman if she has kept the clothes she was wearing at the time of the abuse, in case they were ripped, torn, or burned. Saving these could provide useful evidence for a court proceeding and the immigration case.
- d. If she filed a complaint, or cooperated with the pressing of criminal charges, a copy of these records will help her document that she was battered. These records should contain the names and addresses of other witnesses to the violence.
- e. Any medical records which document that the battered woman was injured are useful, even if she did not tell medical staff that her injuries were a result of domestic violence.
- f. Any photos that exist of her injuries, taken by a service provider, the police, by herself or by a friend, are helpful to show her case.
- g. If she sought assistance from a battered women's shelter or other domestic violence organization, they should write a letter confirming that she sought assistance and what they observed. Also, statements from any counselors who treated her will be helpful.
- h. A copy of any protection order or attempt to obtain one is also helpful.
- i. The battered woman herself should prepare a statement which describes her relationship and a chronology of the history of violence she suffered from the abuser. Any such chronology should contain a statement at the end summarizing when abuse began, the frequency of the abuse, and that it has continued to date.

3) Extreme Hardship

The extreme hardship standard is very difficult to establish, and it has been extremely hard for any battered women to obtain this waiver. It is possible that as the Violence Against Women Act remedy (see following section) is implemented this waiver may become more available to some women.

B. VIOLENCE AGAINST WOMEN ACT (VAWA)

This section applies specifically to women who have not yet received a conditional residency card.

If an immigrant woman's U.S. citizen-spouse or permanent resident-spouse has never applied for her to become a permanent resident, she can self petition to become a permanent resident through VAWA, enacted in 1994. She can also apply to become a permanent resident if her spouse had begun the process of applying for her residency papers and then later withdrew the petition, or if the petition is still pending. This new law was enacted to help the woman whose spouse never began an application for her permanent residency, or withdrew an application that he had filed, leaving her in limbo, and under his control. VAWA also provides a remedy to help women in deportation proceedings, as explained more below.

1) TO BECOME A PERMANENT RESIDENT THROUGH SELF-PETITIONING, A BATTERED WOMEN MUST SHOW:

- ❖ good moral character³
- ❖ she is currently married to a U.S. citizen or permanent resident

³ Persons who have drug or felony criminal convictions are generally considered by the courts not to have good moral character.

- ❖ she resided in the U.S. with that U.S. citizen-spouse or permanent resident-spouse
- ❖ she is currently residing in the U.S.
- ❖ she married her spouse in good faith
- ❖ during marriage she was battered or subject to extreme cruelty, and
- ❖ deportation would result in extreme hardship to her or her child.

Battered immigrant women who self-petition may include their undocumented children in their application. Children who are abused by citizen or resident parents may also apply for this remedy. Finally, a woman who has not been abused herself can also self-petition to become a



permanent resident if she is a parent of a battered child abused by the woman's citizen or permanent resident husband.

Again, if you are a service provider, you must work with a knowledgeable immigration advocate or attorney on this self-petition remedy. Since many immigration attorneys and advocates are not yet aware of this remedy, we recommend you contact one of the following individuals for assistance. If you are helping a woman who is in deportation/exclusion proceedings who may qualify for the remedy but has a divorce pending, or has a case pending with INS, call one of the following attorneys for consultation immediately:

Rosa Fregoso, Legal Aid Foundation of Los Angeles
(213) 252-3800, ext. 3115; fax (213) 389-8435

Terry Helbush, National Immigration Project of the National Lawyers Guild in San Francisco
(415) 421-0860; Fax: (415) 421-0772

Deeana Jang, Asian Law Caucus in San Francisco
(415) 391-1655; (fax) 391-0366

Laura Martinez, Legal Aid Society of Central Texas in Austin
(800) 369-9270, ext. 334; fax (512) 476-3940

Leslye E. Orloff or Minty Siu Chung, AYUDA in Washington, D.C.
(202) 387-0434; fax (202) 387-0324

Gail Pendleton, National Immigration Project of the National Lawyer's Guild in Boston
(617) 227-9727; fax (617) 227-5495

Please leave a message for any of the above people if they are not available for direct consultation.

For more information, you may also call:

Leni Marin, Family Violence Prevention Fund in San Francisco,
(415) 252-8900; fax (415) 252-8991

2) HELPING HER GATHER IMPORTANT DOCUMENTS

While you must not attempt to apply for the woman for the VAWA remedy on your own, there is important background information you can help her with. With a knowledgeable immigration attorney or advocate, you will need to help her document a history of violence through the following evidence:

- ❖ a chronological history of events
- ❖ police records
- ❖ apologetic notes or letters from the batterer, saying, e.g. “I’m sorry”, “Don’t be afraid of me”
- ❖ threatening notes or letters
- ❖ torn or burned clothes
- ❖ criminal court records
- ❖ medical records
- ❖ photos
- ❖ statements of witnesses
- ❖ statements from you or other service providers
- ❖ any protective orders
- ❖ her own statement

To show she entered the marriage in good faith, help her gather the documentation described under “Waiver for Terminated Marriage” in the IMFA section on page 39. At the writing of this handbook, regulations have not yet been issued which will help clarify what needs to be shown to demonstrate extreme hardship.

Her ability to prove extreme hardship may be enhanced if:

- ❖ she obtains a protection order
- ❖ she cooperates with a criminal prosecution
- ❖ she obtains a custody order from family court or as part of a civil protection order

- ❖ she obtains a child support order
- ❖ she or her children have health problems that require treatment in the U.S.
- ❖ she or her children need and are receiving counseling services because of the violence, which are not available in their home country.

3) DEFENDING HER AGAINST DEPORTATION

VAWA also provides a defense to deportation for undocumented battered spouses of permanent residents or U.S. citizens. An immigrant woman can apply for suspension of deportation, resulting in a green card, if:

- ❖ she has lived in the U.S. continuously for 3 years immediately before application
- ❖ she was subjected to battering or extreme cruelty while in the U.S. by her spouse, or her child was subjected to battering or extreme cruelty while in the U.S. by a U.S. citizen or lawful permanent resident parent
- ❖ she has good moral character
- ❖ leaving the U.S. would cause her or her child extreme hardship
- ❖ she is currently deportable (undocumented or out of status).

Children who are abused by their citizen or resident parents may also file for permanent residency under VAWA.

At the time of the writing of this handbook, applying for suspension of deportation is a cumbersome process. To apply for suspension of deportation, the woman would have to turn herself into the INS and request that she be placed in deportation proceedings. This process could take more than six months. Once INS issued an "order to show cause," she would have a hearing before an immigration judge in a deportation proceeding where she would receive permission to file a suspension application. After the application was filed, she would be eligible to request work authorization from the INS. Under current practice, it could take up to eight months for VAWA applicants to receive work

authorization when applying for suspension. The work authorization would allow her to work and support her family while the suspension case is being decided.

Do not attempt to help a woman apply for suspension of deportation without first consulting an immigration attorney recommended by one of the people listed on page 44.

It is not yet known whether women who were married to U.S. citizens or permanent residents, who meet all the above criteria but are now divorced, will be able to use the VAWA remedies. You should encourage women contemplating divorce who meet these criteria to consider the options, and help them contact an immigration attorney immediately.

C. SPECIAL CONCERNS FOR BATTERED IMMIGRANT WOMEN MARRIED TO PERMANENT RESIDENTS

If an immigrant woman is married to a permanent resident, she probably will not have conditional residency even if her spouse applied for her to become a permanent resident. Undocumented persons married to permanent residents cannot get conditional or permanent residency immediately. They are subject to a quota which determines how many persons are allowed to immigrate to the United States annually. When an application is filed on behalf of such persons, they get placed on a waiting list until an immigrant visa is available for them. For most people, the wait is about three years. For persons from certain countries, such as Mexico, the Philippines, and the Dominican Republic, the wait may be much longer. When the visa becomes available, the immigrant woman receives permanent residency, rather than conditional residency.

Unfortunately, women married to permanent residents have no legal status, and no work authorization, while they are placed on the waiting list. If their marriage is terminated, they will no longer be eligible to receive the immigrant visa. It is therefore critical to make sure the woman receives assistance from an immigration expert. If there is a divorce action pending, you must also help her locate a family law attorney to work with you and the immigration expert.

Thank You



Thank you for reading this handbook. You have just taken a significant step towards being better able to help battered immigrant women. The next step is to work with the organizations listed below to assist battered immigrant women, or to work with your own list of resources in your area.

Resources



For more information about how to best assist battered immigrant women and to make your program accessible, do outreach to immigrant women's groups living in your area, and work in partnership with them on this issue. Immigrants' rights activists, the domestic violence movement, women's rights organizations, and service providers are increasing their efforts to build networks and coalitions in their own communities, as well as across the country. For examples of how this has been done, see the companion manual, *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women*.

NATIONAL RESOURCES
Family Violence Prevention
Fund
(415) 252-8900

National Lawyers Guild,
National Immigration Project
(617) 227-9727

National Resource Center
(for domestic violence)
(800) 537-2238

National Coalition Against
Domestic Violence
(303) 839-1852

LOCAL RESOURCES
(PLEASE FILL IN)

Appendices



These case scenarios are to help you review some of the issues discussed in the handbook. See if you can come up with answers to the questions asked.

A. CASE SCENARIOS

- Q. YOU ARE STAFFING YOUR SHELTER'S CRISIS LINE, when the phone rings. A woman is on the phone. She tells you, in limited English, that her friend has been having problems with her girlfriend, and that she wants to give her friend some advice. How should you respond?
- A. FIRST, ASK IF HER FRIEND IS SAFE AT THAT MOMENT. The caller may be describing her own situation. If the caller says her friend is safe, ask her in what language she feels most comfortable talking, and try to provide her with assistance in that language. Ask her with open-ended questions to tell you more about her friend's situation, so you can assess how best to assist her.
- Q. YOU ARE DOING INTAKE AT YOUR LEGAL SERVICES OFFICE when Martha calls. She tells you that she is from Ireland, and that her husband, a U.S. citizen, has been beating her. She wants to leave the relationship and stay in the U.S., but her husband has threatened that, if she leaves him, he will call the INS and have her deported. What should you do?
- A. FIRST, ASCERTAIN IF SHE IS SAFE. If so, ask her to tell you more about her situation. Find out what kind of assistance she needs. Find out if she knows whether her husband has filed a petition for her to become a permanent resident or not, how long they have been married, and how long she has been in the U.S. Advise her that her husband does not have control over whether or not she is deported, and that, because of new laws, she may be able to become a permanent resident without her husband's assistance. Tell her that you are not an immigration attorney, but that you would like to work with her and with an immigration attorney to help her.

B. IMMIGRATION CATEGORIES

There are several general immigration categories. These are the main categories into which women you work with may fall:

1. UNITED STATES CITIZEN

There are three possible means of gaining citizenship:

- 1) through birth in the U.S., its territories, or certain possessions, e.g. Puerto Rico, Guam, and the Virgin Islands;
- 2) through naturalization; or
- 3) through parents.

2. LAWFUL PERMANENT RESIDENT

Lawful permanent residents, also known as greencard holders, are persons admitted into and allowed to reside permanently in the United States. This group includes, but is not limited to:

- 1) the relatives of United States citizens that are spouses, brothers, sisters, parents, daughters and sons;
- 2) spouses and unmarried children of lawful permanent residents;
- 3) persons admitted as professionals, scientists, artists, skilled workers, and unskilled laborers.

3) CONDITIONAL PERMANENT RESIDENT

When a noncitizen spouse married to a U.S. citizen or a lawful permanent resident applies for permanent residency before the second anniversary of the marriage, she becomes a conditional permanent resident. Almost all women who have conditional residency are married to citizens; few wives of lawful permanent residents receive this status.

4) LEGALIZED IMMIGRANT

Certain persons became eligible to legalize their status under the provisions of the Immigration and Reform and Control Act of 1986. This group included people unlawfully in the United States before January 1, 1982, who continually resided here since that date, and were eligible for the legalization program. The group also includes farm workers who worked during certain periods before May 1, 1986.

5) REFUGEE AND ASYLEE

An immigrant who is afraid of returning to her homeland because she has a well-founded fear of persecution because of her race, religion, nationality, membership in a particular social group or political opinion may apply for political asylum to the United States. If the person applies from outside the United States, she is a refugee; if she applies at a U.S. border or from within the U.S., she may become an asylee.

6) TEMPORARY PROTECTED STATUS (TPS)

Immigrants from countries such as El Salvador, Lebanon, Kuwait, Liberia, Rwanda, Somalia and Bosnia-Herzegovina have been able to stay in the United States under TPS, if they can show they have resided in the U.S. continuously since a particular date. For immigrants from El Salvador, authority to stay in the U.S. has been extended through a program called Deferred Extended Departure.

7) TEMPORARY NON-IMMIGRANT

Non-immigrants are persons who come to the United States for a temporary purpose, and for a temporary period of time, such as visitors for business or pleasure, exchange visitors, students, temporary workers, and trainees.

8) UNDOCUMENTED PERSONS

Undocumented persons, or so-called "illegal aliens," are people who generally are not authorized to be or remain in the U.S. These include people who entered the U.S. illegally, people who entered the U.S. as non-immigrants but violated the conditions of their stay, and people who are deportable on the grounds that they should have been excluded, for example, people who entered on fraudulent documents. Undocumented people can be deported, and are not generally authorized to work.

C. READING MATERIALS

For more information on domestic violence and immigrant women, please see:

- *Domestic Violence in Immigrant and Refugee Communities: Asserting the Rights of Battered Women* (1991) -- available from the Family Violence Prevention Fund, 383 Rhode Island Street, Suite 304, San Francisco, CA, 94103. Phone: (415) 252-8900.
- *Untold Stories: Cases Documenting Abuse by U.S. Citizens and Lawful Residents on Immigrant Spouses* (1993) — available from the Family Violence Prevention Fund
- *Mejor Sola Que Mal Acompañada: For the Latina in an Abusive Relationship* (1985) — available from Seal Press, 3131 Western Avenue, Suite 410, Seattle, WA, 98121. Phone: (206) 283-7844.
- *A Community Secret: the Story of Two Filipinas* (1994) — available from Seal Press.
- *A Needs Assessment of Undocumented Women* (1990) — available from the Coalition for Immigrant and Refugee Rights and Services, 995 Market Street, San Francisco, CA, 94103. Phone: (415) 243-8215.

For information specifically about lesbian battering, please see:

- *Naming the Violence: Speaking Out about Lesbian Battering* (1986) — available from Seal Press.
- *Violent Betrayal: Partner Abuse In Lesbian Relationships* (1992) — available from Sage Publications, Inc., P.O. Box 5084, Thousand Oaks, CA, 91359-9924. Phone: (805) 499-9774.