

May 31, 2012

Hon. Lamar Smith
Chair, Committee on the Judiciary
2426 Rayburn House Office Building
Washington, D.C. 20515

Hon. John Conyers, Jr.
Ranking Member,
Committee on the Judiciary
2426 Rayburn House Office Building
Washington, D.C. 20515

Dear Mr. Smith and Mr. Conyers:

Each of the signatories of this letter is an expert who has spent years conducting and publishing research to enhance our national understanding of the dynamics of domestic violence and sexual assault and the justice system, therapeutic, and social services interventions that are effective to hold perpetrators accountable, protect victims, and help them heal after the trauma of being victimized by violence against women crimes. In particular we have been in the forefront of documenting the particular needs of underserved, immigrant and limited English proficient victims. We are writing to provide the committee with important research based information about how the provisions in HR 4970 roll back and eviserate protections the Violence Against Women Act (VAWA) has since its inception offered for immigrant victims of domestic violence, rape, sexual assault, human trafficking and other violent crimes suffered by non-citizen women and children in the United States.

HR 4970 makes a number of revisions to VAWA self-petitioning and U-visa immigration provisions that, if enacted, will increase the probability of danger to immigrant victims and their children by enhancing the opportunities and tools that domestic violence and sexual assault perpetrators can use to exert coercive power and control over and silence victims. The bill being considered by the House Judiciary committee today will:

- Authorize the Department of Homeland Security (DHS) to inform perpetrators of domestic violence, sexual assault, rape, trafficking and other crimes that the victim has filed for immigration relief
- Mandate the consideration of any credible evidence that the perpetrator provides
- Bar access to VAWA self-petitioning relief until after the police and prosecutors conclude any open investigation or prosecution
- Deny U-visa victims access to lawful permanent residency effectively requiring them to leave the country after their U visa expires
- Take away U-visa protection for any immigrant crime victim who delays and does not file a police report within 60 days of victimization
- Adds a required interview at the beginning of the VAWA self-process in addition to the one the victim must attend before she attains lawful permanent residency through VAWA and require that immigrant victims are interviewed by DHS officials at local offices across the country who lack expertise on domestic violence, child abuse and sexual assault

- Impose severe penalties for inconsistencies between the statements recorded by law enforcement and those made later to DHS.

Below we provide research based findings that raise significant questions about each of these proposals.

Authorize the DHS to tell perpetrators about the victims' immigration case and obtain evidence from the perpetrator.

The risk of violence, abuse, and homicide increases when victims take steps to leave their abusers or get help from the criminal or civil justice systems

Research has found that “domestic violence” or “battering” is primarily a problem of male control over female intimate partners in which men use violence to maintain control over “their women,” a control to which they feel they are entitled.¹ This control impacts the general dynamic of the process of leaving. This control not only is reflected in the actual battering of violence, but that it is used to “entrap” the women into the relationship so they don’t leave.²

Many abusers will resort to a number of strategies to prevent battered women from leaving. Research has found that at least 50 percent of women, who leave their abusers, are followed and harassed or further attacked by them.³ Most domestic abuse victims believe that their abusers will retaliate against them if they attempt to leave to avoid further violence.⁴ Violent men search for their partners once the woman leaves.⁵ The foremost reason women stay with batterers is their knowledge that separation from the abuser will not stop the violence and may actually result in escalation of violence or even their death.⁶

¹ Johnson, M. P. & Ferraro, K. J. (November 2000) “Research on Domestic Violence in the 1990s: Making Distinctions.” *Journal of Marriage and the Family*, Vol. 62, No. 4, pp. 948-963;

Barnett, O. W. (2001). Why battered women do not leave, part 1: External inhibiting factors within society. *Trauma, Violence, & Abuse*, 1, 343-372;

Barnett, O. W. (2001). Why battered women do not leave, part 2: External inhibiting factors (social support) and internal inhibiting factors. *Trauma, Violence, & Abuse*, 2, 3-35.

² Kirkwood, C. (1993). *Leaving abusive partners: From the scars of survival to the wisdom for change*. London, Thousand Oaks & New Delhi: Sage.

³ Brown, M.A. (1986) Social support, stress and health. A comparison of expectant mothers and fathers. *Nursing Research* 35, 72-76

Moore, Donna M. (1979) "An overview of the problem." Pp. 7-32 in Donna M. Moore (ed.), *Battered Women*. Beverly Hills,

CA: SageSaunders, D. G., & Browne, A. (2000). Intimate partner homicide. In R. T. Ammerman & M. Hersen (Eds.), *Case studies in family violence*. (2nd ed., pp. 415-449). New York: Plenum;

Saunders, D. G., & Browne, A. (2000). Intimate partner homicide. In R. T. Ammerman & M. Hersen (Eds.), *Case studies in family violence*. (2nd ed., pp. 415-449). New York: Plenum;

Raj, A., & Silverman, J. (2003). Immigrant South Asian women at greater risk for injury from intimate partner violence. *American Journal of Public Health*, 93, 3, 435-436.

⁴ Browne, A. (1987). *When battered women kill*. New York: Free Press

⁵ Ewing, W., Lindsey, M., & Pomerantz, J. (1984). *Battering: An AMMEND manual for helpers*. Denver, CO: AMMEND

⁶ Between 1995-96, 80 percent of women who were stalked by former husbands were physically assaulted by that partner. *STALKING IN AMERICA: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY* (Center for Policy Research 1997). *See also supra* note 5; B.E. Carlson, *Battered Women And Their Assaultants*, 22 *SOCIAL WORK* 455 (1997).

The Justice Department's National Crime Survey revealed that 75% of all reported domestic abuse was reported by separated or divorced women.⁷ Violence is often triggered by the anger aroused by threatened loss and excessive feelings of dependency---making the period during and after separation an extremely dangerous time.⁸ The risk of assault is greatest when a woman leaves or threatens to leave an abusive relationship.⁹ Nonfatal violence often escalates once a battered woman attempts to end the relationship.¹⁰ According to the American Psychological Association, the threat or reality of separation poses a very real risk of violent retaliation by the abuser. Studies show that the highest risk for serious injury or death from violence in an intimate relationship is at the point of separation or at the time when the decision to separate is made.¹¹ Notably, urban homicide data indicate that foreign-born women are at increased risk for homicide from an intimate partner.¹²

The importance of confidentiality for the safety of victims and their children

Following years of research and experience documenting the multitude of ways domestic violence and sexual assault perpetrators continue to threaten, harm, control and kill their victims, states and the federal government imposed confidentiality protections designed to cut off a perpetrator's access to and influence over their victims. There are a variety of federal and state laws designed to protect the confidentiality of information relating to victims of domestic violence and sexual assault.

These provisions generally restrict the disclosure of information collected by victim service providers and state and federal agencies.¹³ The importance of confidentiality for victims of domestic violence and sexual assault was so central that under the Family Violence Prevention and Services Act (FVPSA) and the Violence Against Women Act any shelter, rape crisis center, domestic violence program, or other victim service program that receives either VAWA or FVPSA funding is barred from disclosing to anyone any information about a victim receiving services, including any locational information.¹⁴

⁷ Bureau of Justice Statistics, Report to the Nation 3 (1988); Caroline W. Harlow, U.S. Dep't of Justice, Female Victims of Violent Crime 1 (1991), at 5 (stating that "separated or divorced women were 14 times more likely than married women to report having been a victim of violence by a spouse or ex-spouse").

⁸ John Bowlby, Violence in the Family as a Disorder of the Attachment and Caregiving Systems, 44 Am. J. Psychoanal. 9, 22--23 (1984).

⁹ See Anne L. Ganley, Domestic Violence: The What, Why and Who, as Relevant to Civil Court Cases, in Domestic Violence in Civil Court Cases: A National Model for Judicial Education 23, 24 (Jacqueline A. Agtuca et al. eds., 1992 see also Elis Desmond, Post--Separation Woman Abuse: The Contribution of Lawyers as "Barracudas", "Advocates", and "Counselors", 10 Int'l J.L. & Psych. 403, 408 (1987).

¹⁰ David Adams, Identifying the Assaultive Husband in Court: You Be the Judge, 13 Response to the Victimization Women & Children 13 (1990). Perpetrators of domestic violence view the abused party's attempts to leave the relationship as the ultimate act of resistance and consequently increase their violence in response to attempts by the victim to leave. Ganley, supra note 9, at 24

¹¹ 2. American Psychological Association. Facts About Family Violence. American Psychological Association Web Site

Dugan, L., Nagin, S. N. Rosenfel, R. (2003) Do domestic violence services save lives. NIJ Journal, , N. 250.

¹² Victoria Frye, Sandro Galea, Melissa Tracy, Angela Bucciarelli, Sara Putnam, and Susan Wilt. The Role of Neighborhood Environment and Risk of Intimate Partner Femicide in a Large Urban Area. American Journal of Public Health: August 2008, Vol. 98, No. 8, pp. 1473-1479

¹³ For information on state victim-advocate confidentiality laws and steps that can be taken to promote victim safety when domestic violence or sexual assault victim advocacy program is assisting an immigrant victim in collecting the documentation the victim will need to file for immigration relief as a VAWA self-petitioner, a U-visa or a T-visa applicant, see: State Confidentiality Statutes (Legal Momentum 2011) available at <http://iwp.legalmomentum.org/reference/additional-materials/vawa-confidentiality/state-confidentiality-laws/State%20Confidentiality%20Chart%207-20%20with%20logo.pdf/view>

¹⁴ See Family Violence Prevention and Services Act ("FVPSA") Pub. L. No. 98-457, § 303(a)(2)(E), 42 U.S.C. § 10402(a)(2)(E) (1984) (mandating that the Federal government may make grants to States only if the States "provide documentation that procedures have been developed, and implemented including

Disclosure of the very fact that a victim is now receiving or has ever received services is prohibited. State funding of domestic violence and rape crisis victim services have similar confidentiality requirements. Programs that violate the confidentiality requirements, risk losing federal or state funding.¹⁵ VAWA, FVPSA and state confidentiality protections were specifically designed to prevent crime perpetrators from being able to stalk, track, threaten, assault or exert coercive control over their victims.

In 1996 Congress created special VAWA confidentiality protections for immigrant crime victims to stop perpetrators from stalking victims and manipulating immigration enforcement officials helping the perpetrator have the victim removed from the United States.¹⁶ Under U.S. immigration laws VAWA's confidentiality provisions were designed to prevent abusers and other crime perpetrators from using the immigration system as a tool of power and control over their victims or as a means to track and stalk their victim.¹⁷ Practitioners continue to report instances in which the perpetrator attempts to discredit a victim in order to deport her or deny her access to legal immigration status. In other instances, perpetrators obtain information about a victim's court case or shelter location as a way to stalk and control their victim. VAWA confidentiality violations create serious, even life-threatening dangers to individuals. They also compromise the trust that immigrant victims place in police, prosecutors and victim services.

In addition to federal laws that protect the confidentiality of victims of domestic violence and sexual assault, many state laws contain confidentiality provisions that protect communications between domestic violence and sexual assault service providers and victims. These confidentiality laws operate in tandem with confidentiality mandates that are part of federal and state funding to enhance protections for victims. State laws provide a broad range of confidentiality protections that shield victims from ongoing abuse and stalking and help victims heal following the trauma of abuse. These protections include: advocate-sexual assault victim privilege (35 states); advocate-domestic violence or shelter worker victim privilege (40 states); Religious worker privilege (47 states); social worker-client privilege (22 states); address confidentiality programs (7 states) and Human trafficking counselor and victim (3 states).

copies of the policies and procedure, to assure the confidentiality of records pertaining to any individual provided family violence prevention or treatment services by any program assisted under this chapter and provide assurances that the address or location of any shelter-facility assisted under this chapter will, except with written authorization of the person or persons responsible for the operation of such shelter, not be made public"); *See also* ACF Grant Opportunities, Family Violence Prevention and Services/Grants to State Domestic Violence Coalitions, *available at*: http://www.acf.hhs.gov/grants/open/HHS-2007-ACF-ACYF-SDVC-0122.html#part_3_1.

¹⁵ See 28 C.F.R. § 70.61 "Department of Justice Uniform Administrative Requirements for Grants: Termination" (stating that awards may be terminated if a recipient materially fails to comply with the terms and conditions of an award); 42 U.S.C. §13925(b) (2) "Violent Crime Control and Law Enforcement: Violence Against Women: Definitions and Grant Provisions: Nondisclosure of confidential or private information."

¹⁶ See generally, Leslye E. Orloff, VAWA Confidentiality, History, Purpose and Violations of VAWA Confidentiality, In *Empowering Survivors: Legal Rights of Immigrant Victims of Sexual Assault* (Legal Momentum; 2011) available at <http://iwp.legalmomentum.org/reference/additional-materials/vawa-confidentiality/training-materials/Ch3-SA-Man--Confidentiality.pdf/view>

¹⁷ 3 See *Hawke v. Dep't of Homeland Sec.*, 2008 WL 4460241, at *7 (N.D. Cal. Sept. 29, 2008) ("[O]ne of the primary purposes of the VAWA confidentiality provision, namely, to prohibit disclosure of confidential application materials to the accused batterer.") (citing 151 Cong. Rec. E2607-07 (2005)).

Professionals who do not have expertise on domestic violence and sexual assault are unlikely to be able to accurately determine the credibility of victims and perpetrators

It is a well-established best practice in the justice system that specialized training is needed to conduct effective interviews of domestic violence and sexual assault victims. Police officers and prosecutors working in domestic violence and sexual assault units receive training on the dynamics of domestic violence and sexual assault so that they can understand the impact that trauma suffered by the victim as a result of the crime will have on how the victim describes the crime perpetrated against her. Without specialized training, interviewers will lack the skill they need to recognize signs of trauma and patterns of abusive behavior, and the perpetrator's coercive control over the victim. Unskilled interviewers without this training are highly likely to discount evidence of abuse, power and control and misconstrue the effects of trauma when making credibility determinations.

Sexual assault has a long-term impact on a victim's life including her privacy, physical safety, housing, education, employment, immigration status and/or economic stability. For some victims, even a single sexual assault can lead to a life plagued with homelessness, depression, and suicide.¹⁸ Nearly one-third of all sexual assault victims develop sexual assault-related Post-Traumatic Stress Disorder (PTSD).¹⁹ Sexual assault victims were more than four times more likely than non-victims of crime to report that they had seriously contemplated suicide, and 13 times more likely than their non-victim counterparts to have made a suicide attempt.²⁰

Domestic violence is a pattern of coercive behavior aimed at gaining and then maintaining power and control over the behavior of an intimate partner. The dynamics of domestic violence, power, control and coercion and how victims cope with abusive relationships all effect how a domestic violence victim is able to describe the abuse they have suffered. Victims of domestic violence suffer from a range of physical and emotional injuries ranging from injuries, wounds, and chronic pain to emotional and psychological injuries including depression, anxiety, panic attacks, decreased self-esteem, symptoms of posttraumatic stress disorder, and social isolation. These problems lead to higher than average risk among victims of suicide, future victimization and perpetration of abuse.

The abuser's power and control over a victim's immigration status significantly increases the likelihood of abuse for immigrant victims.²¹ There is a growing body of research data demonstrating that immigrant women are a particularly vulnerable group of victims of domestic violence. They tend to have fewer resources, stay longer in the relationship, and sustain more severe physical and emotional consequences as a result of the abuse and the duration of the abuse than other battered women in the

¹⁸ Jessica E. Mindlin and Susan Vickers, Eds. *Beyond the Criminal Justice System: using the Law to Help Restore the Lives of Sexual Assault Victims* (Victim Rights Law Center 2007) p. 3

¹⁹ D.G. Kilpatrick, C.N. Edmunds, & A.K. Seymour, *Rape in America: A Report to the Nation*. Arlington, VA, National Center for Victims of Crime (1992) at 7

²⁰ *Id.*

²¹ Hass, G. A., Ammar, N., Orloff, L. (2006) *Battered Immigrants and U.S. Citizen Spouses.* Washington, D.C. Legal Momentum, Immigrant Women Program; <http://legalmomentum.org/legalmomentum/files/dvusc.pdf>, 10 pages

United States²². In particular, research studies have found that abusers of immigrant domestic violence victims actively use their power to control their wife's and children's immigration status and threats of deportation as tools that play upon victim's fears so as to keep their abused spouses and children from seeking help or from calling the police to report the abuse.²³ Any assessment of battered immigrant victims requires both knowledge about violence against women and an understanding about the particularly dynamics that additionally affect immigrant victims. These include power and control over the victim's immigration status, cultural control and isolation as a result of limited English proficiency. Additionally, many battered immigrants come from countries where domestic violence is not considered a crime and where intervention by parties outside of the family or community can arouse distrust, suspicion, and even hostility. Immigrant women are also subject to rampant sexual violence at work.²⁴ Where the perpetrator of the violence is an employer or a supervisor, these individuals use poverty and employer dependence against her. Like immigrant victims of domestic violence, the perpetrators consider these women to be "perfect victims" for sexual exploitation because they are often isolated, thought to lack credibility, generally do not know their legal rights and may lack legal status to live and work in the United States.²⁵

The relationship between the abuser and the abused has been likened to one of the captives and captors in a prisoner of war situation. The complexities of the coping mechanisms developed by the victim in abusive relationships include the victim's control of anger, survival vs. escape, viewing the captor as a protector, mutual dependence. Key ingredients of brainwashing include isolation of the victim from the outside world, humiliation and degradation of the victim, followed by acts of kindness coupled with the threat of a return to the degraded state if some type of compliance is not obtained.

Interviewing women who are victims of abuse requires a professional who understands the woman's fears for herself, her children, her guilt and shame, her immobilization and shock, and the process of self-

²² Id.

²³ Acevedo, M. J. (2000). Battered immigrant Mexican women's perspectives regarding abuse and help-seeking. *Journal of Multicultural Social Work*, 8 (3/4), 243-282;

Ammar, N.H. & Orloff, L. (2007). Battered immigrant women's domestic violence dynamics and legal protections." In Muraskin, R. *It's a crime: Women and justice*, 430-443;

Ammar, N. H., Orloff, L., Dutton, M.A., & Aguilar-Hass, G. (2005). Calls to police and police response: A case study from the Latina immigrant women in the U.S. *Journal of International Police Science and Management*, 7(4), 230-244;

Ammar, N., Alvi, S., Couture, A and San-Antonio, J. (2011, forthcoming); Experiences of Muslim and Non-Muslim Battered Immigrant Women with the Police in the United States: A Closer Understanding of Commonalities and Differences. *Violence Against Women*;

Ammar, N., Orloff, L., Dutton, M.A. and Hass, G. (2012, forthcoming) Battered Immigrant Women in the U.S. and Protection Orders. *Criminal Justice Review*; Erez, E. & Ammar, N. (2003). Violence against immigrant women and systemic responses: An exploratory study. Report submitted to National Institute of Justice in fulfillment of requirements for Grant #98-WT-VX-0030 Washington, DC: US Department of Justice;

Hass, G. A., Ammar, N., Orloff, L. (2006) Battered Immigrants and U.S. Citizen Spouses." Washington, D.C. Legal Momentum, Immigrant Women Program; <http://legalmomentum.org/legalmomentum/files/dvusc.pdf>, 10 pages

Erez, E. & Ammar, N. (2003). Violence against immigrant women and systemic responses: An exploratory study. Report submitted to National Institute of Justice in fulfillment of requirements for Grant #98-WT-VX-0030 Washington, DC: US Department of Justice;

McFarlane, J, Malecha, A., Gist, J., Watson K., Batten, E., Hall I, & Smith S. (2002). Intimate partner violence against immigrant women: Measuring the effectiveness of protection orders. *American Journal of Family Law*, 16, 14, 244-252.

²⁴ Bauer, Mary and Ramírez, Mónica. (2010). Injustice On Our Plates: Immigrant Women in the U.S. Food Industry." *Southern Poverty Law Center*, 42-44.

²⁵ See id. at 42-44.

blame.²⁶ These issues are compounded by ongoing threats of deportation from her abuser to keep her from seeking help, cooperating with law enforcement and in the case of sexual assault in the work place leaving her employment. Many immigrant victims suffer through years of threats of deportation and separation from her children if she takes any steps to leave the abusive relationship. Even when immigrant women obtain protection orders they are less than effective in stopping immigration related threats and abuse with ongoing immigration related abuse accounting for 68.3% of protection order violations.²⁷

Interviewers not only need to have knowledge of intimate partner violence but an understanding of cultural differences as well. When interviewers are untrained in these dynamics they discount or fail to identify the abuse, as a result the cycle of violence continues.²⁸ More particularly for battered immigrant women, any assessment requires not only knowledge about violence against women issues but about culturally sensitive aspects of communication and interaction.²⁹ Many immigrant victims come to the U.S. from countries in which domestic violence and often sexual assault are not prosecuted. Cultural norms discourage), intervention by parties outside of the cultural community and such interventions can arouse distrust, suspicion, and even hostility.³⁰ Interviewers need not only have knowledge of intimate partner violence but an understanding of cultural differences.

Research with immigrant Latinas has found that how the questions are asked about domestic violence make a significant difference in immigrant women's. Asking women about their experiences with domestic violence directly was not as effective as using a more subtle approach, i.e. asking the questions

²⁶ Shalleck, A. (1997). Theory and experience in constructing the relationship between lawyer and client: Representing women who have been abused, 64 TENN. L. REV. 1019, 1046-47.

Benson, S. (2010). Interviewing the domestic violence victim: Incorporating interdisciplinary lawyering skills into the Law curriculum. Law and Economics Working Papers, 107 1-14.

²⁷ Dutton, M.A., Ammar, N., Orloff, L. and Terrell, D. (2006), "Use and Outcomes of Protection Orders by Battered Immigrant Women: Revised Final Technical Report #2003-WG-BX-1004. Prepared for National Institute of Justice Office of Justice Programs, U.S. Department of Justice, Washington, D.C.; Dutton, M. A., Orloff, L. E., & Hass, G. (2000). Characteristics of help-seeking behaviors, resources, and service needs of battered immigrant Latinas: Legal and policy implications. Georgetown Journal of Poverty Law & Policy, 7, 245-305

²⁸ Gondolf & Fisher, 1988); Gondolph, E. W., & Fisher, E.R. (1988). Battered women as survivors: An alternative to treating learned helplessness. Lexington, MA: Lexington Books/D.C. Heath and company.

²⁹ Bent-Goodley, Tricia B. (2005). Culture and Domestic Violence: Transforming Knowledge Development. Journal of Interpersonal Violence, 20(2): 195-203.

Burman, E., S.L. Smailes, and K. Chantler. 2004. "Culture" as a Barrier to Service Provision and Delivery: Domestic Violence Services for Minoritized Women. *Critical Social Policy*, 24(3), 332-357

Campbell, Jacquelyn C. (1999). Sanctions and Sanctuaries: Wife Beating within Cultural Contexts. In D. Ayers Counts, J. K. Brown, and J. C. Campbell (Eds.), *To Have and To Hit: Cultural Perspectives on Wife Beating* (Second Edition) (pp. 261-285). Urbana and Chicago: University of Illinois.

Kasturirangan, Aarati, Krishnan, Sandhya, and Riger, Stephanie (2004). The Impact of Culture and Minority Status on Women's Experience of Domestic Violence. *Trauma, Violence, and Abuse*, 5(4), 318-332.

Lauristen, Janet and Norma White (2001). Putting Violence in Its Place: The Influence of Race, Ethnicity, Gender and Place on the Risk for Violence. *Criminology & Public Policy*, 1(1): 37-59.

³⁰ Haj-Yahia, M. M., & Sadan, E. (2008). Issues in intervention with battered women in collectivist societies: An essay. *Journal of Marital and Family Therapy*, 34, 1-13;

Haj-Yahia, M. M. (2000). Wife abuse and battering in the sociocultural context of Arab Society. *Family Process*, 39(2), 237-255;

Leshem, Y. (2011). The lived experience of ultra-Orthodox divorced women with intimate partner violence. Initial results of research for a doctoral dissertation;

Jae Yop, K., & Ji Hyeon, L. (2011). Factors Influencing Help-Seeking Behavior Among Battered Korean Women in Intimate Relationships. *Journal of Interpersonal Violence*, 26(15), 2991-3012. doi:10.1177/0886260510390946.

using a third person approach.³¹ In addition, asking directly about domestic violence of immigrant women was not effective when using the Abuse Assessment Form which has been adapted to ask more subtle questions that would then lead into the problem of domestic abuse.³² For interviews to effectively detect the existence of domestic violence, language and cultural appropriateness are essential. Researchers have found that when health workers, peers or persons whom the immigrant woman trusts conduct the interview of a victim in their local community or in a familiar setting, immigrant women are more likely to be willing to disclose domestic abuse.³³

“How might domestic violence affect a battered immigrant woman's credibility?”

The psychological impact of physical, psychological, and sexual abuse can interfere with a battered woman's ability to present her case in an effective manner before the court. She may appear, socially withdrawn and passive, highly anxious and cognitively disorganized, terrorized, or numb and detached. Each of these presentations may be related to understandable and "normal" reactions to trauma.³⁴ However, these presentations may make her appear not fully certain and forceful in her testimony. A victim's overall demeanor and oral testimony in court, especially if she is again encountering the batterer in court, may be strongly influenced by these responses. Victims use many strategies in their efforts to, avoid, escape, and stop the violence and abuse against them and their children.³⁵

The effect on U-visa victims of denying them access to lawful permanent residency, effectively requiring them to leave the country after their U visa expires.

How abusers use coercive control over victims, and the relationship between coercive control and physical and sexual abuse

Coercive control in intimate partner violence is a dynamic process linking a demand with a credible threat for noncompliance. An abuser uses coercive control tactics to prevent a partner from engaging in actions that he does not want – instilling the belief or fear that the threatened action will occur if there is

³¹ Rodriguez, R. (1995). Evaluation of the MCN domestic violence assessment form and pilot prevalence study. Migrant Clinicians Network Clinical Supplement.

³² Rodriguez, R. (1995). Evaluation of the MCN domestic violence assessment form and pilot prevalence study. Migrant Clinicians Network Clinical Supplement; Dutton, M.A., Ammar, N., Orloff, L. and Terrell, D. (2006), “Use and Outcomes of Protection Orders by Battered Immigrant Women: Revised Final Technical Report #2003-WG-BX-1004. Prepared for National Institute of Justice Office of Justice Programs, U.S. Department of Justice, Washington, D.C.

³³ (Short, L., Rodriguez, R. (2002). Testing an intimate partner violence assessment icon form with migrant and seasonal farmworker battered women. Women & Health 35 (2/3), 181-192.

³⁴ See *supra* note 2.

³⁵ Examples of strategies women use to avoid, escape or resist batterers: calling the police, calling shelters, leaving the home or scene, complying with the batterer's demands (apparently or superficially), talking to friends, hiding, avoiding the batterer, seeking professional help, "being nice" and not upsetting the batterer, keeping information from the batterer, avoiding conflict and keeping peace, "walking on eggshells", separating or divorcing the batterer, fighting back with physical force, obtaining a gun or other weapon. *Supra* note 5.

not compliance with the abuser's demands and wishes. Coercive control is highly associated with both physical and psychological abuse, regardless of whether reported by either partner.³⁶

Two major types of partner abuse have been identified among victims who seek outside assistance. The first type the abuse is limited to physical and psychological abuse (and it is estimated that this type is prevalent between 20% to 40% of the cases). The second type of abuse where the abused woman is being subjected to coercive control, ongoing pattern that directly targets women's capacity to make independent decisions or to escape from the abusive partner, and that typically includes tactics to isolate, degrade, intimidate and control the victim. The type of abuse is prevalent in 60% to 80% of the cases.³⁷ In one large study, 54% of the men arrested for domestic violence admitted taking their partner's money whereas 79% of the women in another sample reported that their partner limited their access to money.³⁸ In that same study 75% to 95% of the abused women who responded to the surveys endorsed 10 or more of the items identified with coercive control. These items included "monitoring time;" being kept from socializing or seeing their family; and being controlled by threats to take or harm the children.

The major effect of coercive control is a hostage-like sense of entrapment in which a victim's vulnerability to physical and sexual violence is a direct function of the extent to which material deprivation, exploitation and isolation have been deployed to make it impossible for her to effectively resist, report or escape the abusive partner.

A third of the rape victims they studied were sexually assaulted by an abusive partner.³⁹ Conversely, between 35% and 84% of women who seek assistance for domestic violence have also been raped or forced to engage in sex by their partner. In one well designed study, 27% of abused women reported being forced to engage in unwanted sex "often" or "all the time."⁴⁰

Other research suggests that coercive control in abuse cases may elicit psychological trauma even where violence is minimal, has not occurred or has not occurred in many years. In one national study, for instance, the group that reported that highest levels of disabling fear was a population who had not been physically abused for an average of 10 years or more.⁴¹

The overall effect of living in an environment of coercive control can result in serious psychological consequences such as depression and low self-esteem, anxiety, alcohol and substance abuse, and post-

³⁶ Dutton, M.A. and L.A. Goodman, Coercion in Intimate Partner Violence, in 9th International Family Violence Conference 2005: Portsmouth, NH.

³⁷ Evan Stark. Coercive Control: How Men Entrap Women in Personal Life (Oxford, 2007).

³⁸ Buzawa, E. & Hotaling, G. (2003). Domestic Violence Assaults in Three Massachusetts Communities: Final Report. Washington D.C. National Institute of Justice; Tolman, R. (1992). 'Psychological Abuse of Women.' In R. Ammerman & M. Hersen (eds.), Assessment of Family Violence: A Clinical and Legal Sourcebook. New York: John Wiley.

³⁹ Stark, E., & Flitcraft, A. (1996). Women at risk: Domestic Violence and Women's Health. Thousand Oaks, CA: Sage.

⁴⁰ Rees, A., Agnew-Davies, R., & Barkham, M. (2006, June). 'Outcomes for women escaping domestic violence at refuge.' Paper presented at the Society for Psychotherapy Research Annual Conference, Edinburgh, Scotland.

⁴¹ Piispa, M. (2002). 'Complexity of Patterns of Violence Against Women in Heterosexual Partnerships,' Violence Against Women 8 (7), 873-900.

traumatic stress and other anxiety disorders. Those who experience ongoing trauma, such as living with coercive control in the workplace, often report deteriorating physical and emotional health over time. Physical ailments resulting from living in a coercive environment include headaches, insomnia, choking sensations, hyperventilation, gastrointestinal symptoms, and chest, back and pelvic pain. Furthermore, physical ailments may arise as a result of the onset of mental health consequences of coercive control, such as posttraumatic stress disorder. Posttraumatic stress disorder and depression have been linked to a variety of physical health adversities.”

Coercive control, power and control over a victim’s immigration status, and the role it plays in locking immigrant victims in abusive relationships, deterring their help seeking and cooperation with law enforcement

Coercive control tactics (threats for non-compliance) can be readily used by an abusive partner toward an immigrant abused women to control her behavior (including help seeking for the abuse and actions in seeking legal immigration status). Coercive control is associated with both the perception of ongoing threat and increased fear—even after considering the level of physical and psychological abuse.⁴²

The vast majority of battered immigrants who qualify for VAWA relief or for battered spouse waivers are undocumented. They often remain undocumented after years of life in the U.S. because the U.S. citizen and lawful permanent resident spouses never filed or will not cooperate in helping them obtain lawful permanent resident status. Being undocumented contributes to diminished financial resources, as it prevents women from obtaining minimum wage jobs, or benefits such as medical insurance, paid vacation, sick leave, and pensions.⁴³ Immigration status may also limit their access to some types of public assistance or other public resources.

Citizen and lawful permanent resident spouses used their power and control over the immigrant spouse's immigration status to deny their immigrant spouses access to legal immigration status. Among immigrant women married or formerly married to abusive U.S. citizens or lawful permanent residents who could have filed immigration papers on abused immigrant spouse’s behalf, 72.3% never filed immigration papers and those that did file delayed filing for an average of almost 4 years.⁴⁴ Further immigration related abuse appears to contribute to lethality for immigrant women. Immigrants experiencing physical and/or sexual abuse received from their abusers threats of deportation, threats of refusal to file papers, and threats to call immigration authorities at over ten times the rate experienced by

⁴² Dutton, M.A. and L. Goodman, *Coercion in IPV*, in *9th International Family Violence Conference* 2005: Portsmouth, NH.

⁴³ “Undocumented are non-citizens who enter the U.S. without INS permission or whose legal immigration documents have expired since they entered. . . . Although being in the U.S. without documents is not a crime, INS try to remove undocumented individuals when they are identified often through their employment and work placement.” DEANNA JANG, LENI MARIN, GAIL PENDLETON, *DOMESTIC VIOLENCE IN IMMIGRANT AND REFUGEE COMMUNITIES: ASSERTING THE RIGHTS OF BATTERED WOMEN* 53 (1997).

⁴⁴ Giselle Hass et al., *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, *INT’L J. OF CRIMINOLOGY* (Spring 2000).

psychologically abused women.⁴⁵ Threats of deportation are particularly effective when the abuser and the victim have children in common. In such cases threats of deportation are threats of separation from the children. When a U.S. citizen or lawful permanent resident threatens a spouse with deportation and separation from her children, the threats can be a very powerful deterrent to her separation actions, including calling the police, obtaining a protection order, or cooperating in her partner's criminal prosecution.

An undocumented status heightens psychological distress due to the fear of detection and deportation, increases social isolation and leads to further entrapment in an abusive marriage. Undocumented battered immigrant women face the untenable position of increasing their risk if they are identified as such when they seek help. It could inhibit her willingness to seek shelter or other social services that might assist her, since she may incorrectly believe that seeking assistance will lead to her deportation. Furthermore, when a U.S. citizen or lawful permanent resident husband abuses a wife dependent on him to attain legal immigration status in the U.S. for the wife or the children, the threat that he will have her or her children deported if she calls the police or otherwise seeks help to tend the abuse is all the more powerful and effective. For battered immigrants married to U.S. citizens or lawful permanent residents this barrier is often the strongest deterrent to her leaving the abusive relationship and seeking help.

Perpetrators of intimate partner violence are more likely than non-perpetrating partners to engage in immigration-related violence and controlling behaviors including deportation and threats of deportation, withholding of immigration papers, refusal to file change of immigration status. If the perpetrator filed immigration papers on the victim's behalf and she attained legal immigration status based on the marriage, perpetrators continue to threaten the victim telling her that he gave her legal status he can take it away. Until the victim finds her way to assistance from advocates or attorneys the victim does not know that what the perpetrator is telling her is not true. These behaviors continue to occur even after an immigrant victim attains legal immigration status Such immigration-related concerns compromise the likelihood of help-seeking for domestic violence and for fleeing an abusive relationship.⁴⁶

The effect on children when their non-abusive parent is forced by threats of deportation to remain in the abusive relationship

Research has found that a significant number of husbands who frequently abuse their wives also physically abuse their children.⁴⁷ The risk of physical danger to the children in abusive families is

⁴⁵ M.A., Orloff L.E., & Hass, G.A. *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*. (Summer 2000)

⁴⁶ Raj A, Silverman JG. (2002). Violence against immigrant women: the roles of immigrant culture, context, and legal status. *Violence Against Women*, 8(3), 367-398.

Raj A, Silverman JG, McCleary-Sills J, Liu R. (2005). Immigration policies increase South Asian immigrant women's vulnerability to intimate partner violence. *Journal of the American Medical Women's Association*, 60(1), 26-32.

Raj A, Liu R, McCleary-Sills J, Silverman JG. (2007). Domestic violence help-seeking behaviors of South Asian battered women residing in the United States. *International Journal of Victimology*, 14(1) 143-170.

⁴⁷ See Murray Straus, *Victims and Aggressors in Marital Violence*, 23 *AMERICAN BEHAVIORAL SCIENTIST* 681 (1990).

considerable. Many women passively withstand the violence inflicted upon them because it diverts their abusers from violence against the children. Several hundred research monographs published over four decades have documented the harms experienced by children exposed to domestic violence.⁴⁸ Because of this research, the US Congress passed the “Morella” resolution (named after its sponsor, Maryland Republican Connie Morella) recommending that the presumption of custody be given to abuse victims. All but two states have since adapted a version of Morella. Moreover, the National Council of Juvenile and Family Court Judges (NCJFCJ) has strongly promoted its support for rebuttable presumption legislation through its “Green Book” initiative as well as legislation that prohibits joint or unsupervised custody for offending parents. In other words, there is overwhelming sentiment in the policy world that everything possible should be done to limit a child’s exposure to domestic violence and that the preferred way to do this is by protecting the non-offending primary parent.

But what happens to children when victims are forced to remain in abusive relationships? The answer draws on several bodies of research. One body of work shows the extent to which partners use threats of deportation as well as threats to report non-offending partners to child welfare as part of their coercive control.⁴⁹ These threats are particularly effective if the victim fears not only losing her residency in the US but also that she will be separated from her child and that the child will be harmed as a consequence. This is only one example of the widely documented pattern by which abusive parents continually play a child’s safety off against the mother’s, a situation termed “the battered mother’s dilemma.” In this common scenario, the offending parent forces the immigrant mother to choose between protecting a child in ways that put her at risk or keeping herself safe but putting the child at risk, for instance, by leaving the home without the child or reporting the domestic violence to the police. This dilemma is aggravated when it is reinforced by court or other outside agencies, for instance, when a mother has a reasonable fear that the offending partner will be informed if she seeks outside assistance.

Other bodies of research show that harms children experience because of exposure to parental domestic violence are directly proportional to the duration of their exposure. The duration of a child’s exposure to abuse of a parent is often cited as a major factor in determining the nature and extent of the harm s/he experiences alongside the child’s developmental age, the type of abuse involved and the nature of exposure.⁵⁰ The effects of partner violence for both adult and child victims are cumulative, the result of all that has come before, rather than incident specific.⁵¹ Finally, the duration of abuse harms children because it is directly related to the probability that mothers will be disabled in their independent decision-making by coercive control or will develop medical, physical, or psychosocial adaptations to the abuse

⁴⁸ For a summary of these harms, see Chapter 15 in E. Buzawa, C. Buzawa and E. Stark. *Responding to Domestic Violence*. Sage 2012.

⁴⁹ Tolman, R. (1992). ‘Psychological Abuse of Women.’ In R. Ammerman & M. Hersen (eds.), *Assessment of Family Violence: A Clinical and Legal Sourcebook*. New York: John Wiley.

⁵⁰ Edleson, J. (1999). Children’s Witnessing of Adult Domestic Violence. *J. of Interpersonal Violence*, 14, 839. Stark, E. (2002) The battered mother in the child protective service caseload: Developing an appropriate response,” *Women’s Rights Law Reporter* 23, no. 2 (Spring 2002): 107–131.

⁵¹ Shalansky, C., Ericksen, J. & Henderson, A. (1999). Abused women and child custody: the ongoing exposure to abusive ex-partners. *Journal of Advanced Nursing* 29 (2), 416–426.

(such as depression, substance abuse or suicidality, e.g.) that undermine their ability to “mother through domestic violence” and so to protect the child.⁵²

Even though legal custody is granted in 83% of temporary and 80% of permanent protection orders, the respondent retains visitation rights in 60% of the final orders, with only 11 % of cases requiring supervised visitation.⁵³ Whether the father obtains custody of the children or just visitation privileges, his contact with the children separate from the mother usually increases. The risk of the batterer abusing unprotected children is a fear many battered women rightfully feel.

Immigrant battered women are often socialized to be the children's primary caretakers.⁵⁴ If they have young children or children with special needs, the risk of abuse to the children by a father untrained in their developmental needs and care will be of particular concern and will serve as a barrier that will prevent them from leaving the abusive relationship. This situation may in fact cause more problems for the children because witnessing violence in their homes tends to cause particular emotional and behavioral problems. Thus, these children are particularly vulnerable to further stresses.⁵⁵

Furthermore, a battered immigrant may be unwilling to leave because she believes that her abuser will be legally entitled to custody of the children. All of her information about legal rights in the United States is often based on information provided to her by the abuser. She does not know about the laws in most states that require judges to consider domestic violence in custody cases and awards custody to the non-abusive parent. They believe the father will win custody or that unsupervised contact with the father will alienate the children emotionally from them. Women culturally socialized to see family loyalty and attachment as central to family relations will be very susceptible to the abuser's efforts to control and emotionally abuse them by alienating the children from them.⁵⁶

⁵² Stark, E. & Flitcraft, A. (1996) *Women at Risk: Domestic Violence and Women's Health*. Thousand Oaks, CA:Sage.

⁵³ See SUSAN KEILITZ, PAULA HANNAFORD, & HILLERY EFKEMAN, *CIVIL PROTECTION ORDERS: THE BENEFITS AND LIMITATIONS FOR VICTIMS OF DOMESTIC VIOLENCE* (1997).

⁵⁴ See *supra* note 16. See also J. Perilla, R. Bakerman, & F. Norris, *Culture and Domestic Violence: The Ecology of Abused Latinas*, 9 *VIOLENCE AND VICTIMS* (1994).

⁵⁵ See A. Tomkins, S. Mohamed, M. Steinman, R. Macolirii, M. Kenning, & J. Aftank, *The Plight of Children who Witness Women Battering: Psychological Knowledge and Policy Implications* 18 *LAW AND PSYCHOLOGY REVIEW* 137.

⁵⁶ Although research to establish the reliability of the Parent Alienation Syndrome is considered insufficient (in APA, 1996, see *supra* note 5) the concept has been used by family courts to describe one parent's attempts to interfere with the children's attachment to the other parent, a situation found in highly conflictive separations or divorces.

Why victims, and particularly immigrant victims, who have suffered domestic violence, rape, sexual assault, child abuse and other crimes, must not be cut off from the U-visa if they do not file a police report within 60 days after the criminal activity occurred.

The effect of trauma

The effects of trauma – (physical, sexual and psychological abuse, coercive control) can create significant distress for the victim, impair a victim’s ability to function and increase a victim’s vulnerability to revictimization.⁵⁷ Coercive control is also associated with psychological traumatic effects (e.g., PTSD, depression), even after controlling for level of physical and psychological abuse. Resilience following violence and abuse is made more likely by the support of family and friends, as well as the institutions that can offer protection and help.⁵⁸ Victims of interpersonal violence, relative to non-victims, are more likely to be depressed, anxious and report a history of suicidality,⁵⁹ mental health concerns that would severely inhibit expedient action to protect ones’ self.

“Intimate abuse leads to health problems for the victim, such as bruises, broken bones, cuts, miscarriages, internal injuries, scars, damage to joints, and partial loss of hearing or vision among others. In addition, battered women often suffer from longer term health problems such as permanent injuries or organ malfunction, chronic headaches, recur-rent vaginal infections, and unwanted pregnancies. In sum, living in a violent home has a profound effect on the physical and mental health of battered women.⁶⁰ Poor health status or health concerns for themselves or their children can be a significant deterrent to a battered immigrant to leaving her abuser. In spite of their increased health risks, women and children in violent homes often receive less medical care than women and children living in a non-violent home.⁶¹ Dependence upon a husband's medical insurance and fear that government health assistance will not be available for her or her children can keep a woman locked in the violent relationship.

Aside from medical problems, short and long terms psychological effects of battering have been well documented in medical, psychological and social work literature. Older literature conceptualized the

⁵⁷ Dutton, M.A. and L. Goodman, *Coercion in IPV*, in *9th International Family Violence Conference* 2005: Portsmouth, NH.

Dutton, M.A., L.A. Goodman, and L. Bennett, *Court-involved battered women's responses to violence: The role of psychological, physical, and sexual abuse*. *Violence & Victims*, 1999. **14**(1): p. 89-104.

Dutton, M.A., L.A. Goodman, and L. Bennett, *Court-involved battered women's responses to violence: The role of psychological, physical, and sexual abuse.. in Psychological abuse in violent domestic relations*. 2001. p. 177-195.

⁵⁸ Dutton, M.A. and R. Greene, *Resilience and crime victimization*. *J Trauma Stress*, 2010. **23**(2): p. 215-22.

⁵⁹ Hurwitz EH, Gupta J, Liu R, Silverman JG, Raj A. (2006). Intimate partner violence associated with poor health outcomes in US South Asian women. *Journal of Immigrant and Minority Health*. **8**(3), 51-61

⁶⁰ Battered women are 4 to 5 times more likely than non-battered women to require psychiatric treatment and 5 times more likely to attempt suicide, abuse may be the single most important precipitant for female suicide yet identified. E. Stark & A. Flitcraft, *Spouse Abuse, in VIOLENCE IN AMERICA: A PUBLIC HEALTH APPROACH* 14 (Rosenburg & Fenley, eds. 1991). For extensive description of physical effects of violence see M. Koss, P. Koss & J. Woodruff, *Deleterious Effects of Criminal Victimization on Women's Health and Medical Utilization*, 151 *ARCHIVES OF INTERNAL MEDICINE* 342 (1991).

⁶¹ *DIAGNOSTIC AND TREATMENT GUIDELINES ON DOMESTIC VIOLENCE* (American Medical Association 1992).

Battered Woman's Syndrome, a concept no longer considered appropriate.⁶² The most extensive research of battering and its effects comes from traumatology studies and the Post Traumatic Stress Disorder literature.⁶³ Symptoms such as depression, anxiety, mood disorders, dissociation, substance abuse and suicidal attempts have also been found to be associated to the trauma of intimate violence.⁶⁴

Repeated victimization progressively heightens a battered woman's fears, terror and perception of intimidation, weakening her ability to act to stop the violence.⁶⁵ Multiple victimizations across the life span have been linked to the battered woman's clinical presentation and response to the abuse.⁶⁶ In this sense, tolerance for stress is permanently harmed by the cumulative experience of trauma, and women who have been traumatized numerous times during their life time tend to be more vulnerable and respond in less adaptive ways to further victimization. Past trauma has been identified as a risk factor for women to remain longer in abusive relationships.⁶⁷

Thus, many battered immigrants who may have been exposed in their home countries to other forms of victimization such as child abuse, torture, rape, warfare and natural disasters are more vulnerable to the effects of violence by their intimate partner than are battered women who have not had such experiences.⁶⁸ Women who have been subjected in their home countries to culture-bound practices designed to make them more acceptable and desirable to men, such as genital mutilation, child marriage, or pathological dieting, may have been emotionally scarred by such experiences.⁶⁹ The immigration process also places women at risk of further traumatization since many women may experience rape and sexual assault during travel to the U.S. or by employers who take advantage of them in the U.S.

Whether the children are abused by the batterer or are merely exposed to the domestic violence, they may present symptoms related to the stress and traumatization. A battered woman's stress can be compounded when the children present symptoms and maladaptive behaviors which she needs to address. Separation from a battering partner does not guarantee removing the children from the violence when there will be ongoing contact through visitation. Thus, many battered women fearing that the legal struggles, relocation, financial uncertainty and the potential risks of a continued relationship with the

⁶² "The term Battered Women Syndrome does not adequately reflect the breadth or nature of the empirical knowledge about battering and its effects." THE VALIDITY AND USE OF EVIDENCE CONCERNING BATTERING AND ITS EFFECTS IN CRIMINAL TRIALS: RESEARCH REPORT vii (National Institute of Justice 1996).

⁶³ This diagnosis was originally conceived to accommodate normal persons who develop psychological symptoms because of the nature of the trauma experienced, a no longer required criteria to be met in the newest revision of this diagnosis. DIAGNOSTIC AND STATISTICAL MANUAL OF MENTAL DISORDERS (American Psychiatry Association 1980 & 1994).

⁶⁴ See description of symptoms related to intimate violence in M. Koss, *supra* note 42.

⁶⁵ Mary Ann Dutton & K. Chrestman, *Multiple Victimization Across Trauma Groups*, Paper presented at the Seventh Annual Meeting of the International Society for Traumatic Stress Studies, Washington D.C. (1991).

⁶⁶ See *supra* note 33.

⁶⁷ See R.J. Gelles, & C. Cornell, *INTERNATIONAL PERSPECTIVES IN FAMILY VIOLENCE* (1983).

⁶⁸ Historically, women have been subjected to rape in wars. Mass rapes have been reported to occur recently in the civil wars of Bosnia, Cambodia, Liberia, Peru, Somalia, and Uganda. S. Swiss & J. Giller, *Rape as Crime of War: A Medical Perspective*, 270 JAMA 612 (1993).

⁶⁹ See L. Herse, J. Pitanguy & A. Germain, *VIOLENCE AGAINST WOMEN: THE HIDDEN HEALTH BURDEN* (1994).

batterer during visitation will prove to be more damaging to the children and worsen their children's psychological state, will choose instead to remain with their abusers.

Fear of deportation

Cases of battered immigrants are ultimately complicated by their abuser's use of immigration status as a tool of control. Research on domestic violence conducted among immigrants indicates that immigrant women are very often victims of domestic violence due to vulnerability related to their immigration status.⁷⁰ Deportation is a weapon for abusers to threaten their immigrant partners, regardless of their partners' immigration status. Batterers often use lawful immigration status to intimidate and coerce their partners to stay or comply with their demands. Abusers of undocumented immigrant women also threaten to contact immigration authorities if the victim reports the abuse⁷¹. Fears surrounding deportation are often aggravated because abusers convince immigrant victims that they will lose custody and be permanently severed from any relationship with their children through deportation.⁷² Threats of deportation and actual deportation (e.g., sending wives back to countries of origin without allowing them

⁷⁰ Abraham, M. (2000a). *Speaking the unspeakable: Marital violence among south Asian immigrants in the United States*. New Brunswick, NJ: Rutgers University Press;

Abraham, M. (2000b). Isolation as a form of marital violence: The South Asian immigrant experience. *Journal of Social Distress & the Homeless*, 9, 221-236;
Acevedo, M. J. (2000). Battered immigrant Mexican women's perspectives regarding abuse and help-seeking. *Journal of Multicultural Social Work*, 8 (3/4), 243-282;

Ammar, N. H. (2000). Simplistic stereotyping and complex reality of Arab-American immigrant identity: Consequences and future strategies in policing wife battery. *Islam and Christian-Muslim Relations*, 11, 51-70;

Ammar, N.H. & Orloff, L. (2006). Battered immigrant women's domestic violence dynamics and legal protections." In Muraskin, R. *It's a crime: Women and justice*, 430-443;

Ammar, N. H., Orloff, L., Dutton, M.A., & Aguilar-Hass, G. (2005). Calls to police and police response: A case study from the Latina immigrant women in the U.S. *Journal of International Police Science and Management*, 7(4), 230-244;

Bui, H.N. (2003). Help-seeking behaviour among abused immigrant women: A Case of Vietnamese American women. *Violence Against Women*, 9 (2), 207-239;

Dutton, M. A., Orloff, L. E., & Hass, G. (2000). Characteristics of help-seeking behaviors, resources, and service needs of battered immigrant Latinas: Legal and policy implications. *Georgetown Journal of Poverty Law & Policy*, 7, 245-305;

Erez, E. & Ammar, N. (2003). Violence against immigrant women and systemic responses: An exploratory study. Report submitted to National Institute of Justice in fulfillment of requirements for Grant #98-WT-VX-0030 Washington, DC: US Department of Justice;

Ferraro, K & Pope, L. (1993). Irreconcilable differences: battered women, police and the law. In Z.N. Hilton (Ed.) *Legal responses to wife assault*. (PP. 36-61). Newbury Park, CA: Sage Publications;

Hass, G. A., Dutton, M.A. & Orloff, L.E. (2000). Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications. *International Review of Victimology*, 7, 93- 113;

Latta, R.E., & Goodman, L.A. (2005). Considering the interplay of cultural context and service provision in intimate partner violence: The case of Haitian immigrant women. *Violence Against Women*, 11(11), 1441-1464;

⁷¹Anderson, Michelle J. 1993. "A License to Abuse: The Impact of Conditional Status on Female Immigrants." *Yale Law Journal* 102:1401-1430.

Erez, Edna, Ammar Nawal, (2003). Violence Against Immigrant Women and Systemic Responses: An Exploratory Study. A report submitted to the National Institute of Justice, Washington DC.

⁷² Ammar, N.H. & Orloff, L. (2006). Battered immigrant women's domestic violence dynamics and legal protections." In Muraskin, R. *It's a crime: Women and justice*, 430-443;

Ammar, N. H., Orloff, L., Dutton, M.A., & Aguilar-Hass, G. (2005). Calls to police and police response: A case study from the Latina immigrant women in the U.S. *Journal of International Police Science and Management*, 7(4), 230-244;

Ammar, N. H., Orloff, L., Dutton, M.A., & Aguilar-Hass, G. (2005). Calls to police and police response: A case study from the Latina immigrant women in the U.S. *Journal of International Police Science and Management*, 7(4), 230-244

funds or visa paperwork for a return flight to the US) are experiences reported by immigrant victims of domestic abuse. Fears regarding deportation keep immigrant victims from turning to criminal justice systems when abuse occurs.⁷³

“Why would a battered immigrant woman find it difficult to return to her home country, whether voluntarily or through deportation?”

Immigrant women often leave their countries of origin to escape poverty, violence, and other dangerous conditions.⁷⁴ Many times, they confront violence in migration to the United States, including assaults, kidnapping, robbery and rape.⁷⁵ In fact, sadly, undocumented immigrant women today report that rape is a common risk faced by undocumented immigrant women who travel to the United States.⁷⁶ Thus, the risk of returning to their home-country under any circumstances is anxiety-inducing and devastating. These women cannot imagine having to return to a country that they may have fled, having to face possible violence as they migrate back to their countries of origin and still yet being vulnerable to continued abuse and harm at the hands of the perpetrator or the perpetrator’s associates or family upon returning to her native land.

Many people who do not fully understand the dynamics of domestic violence, the psychology of abusers, the effect of abuse on victims, and victim's needs to heal wrongly believe that a battered immigrant woman may be better off in her home country where she can find familiar surroundings, the protection of family and can be separated from the abuser once and for all. For many immigrant domestic violence victims returning home will actually increase the danger to her. Deportation does not necessarily stop the violence or insulate her from the abuser's ongoing control. Abusers of immigrant women often find many ways of continuing to abuse and control her. He may damage her reputation so that no one in her home country will help or employ her. He may use his own network of family and friends in that country to boycott her efforts at reintegration.

Abusers who are citizens or lawful permanent residents may follow her to the home country to continue the abuse. If the abuser is deported to her home country deporting her to the same country can pose significant danger to her. In many countries, domestic violence is only recently being identified as a social problem and legal and community services to protect victims are non-existent or still very much in

⁷³ Raj A, Silverman JG. (2002). Violence against immigrant women: the roles of immigrant culture, context, and legal status. *Violence Against Women*, 8(3), 367-398.

Raj A, Silverman JG, McCleary-Sills J, Liu R. (2005). Immigration policies increase South Asian immigrant women’s vulnerability to intimate partner violence. *Journal of the American Medical Women’s Association*, 60(1), 26-32.

Raj A, Liu R, McCleary-Sills J, Silverman JG. (2007). Domestic violence help-seeking behaviors of South Asian battered women residing in the United States. *International Journal of Victimology*, 14(1) 143-170.

⁷⁴ Bauer, Mary and Mónica Ramírez. (2010). *Injustice on Our Plates: Immigrant Women in the U.S. Food Industry*. Southern Poverty Law Center.

⁷⁵ *See id.* at 17 (citation omitted).

⁷⁶ *See id.* at 16-17.

their infancy compared with the U.S.⁷⁷ Lack of social services for abuse victims and lack of enforceable laws to protect them increase the likelihood that violence perpetrated in the victim's home country could be even more damaging as it goes undetected and unpunished.

If the battered woman fled her country to escape political turmoil, economic depression or domestic violence perpetrated there, the return to such unbearable conditions is very frightening. Even in a home country with the best of circumstances, the battered immigrant will have to start over again obtaining employment, building a social network, procuring housing and finding a support system that can help her survive the trauma of both the violence and the deportation. If the battered immigrant has a child with a U.S. citizen or lawful permanent resident abuser, deportation may result in loss of custody of the children and may sever her permanently from them. If she takes the children with her she may be forced to violate court ordered visitation and will risk parental kidnapping by the abusive father back to the U.S. where she can never see her children again.

Further, cultural values against a divorced or separated woman can make the return unbearably painful and can undermine her social reintegration. A woman who returns to the home country having lost her husband and children may run the risk in some societies of having her own family turn against her. This is particularly true in cultures that value family unity and respectability at any cost.

Battered immigrant women who have established a life in the U.S. may fear losing her home, friends, social support group, and even her children, by virtue of the deportation process. Many battered women may have some or all of their family in the U.S., which makes returning to their home country an undesirable option as it will result in loss of family contact. For an immigrant battered woman who has developed a positive support network of family and friends in the U.S., their shelter, their protection, their advice and support tend to greatly alleviate her stress and assist her to protect herself as well as her children. Given the difficulties in procuring positive social support, its loss can be devastating for the immigrant battered woman who faces deportation. Fear of losing their social support network through deportation could result in significant psychological harm and could hinder the abused victim's ability to escape from the abusive relationship.

The prospect of potential deportation could exacerbate a battered immigrant woman's feelings of depression, loneliness, and despair. Such an increase in depression and hopelessness may even increase the likelihood of suicide attempts. Deportation will in many instances significantly hinder a battered immigrant woman's ability to recover from the psychological impact of past abuse. If she believes that she may be deported if she leaves her husband, she may choose to stay with the abuser despite risks of further injury.

⁷⁷ In Guatemala, for example, the Civil Code grants a husband the right to prohibit his wife from working outside the house; in Ecuador, a husband had the right to force his wife to live with him regardless of the abuse; in Chile divorce is illegal for any reason; in Pakistan the law considers a woman incompetent as a witness in cases of rape, which makes any conviction very hard to obtain.

When a battered immigrant has children who were born in the United States, she may fear either losing them or moving them to a country where conditions can be very difficult and where she and they may be ostracized. U.S. citizenship provides her children opportunities in life and the possibility of greater societal protection than she encountered while growing up in her own country. Battered immigrants who contemplate deportation or voluntary return to their home countries must weigh the effects this move will have on U.S. citizen children and the risks of losing custody to the abuser.

The effect of threats and retaliation from the abuser including deportation threats

Intimidation tactics accompany physical abuse in 60% to 80% of abusive relationships and are designed to keep abuse secret and to instill fear, dependence, compliance, loyalty, and shame. Offenders induce these effects in three ways primarily—through threats, surveillance, and degradation. Intimidation succeeds because of what a victim has experienced in the past or believes her partner will or may do if she disobeys, the “or else” proviso.

Virtually every abuse victim reports that her partner has threatened to hurt or kill her, hurt or kill her children, family or friends. In one sample of women who sought outside assistance for abuse, 79.5% reported that their partner threatened to kill them at least once, and 43.8% did so “often” or “all the time.” In addition, 60% of the men threatened to have the children taken away, 36% threatened to hurt the children, 63% threatened their friends or family, and 82% threatened to destroy things they cared about.

Stalking is the most prevalent form of surveillance used by abusive partners. Partner stalking is distinguished by its duration—lasting 2.2 years on average, twice the typical length of stalking by strangers—its link to physical violence, and its combination with complementary forms of intimidation and control. Of the 4.8 million women in a U.S. who reported being stalked by present or former partners, 81% were physically or sexually assaulted (31%); 61% received unsolicited phone calls, 45% were also threatened verbally or in writing, and roughly 30% had their property vandalized or received unwanted letters or other items.⁷⁸ But stalking falls on a continuum with a range of surveillance tactics whose aim is to convey the abuser’s omnipotence and omnipresence and let his partner know she is being watched or overheard and that he will know if she reports his abuse. These tactics include monitoring a woman’s calls, mail, e-mails, face-book or internet use; going through their drawers, hand-bags, wallets or bank records; cyber-stalking with cameras or global positioning devices, having co-workers or others report on her whereabouts or activities, a pattern termed “harassment through the network.”

Intimidation is particularly effective when a victimized partner is also isolated and regulated as well as threatened. In a US sample of abused women, 79% were not allowed to socialize, 60% were kept from seeing their family, 54% had their use of the car restricted and 62% were not allowed to leave the house with 47% reporting this happened often or “all the time.”⁷⁹ Few of these threats were reported. Many of the same tactics used to extract information or compliance from hostages are deployed by abusive partners to intimate victims, including withholding or rationing food, money, clothes, medicine, or other

⁷⁸ Tjaden, P., & Thoennes, N. (2000). *Extent, nature, and consequences of intimate partner violence: Findings from the National Violence Against Women Survey*. Washington, DC: U.S. Department of Justice

⁷⁹ Tolman, R. (1989). ‘The Development of a Measure of Psychological Maltreatment of Women by Their Male Partners,’ *Violence and Victims* 4 (3), 159–177.

things. Thirty-eight percent of the men in a one sample stopped their partner from getting medicine or treatment they needed and 29% of the men in a US study did so.⁸⁰

Because immigrant women may already be isolated by language barriers, residential status, religious practices or other cultural factors, they are particularly susceptible to being controlled through intimidation tactics, particularly if the abusive partner is native-born. Language barriers allow the abusive partner to threaten her in ways that are unintelligible to outsiders, including police or other helpers, or which may even sound like love. Alongside the threat to have an immigrant woman deported, abusive partners commonly play off their partners ignorance of US law, child welfare practices, local geography and their isolation from their family of origin and may convince them that any attempt to seek protection from police will backfire and jeopardize their employment and residential status. In these cases, the immigrant woman may isolate herself by limiting her socializing to co-workers. If she depends on her partner to translate, meanwhile, further jeopardizing her safety if she seeks help.

Lack of knowledge that what they have suffered is a crime in the United States

Immigrants are less likely than native US residents to be aware of laws against domestic violence, as these are not common in many nations of origin. Newer immigrants are less likely than those who have been in the US longer to be aware of legal consequences of interpersonal violence in the US.⁸¹ In the U.S. generally it is estimated that women subjected to violence by an intimate partner fail to report the crime to law enforcement agents six times more often than women experiencing violence by a strangers.⁸² Immigrant battered women are even more reluctant to report the violence due to the lack of understanding of their legal rights and their undocumented immigration status, resulting in fear of detection and deportation. In some cases, women reported that they did not know that they had rights against the violence being committed against them.⁸³ Instead, they believed that they just had to endure the harm against them.⁸⁴

Battered immigrants do not know that they can safely seek help from shelters, police and the courts without risking being reported to immigration officials. Immigrant women frequently lack the knowledge and understanding of the various social and legal systems that can help them. Many come from countries in which police and courts offer no protection to battered women and when women do seek help those

⁸⁰ Rees op cit. 2006; Tolman op cit. 1989

⁸¹ Raj A, Silverman JG. (2002). Violence against immigrant women: the roles of immigrant culture, context, and legal status. *Violence Against Women*, 8(3), 367-398.

Raj A, Liu R, McCleary-Sills J, Silverman JG. (2007). Domestic violence help-seeking behaviors of South Asian battered women residing in the United States. *International Journal of Victimology*, 14(1) 143-170.

Raj A, Silverman JG (2003). Immigrant South Asian women at greater risk for injury from intimate partner violence. *American Journal of Public Health*, 93(3), 435-437.

⁸² Also, only about half of the incidents of intimate violence experienced by women are reported to the police. *VIOLENCE BY INTIMATES: ANALYSIS OF DATA ON CRIMES BY CURRENT OR FORMER SPOUSES, BOYFRIENDS, AND GIRLFRIENDS*, BUREAU OF JUSTICE STATISTICS (1998).

⁸³ Bauer, Mary and Ranírez, Mónica. (2010) *Injustice On Our Plates: Immigrant Women in the U.S. Food Industry*. Southern Poverty Law Center, 44

⁸⁴ *See Id.*

husbands who have more money and ties to the government can have the case dismissed.⁸⁵ Additionally, for those women fleeing civil war and social violence in their home countries, law enforcement and government agencies may evoke memories of torture, imprisonment or assault perpetrated by those institutions in their home country against their family or themselves. Thus, negative expectations about help that may be available and conflicting beliefs regarding help seeking behavior may also limit immigrant women's utilization of services and ability and willingness to call police for help.⁸⁶

Cultural barriers to reporting

Studies have shown that women from immigrant cultures in which women are expected to be subservient to male family members frequently delay reporting abuse even to other family members, and may take a long time before they report the abuse to state authorities. Feelings of shame that they are being abused and fear of bringing shame onto their family and being ostracized from their ethnic communities if they report the abuse are significant barriers to immigrant women reporting domestic violence.⁸⁷

For some immigrants, cultural values that dictate gender specific roles and behavior may require conformity to male authority. In some cultures, women's suffering and perseverance in the face of adversity are highly valued virtues.⁸⁸ For battered immigrants acculturating to life in the U.S. including taking steps toward independence (e.g. learning English) may lead in the short term to an increase in the abuse, due to the man's perceived loss of power and sense of incompetence.⁸⁹

Breaking up the family can be very difficult for immigrant women whose cultural mandates to keep the family together can be very strong.⁹⁰ Some immigrant women may hold cultural and/or religious values that reinforce tolerating the abuse. Some cultural communities will censure women who disclose

⁸⁵ Raj A, Silverman JG. (2002). Violence against immigrant women: the roles of immigrant culture, context, and legal status. *Violence Against Women*, 8(3), 367-398.

Raj A, Liu R, McCleary-Sills J, Silverman JG. (2007). Domestic violence help-seeking behaviors of South Asian battered women residing in the United States. *International Journal of Victimology*, 14(1) 143-170.

Raj A, Silverman JG (2003). Immigrant South Asian women at greater risk for injury from intimate partner violence. *American Journal of Public Health*, 93(3), 435-437.

⁸⁶ See P. Ruiz & J. Langrod, *Cultural Issues in the Mental Health of Hispanics in the United States*, 2 THE AMERICAN JOURNAL OF SOCIAL PSYCHIATRY 35 (1982). See also M.J. O'Sullivan, & B. Lasso, *Community Mental Health Services for Hispanics: A Test of the Culture Compatibility Hypothesis*, 14 HISPANIC JOURNAL OF BEHAVIORAL SCIENCES 455 (1992); R.F. Munoz, *The Spanish-Speaking Consumer and the Community Mental Health*, in MINORITY MENTAL HEALTH 362 (E.E. Jones & S.J. Korchin, eds.).

⁸⁷ Han, A.D., Kim, E.J., and Tyson, S.Y. (2010). Partner violence against Korean immigrant women. *Journal of Transcultural Nursing*, 21(4):370-376.

Rhee, S. (1997). Domestic violence in the Korean immigrant family. *Journal of Sociology and Social Welfare*, 27, 63-77.

Bui, H., & Morash, M. (1999). Domestic violence in the Vietnamese community: An exploratory study. *Violence Against Women*, 5, 769-795.

⁸⁸ See *supra* note 16. See also O.M. ESPIN, *LATINA REALITIES: ESSAYS ON HEALING, MIGRATION & SEXUALITY* (1997). See also C.G. Tran, *Domestic Violence Among Vietnamese Refugee Women: Prevalence, Abuse Characteristics, Psychiatric Symptoms, And Psychological Factors* (Unpublished doctoral dissertation, Boston University 1997).

⁸⁹ See Perilla, Bakerman & Norris, *The Ecology Of Abused Latinas*, 9 VIOLENCE AND VICTIMS 325 (1994); S. Torres, *A Comparison Of Wife Abuse Between Two Cultures: Perceptions, Attitudes, And Extent*, 12 ISSUES IN MENTAL HEALTH NURSING 113 (1991).

⁹⁰ See *supra* notes 16 and 35.

abuse and escape from a husband by shaming her or her family members, through ostracism and social sanctions, regardless of the husband's violence and transgressions. Divorce as an option to escape an abusive relationship is often seen by the abused as a further complication. Divorce and remarriage are socially stigmatized in some cultural and religious subgroups, and these women and their children tend to be ostracized by their communities.⁹¹ For some immigrant women cultural and religious values consider marriage as permanent and sacred. In other cultures divorce can only be initiated by the husband.⁹² Immigrant battered women bound by these beliefs may find it difficult to break away and reach out for help.

Social expectations that women have to remain in the role of caretakers within their families are also barriers to escaping abusive relationships. Religious beliefs and cultural mandates that censure divorce and mandate sacrificing for the reputation and union of the family may be used by relatives and friends of battered women to advise her to stay with her abuser. For many immigrant women who may come from cultures where women are expected to remain in marriage regardless of the negatives, acting contrary to those beliefs can have a serious impact and can increase danger to the victim.

In some cultures even the presence of relatives who witness the violence may not deter the batterer. Cultural mandates to keep private matters within the family may limit the battered woman's access to support beyond the batterer and the extended family. Family members may place keeping domestic violence a family secret above the victim's safety and in doing so may reinforce the batterer's position of authority. The traditional disempowerment of women in immigrant and refugee families reinforces many women's hesitation to seek help as it involves taking a decisive action against a family member, often considered inappropriate for her role.

Language barriers to reporting

In communities across the country many law enforcement agencies, courts and prosecutors offices are not language accessible. The majority of studies have found that for immigrant victims of domestic violence and sexual assaults who are limited English proficient finding a way to communicate with law enforcement officials is the main obstacle to their making police reports, and seeking or receiving services.⁹³ Many immigrant women are not proficient in English even if they have literacy skills in their own language.

For victims who speak a language other than Spanish, the problem is even more acute. For less commonly spoken languages, hospitals and police may be significantly delayed in providing adequate interpretation services or require a victim to arrange for her own interpretation services⁹⁴. When police,

⁹¹ See *Tran supra* note 35.

⁹² See N. Kibria, *Power, Patriarchy, And Gender Conflict In The Vietnamese Immigrant Community*, 4 GENDER AND SOCIETY 9 (1990).

⁹³ Erez, Edna, Ammar Nawal, 2003. Violence Against Immigrant Women and Systemic Responses: An Exploratory Study. A report submitted to the National Institute of Justice, Washington DC.

prosecutors and hospitals do not provide language access to their services, victims cannot make police reports. These barriers can lead to significant delays in successfully reporting victimization.

The lack of language access to police and hospital assistance also contributes to immigrant and refugee victims' lack knowledge about the assistance, leaving them without the ability to even find out where a hospital or police station was. Researchers document victims who report not being able to effectively explain the details of the crime to police and being told that "we're going to die in the house because I do not know how to get to the hospital."⁹⁵

When law enforcement agencies and courts fail to secure qualified interpreters and rely instead on the victim's friends, neighbors, relatives, and community members police reports that are taken are very likely to not accurately reflect what the victim told the officer in her native language. Very often children of battered immigrant women who are fluent in English are asked to translate. Such requests may endanger the children as the abuser may view them as colluding with their mother against him.⁹⁶ This is particularly true when the perpetrator speaks English and the victim does not. In these cases even when the victim calls the police for help, police who arrive on the scene may never talk to the victim receiving their information instead from the English speaking perpetrator.⁹⁷

Access to the courts for protection orders is similarly limited by language access concerns.⁹⁸ As a result, battered immigrants with limited English proficiency are often either hesitant to seek help from the court and to report abuse to the police. When victims do try they can be turned away and forced to find their own interpreter, or required to make repeated visits until an interpreter is available.⁹⁹

⁹⁵ Nawyn, Stephanie J., Gjakaj, Linda, AgbÃ©nyiga, DeBrenna F., and Grace, Breanne. 2012. "Linguistic isolation, social capital, and immigrant belonging." *Journal of Contemporary Ethnography*, 41(3), 255-281.

⁹⁶ American Bar Association (1994). *The impact of domestic violence on children*. Washington D.C.

Ammar, N. H., Orloff, L., Dutton, M.A., and Aguilar-Hass, G. (2005). Calls to police and police response: A case study from the Latina immigrant women in the U.S. *Journal of International Police Science and Management*, 7(4), 230-244.

Bui, H.N. (2003). Help-seeking behaviour among abused immigrant women: A Case of Vietnamese American women. *Violence Against Women*, 9 (2), 207-239.

Dutton, M.A., Ammar, N., Orloff, L. and Terrell, D. (2006), "Use and Outcomes of Protection Orders by Battered Immigrant Women: Revised Final Technical Report #2003-WG-BX-1004. Prepared for National Institute of Justice Office of Justice Programs, U.S. Department of Justice, Washington, D.C.

Orloff, L., & Kaguyutan, J. V. (2002). Offering a helping hand: Legal protection for battered immigrant women: A history of legislative responses. *American University Journal of Gender, Social Policy and the Law*, 10, 95-183.

⁹⁷ Leslye E. Orloff, Mary Ann Dutton, Giselle Aguilar Hass and Nawal Ammar, Battered Immigrant Women's Willingness to Call the Police for Help and Police Response, 13:43 *UCLA Women's Law Journal* (Spring 2003)

⁹⁸ BRENDA UEKERT ET AL., NATIONAL CENTER FOR STATE COURTS, SERVING LIMITED ENGLISH PROFICIENT (LEP) BATTERED WOMEN: A NATIONAL SURVEY OF THE COURTS' CAPACITY TO PROVIDE PROTECTION ORDERS (2006), *available at* http://www.ncsconline.org/D_Research/Documents/LEP_NIJFinalReport.pdf

⁹⁹ Abu-Ras, W. (2007). Cultural beliefs and service utilization by battered Arab women. *Violence Against Women*, 13(10), 1002-1028.

Raj, A., Silverman, J. G., McCleary-Sills, J. & Liu, R. (2005). Immigration policies increase South Asian immigrant women's vulnerability to intimate partner violence. *Journal of the American Medical Women's Association*, 60,1, 26-32. responses: An exploratory study. Washington, DC: US Department of Justice.

Runner, M., Yohsihama, M., and Novick, S., (2009) *Intimate Partner Violence in Immigrant and Refugee Communities.*, (Family Violence Prevention Fund, San Francisco)

When official interpreter services are available they may not be sufficient to counter communication problems with officials. Interpreters are still not routinely available in encounters with the justice system. Moreover, the degree to which interpreters are trained in domestic violence language interpretation and are unbiased, particularly if they are drawn from newly arrived communities, remains problematic.¹⁰⁰

Conclusion

We are experts who have collectively devoted years of research to understanding the dynamics of domestic violence and sexual assault, including the particular tools that perpetrators of domestic violence, sexual assault, rape, trafficking, child and elder abuse use against immigrant victims. We urge you to consider the research provide you here as you consider reauthorization of the violence against women act and its immigration protections. The research discussed above makes it clear that there are significant dangers to victim safety and to the ability of law enforcement officials fight violence against women crimes of any changes in the VAWA immigration protections that inform perpetrators about the victim's pending immigration case. Victims applying for U-visa relief can only do so with a certification from a government official attesting to the victim's helpfulness and VAWA self-petitioners submit copies of protection order, arrest records, police report, hospital records, photographs and other evidence to support their application. Changing the law to allow DHS to seek information from perpetrators is not supported by research on the dynamics of domestic violence and sexual assault which has found that severing the abusers coercive control and cutting off the ability of the perpetrator to harass, threaten and tamper with the victim is essential both for victim safety and successful prosecutions.

The research discussed here also support providing access to VAWA self-petitioning and U-visa protections during the time period between when a criminal investigation is initiated and the conclusion of any prosecution will dramatically improve victim safety by protecting the victim against immigration related abuse. Victims who know that the perpetrator can no longer succeed in retaliating through having her deported and separated from her children, will provide more and better information to law enforcement officials and will make better witnesses, leading to more successful prosecutions. When U-visa victims know that if they find the courage to come forward and work with law enforcement they will only receive protection for 4 years after which they will be required to leave the U.S. immigrant victims will stop coming forward to help law enforcement. Limiting U-visa protection unless victims file a police

Uekert, B.K., Peters, T., Romberger, W., Abraham, M., & Keilitz, S. (2006). Serving Limited English Proficient (LEP) Battered Women: A National Survey of the Court's Capacity to Provide Protection Orders. National Center for State Courts.

Yoshihama, M. and Dabby, C. (2009). "Facts and Stats: Domestic Violence in Asian, Native Hawaiian, and Pacific Islander Homes" (Asian Pacific Islander Institute on Domestic Violence).

¹⁰⁰ Hass, G. A., Ammar, N., Orloff, L. (2006) "Battered Immigrants and U.S. Citizen Spouses." Washington, D.C. Legal Momentum, Immigrant Women Program. <http://legalmomentum.org/legalmomentum/files/dvusc.pdf>, 10 pages

Erez, Edna, Ammar Nawal, 2003. Violence Against Immigrant Women and Systemic Responses: An Exploratory Study. A report submitted to the National Institute of Justice, Washington DC.

Uekert, B.K., Peters, T., Romberger, W., Abraham, M., & Keilitz, S. (2006). Serving Limited English Proficient (LEP) Battered Women: A National Survey of the Court's Capacity to Provide Protection Orders. National Center for State Courts.

report within 60 days of the abuse and to deny U-visa protection to cooperating victims who report rape after the statute of limitation on their rape has run will also impede crime fighting in our communities.

We urge you to consider this research and take actions to ensure that adjudication of U-visas and VAWA self-petitions remain with the special VAWA Unit at the Vermont Service Center, the DHS experts with specialized training on domestic violence and sexual assault. This approach is supported by the research discussed here.

Thank you for your consideration of the information we have provided as you decide whether to improve or roll back protections for immigrant victims of domestic violence, sexual assault, rape, trafficking and other crimes.

Sincerely,

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Julia L. Perilla, Ph.D., is a clinical community psychologist and faculty member in the Department of Psychology at Georgia State University.

Biographies

Dr. Nawal Ammar is Professor and Dean of the Faculty of Social Science and Humanities at the University of Ontario Institute of Technology. Dr. Ammar's recent research includes work on domestic violence in Islamic cultures, and violence against immigrant women in the U.S. She is also working with the National Network to End Violence Against Immigrant Women on a number of projects dealing with child safety and domestic violence in battered immigrant women's families, evaluating the impact of US Violence Against Women Act on services provided to battered immigrant women. At this moment she is finishing a book on Muslims in American Prisons, and a special edition for the National Women Studies Association Journal on Middle Eastern Women.

Dr. Ammar has published several manuscripts, over 40 book chapters, and refereed articles. Her work has been used in United Nations Reports such as the 2007 UNFPA's State of the World Population, 2006

Human Watch Report on Women and Violence in Egypt, 2005 Council of Europe Parliamentary Assembly's resolution on Religion and Women in Europe, and 2002 United Nation's Basic Principles on Restorative Justice. Professor Ammar has participated in a number of United Nations Conferences, has authored and co-authored several reports for the United Nations and has been a consultant to that organization. Dr. Ammar has garnered more than one million dollars in grants from private, state and national sources of funding since 2000.

Dr. Ammar is a frequent speaker at conferences with a record of near one-hundred presentations both invited and refereed. She has served on review panels for the Soros Foundation (Open Society Institute), National Institute of Justice, and Department of Justice on research proposals addressing violence against women, and the underserved communities. She also served as a participant in or consultant to activities of the governments of Bahrain, Lebanon, Oman, the United Arab Emirates and the U.S. to address issues of women, development and victimization. Dr. Ammar is a member of numerous non-governmental organizations both in the U.S. and the Arab world. Some of these include the Network to Prevent Violence Against Immigrant Women (Washington, D.C., Boston and San Francisco), the Religious Consultation on Population, Reproductive Health and Ethics (Washington, D.C.), Centre for Religion and Society (University of Victoria, Victoria, British Columbia), and the Alliance of Arab Women in Cairo, Egypt. Dr. Ammar's B. Sc. (Honors) and M. Sc. in Sociology are from Salford University, Greater Manchester University, (U.K.) and she earned her Ph.D. in Cultural Anthropology from the University of Florida, in Gainesville, Florida (U.S.).

Dr. Helene Berman, Associate Professor, School of Nursing and Scotiabank Chair, Centre for Research and Education on Violence against Women and Children, University of Western Ontario is principal investigator on two national studies focusing on violence in the lives of girls in Canada.

Jacquelyn Campbell, PhD, RN is the Anna D. Wolf Chair and a Professor in the Johns Hopkins University School of Nursing with a joint appointment in the Bloomberg School of Public Health as well as being the National Program Director of the Robert Wood Johnson Foundation Nurse Faculty Scholars program. Since 1980, Dr. Campbell has been conducting advocacy policy work and research in the area of violence against women and women's health, publishing more than 220 articles and seven books. She has been Principal Investigator on 10 major NIH, NIJ or CDC research grants and Co-Chaired the Steering Committee for the WHO Multi-country Study on Violence Against Women and Women's Health. Her honors include election as a member of the Institute of Medicine and membership on its Board of Global Health, three honorary doctorates, election to the American Academy of Nursing, chairing the Board of Directors of the Family Violence Prevention Fund, and receiving the Friends of the National Institute of Nursing Research Pathfinder and the American Society of Criminology Vollmer Awards. Dr. Campbell also was a member of the congressionally appointed US Department of Defense Task Force on Domestic Violence and served on the Board of Directors of the House of Ruth Battered Women's Shelter and three other shelters.

Anindita Dasgupta is a Doctoral Candidate at the University of California, San Diego, and holds a Masters in Public Health from Boston University. Ms. Dasgupta has a history of volunteering in South Asian domestic violence agencies in New York City and Boston, and she continues to engage in advocacy for the issue of IPV in South Asian and immigrant communities in the US. More recently, she has started conducting research to examine unique vulnerabilities migrants, immigrants and refugees face in terms of their risks for IPV, substance abuse and HIV, with the goal of creating interventions or policies that could ameliorate those risks.

Mary Ann Dutton is a Professor in the Department of Psychiatry as well as a clinical psychologist. She is an expert in interpersonal violence and trauma. Her work with low-income, minority populations includes longitudinal research and the development of community-based interventions. Mary Ann Dutton has been a leader in the field of research on immigrant survivors of domestic violence and sexual assault, the effects of trauma on survivors and how crime victims and particularly immigrant crime victims heal after suffering trauma and often multiple traumatic events in their lives. She has published extensively on these issues. Her research on dynamics of domestic violence and intimate partner sexual assault experience by immigrant victims has significantly influenced how advocates, attorneys, federal government agencies, courts and Congress understand, provide effective service to and craft legal relief that will be most useful for immigrant victims and their children. Dr. Dutton has also developed and provided numerous affidavits in support of applications filed by immigrant victims in VAWA self-petitioning, U-Visa and VAWA Cancellation of Removal cases highlighting the particular effects on immigrant victims of exposure to trauma including sexual assault and domestic violence, and its impact on immigrant women. For many years Dr. Dutton has participated in research efforts that involved a multidisciplinary multi-ethnic team of collaborative research partners who published our research findings in social science journals and law review publications. These publications and Dr. Dutton's research on coercive control, trauma, and the dynamics of domestic violence are well regarded, widely used and relied upon by policymakers and experts working in the fields of domestic violence, victim advocacy, and immigrant women's issues. Dr. Dutton's research has been extensively cited in amicus briefs submitted to several Federal Circuit Courts, the Board of Immigration Appeals at the U.S. Department of Justice, and a number of State Supreme Courts considering immigration, family law, international custody, civil protection order issues in cases of domestic violence victims, including immigrant victims.

Giselle Hass is an Adjunct Professor of Law at Georgetown University Law Center, Center for Applied Legal Studies. She is a forensic expert and consultant for local and national Courts in family law and immigration mental health assessments. Her areas of expertise and interest at the clinical, forensic, research, and scholarly level are cross and multi-cultural mental health, immigration, domestic violence, family law, attachment, and psychological assessment. Dr. Hass is a native of Costa Rica who was a Forensic Psychologist in her own country when she migrated to the U.S. in 1983. She earned a Doctorate in Clinical Psychology from Nova Southeastern University (NSU) in 1992. She began working with Domestic Violence while undergoing her doctoral program under the direction of Mary Ann Dutton, Ph.D. She has worked as a Court Psychologist for the Fairfax County Juvenile and Domestic Relations Court, four years in the Juvenile Branch and three years in the Domestic Relations Branch and was an

Associate Professor at Argosy University, Washington DC School of Professional Psychology for 15 years. Dr. Hass has had a private practice since 1994 conducting family law and immigration psychological evaluations for local and national attorneys and agencies. As part of her commitment to providing pro-bono services, Dr. Hass collaborated with the NIWAP Director, Crowell and Moring and Manatt, Phelps and Phillips leading a group of ten Spanish speaking professional psychologists from all over the country who volunteered to travel to Postville, Iowa, and from 2008 to 2010 conducted a total of 50 pro-bono evaluations to the minor and female victims of sexual and physical assault, stalking, child labor exploitation and other crimes at the Agriprocessors. Many of these psychological reports were useful to document the immigrant victim's experiences with sexual assault and other violence to support their U-visa applications. Since 1998, Dr. Hass has worked in federally funded research projects regarding culturally competent interventions for women in abusive relationships and the legal and policy aspects of domestic violence. Ms. Hass has co-authored numerous publications on immigrant women's experiences of sexual and domestic violence together with Mary Ann Dutton and Leslye Orloff

Stephanie J. Nawyn is an assistant professor in Sociology at Michigan State University. Her research and teaching areas of expertise are in gender and immigration, with a focus on forced migration, families, and social incorporation. Dr. Nawyn conducts research on community development among immigrants and the importance of social networks and social capital to immigrant and refugee incorporation, as well as the socioeconomic advancement of African-born immigrants in the United States. Her recently published work focuses on citizenship and political opportunities for refugee and immigrant incorporation. Dr. Nawyn also has forthcoming an article on language and social capital and a co-edited book with Steven J. Gold on migration studies scheduled to be published by Routledge in August 2012.

Leslye E. Orloff is the Director of the National Immigrant Women's Advocacy Project (NIWAP) at American University Washington College of Law, which advocates for laws, policies and practices that enhance legal options for immigrant women and immigrant victims domestic violence, sexual assault and human trafficking. She founded and directed the Immigrant Women Program at Legal Momentum and the National Network to End Violence Against Immigrant Women. She helped draft federal legislation offering immigration relief, welfare benefits, and legal services to immigrant victims and is a nationally respected trainer and author. For 17 years Leslye represented immigrant victims in family court cases at Ayuda in D.C. Leslye received her J.D. from the UCLA, and her B.A. from Brandeis University. She is the recipient of the 2007 Sheila Wellstone Award, a 1994 Kellogg National Leadership Fellowship and a 2002 Harvard Law School Wasserstein Public Interest Law Fellowship.

Dr. Anita Raj is a Professor of Medicine and Global Public Health at the University of California, San Diego. She has been conducting research on immigration-related risks for domestic violence for more than a decade. Dr. Raj has more than 100 peer-reviewed publications in the area of public health, including articles in such prestigious journals as the Journal of the American Medical Association, the Lancet, and British Medical Journal. She is also Co-Chair of the Health and Human Services-initiated Community of Practice on the Research of Children of Immigrants and their Mothers.

Dr. Rachel Rodriguez earned her B.S. degree in nursing from The University of Texas Health Science Center at Houston. She went on to earn her M.S. and Ph.D. degrees in nursing from Texas Woman's University in Houston. Rachel was named a Champion in Women's Health from the Wisconsin Women's Health Foundation in 2004, and she was a Kellogg Foundation National Leadership Fellow from 1994-97. In 2008 she was named one of 30 "Changemakers" by the Wisconsin Coalition Against Domestic Violence for her groundbreaking research that led to the creation of domestic violence programs for Latina immigrant and migrant farm worker women.

Dr. Rodriguez has worked in the area of domestic violence for over 25 years. Her work has been focused primarily with Latina survivors of domestic violence who are migrant farm workers and immigrants here in Wisconsin and across the country. She is currently working on a project to open a center for abused women and girls in Malawi in southern Africa. She was one of the co-founders and a previous Executive Director of UNIDOS Against Domestic Violence, a statewide organization based in Madison. Dr. Rodriguez is currently an Associate Professor in the School of Nursing at Edgewood College and teaches public health nursing. She is a recent recipient of a Fulbright scholar award and will be teaching and working on domestic violence projects in Malawi, Africa in Spring 2013.

Evan Stark is an award-winning researcher with an international reputation for his work on the legal, policy and health dimensions of interpersonal violence. A founder of one of the first US shelters for abused women, Dr. Stark co-directed the Yale Trauma Studies, research showing that domestic violence was the leading cause of female injury; has published over 100 books and papers in the field, Co-Chaired the US Surgeon General's Koop's Working Group on Violence and Health; and has consulted to numerous federal and state agencies. Dr. Stark is Professor Emeritus at the Rutgers University School of Public Administration and Affair

Jay G. Silverman, Ph.D., is a Professor in the Division of Global Public Health Department of Medicine, at the University of California San Diego School of Medicine. Dr. Silverman's research focuses on the health-related consequences and prevention of gender-based violence against adolescent and adult women (e.g., intimate partner violence, sexual assault, sex trafficking) globally. His recent research has centered on implications intimate partner violence for heterosexual HIV/STI infection and for reproductive and child health. Dr. Silverman's has been PI on multiple federally-funded studies of trafficking, violence and HIV, and has published more than 90 peer-reviewed manuscripts on these forms of gender-based violence and the effects of this violence on the health of women and their children (with particular emphasis on girl children). He is also co-author of the practitioner guidebook entitled The Batterer as Parent (Sage, 2002), for which was awarded the 2004 *Pro Humanitate Literary Award for Most Outstanding Contribution to Child Welfare Practice* by the North American Resource Center for Child Welfare. Dr. Silverman has served as advisor to WHO, UNAIDS, and UNDP on issues of gender-based violence, and is a Senior Health Advisor to the Family Violence Prevention Fund.

Cris M. Sullivan, Ph.D. is a professor of Ecological/Community Psychology, senior fellow of University Outreach and Engagement, and the Associate Chair of the Psychology Department at Michigan State University. She has been an advocate and researcher in the movement to end violence against

women since 1982. Dr. Sullivan's areas of expertise include developing and evaluating community interventions for battered women and their children, and evaluating victim services. Her research has been continually funded by federal grants since her career began in 1989 (including grants from the National Institute of Mental Health, Centers for Disease Control and Prevention, and the National Institute of Justice). Her most recent NIMH grant (2007-2012) is an IP-RISP grant ("Interventions and Practice Research Infrastructure Program"), that she received with Drs. Deborah Bybee, Rebecca Campbell, and Celia Wills. This award will allow the investigators to collaborate with Turning Point, Inc., a well-established domestic violence-rape crisis mental health services organization, to develop a research infrastructure in a community setting that is supportive of collaborative research on mental health services for battered women and rape victims. The five-year project will result in a community-based research infrastructure able to support and sustain a wide variety of research studies pertaining to the mental health consequences of intimate and sexual violence. In addition to consulting for numerous local, state and federal organizations and initiatives, she conducts workshops on: effectively advocating in the community for women with abusive partners; understanding the effects of domestic abuse on women and children; improving; improving system responses to the problem of violence against women; and evaluating victim service agencies. In addition to her MSU appointments, Dr. Sullivan is also the (pro bono) Director of Evaluation for the Michigan Coalition Against Domestic and Sexual Violence and the Senior Research Advisor to the National Resource Center on Domestic Violence

David B. Thronson is a Professor of Law at the Michigan State University College of Law where he is co-founder of the Immigration Law Clinic. His research and writing seeks to develop frameworks and critical perspectives for analyzing the intersection of family and immigration, with a particular focus on children. Thronson graduated from the University of Kansas with degrees in mathematics and education, then taught in Nepal as a Peace Corps volunteer. Upon return, he settled in New York City where he completed a masters degree at Teachers College, Columbia University and served several years as a teacher and assistant principal in the New York City Public Schools. Thronson earned his J.D. degree from Harvard Law School, where he served as Co-Editor-in-Chief of the Harvard Human Rights Journal. After clerking for the Honorable A. Wallace Tashima in California, Thronson returned to New York City as a Skadden Fellow at The Door's Legal Services Center, providing direct legal services to at-risk young people primarily in the areas of immigration, housing and family law. He subsequently served as the Gibbons Fellow in Public Interest and Constitutional Law at the law firm of Gibbons, Del Deo, Dolan, Griffinger and Vecchione where he litigated cases involving a wide range of issues including the scope of federal habeas jurisdiction to review immigration matters, the application of the Convention Against Torture, the constitutional adequacy of educational opportunities provided to urban children in New Jersey, and discrimination in New Jersey State Police hiring practices. From 1999 to 2002, Thronson taught in the Lawyering Program of New York University School of Law. He also has served as an adjunct professor at Seton Hall University School of Law and Hofstra University School of Law where he taught immigration law, public international law and international human rights. Thronson then moved to the William S. Boyd School of Law at the University of Nevada Las Vegas and ultimately became a Professor of Law and Associate Dean for Clinical Studies. At UNLV he taught immigration law and civil procedure, founded an Immigration Clinic and established the Nevada Immigrant Resource Project. Thronson was named UNLV Professor of the Year in 2003. Thronson serves on numerous boards of directors, including those of the National Youth Leadership Council and International Social Service –

USA. In 2006, he received the Friend of Working Families Award from the Nevada State AFL-CIO in recognition for his community work. In 2001, Education Law Center in New Jersey honored Thronson along with other Gibbons Fellows in Public Interest Law with the Marilyn Morheuser Humanitarian Award for their work to improve educational opportunities for New Jersey's disadvantaged children. In 2008, the Nevada Supreme Court appointed Thronson to its Access to Justice Commission and as a trustee of the Nevada Law Foundation administering Nevada's IOLTA funds. Also in 2008, Thronson was appointed to Nevada's Governor's Commission for National and Community Service. Thronson has been admitted to the practice of law in the states of Massachusetts, Michigan, Nevada, New Jersey and New York.

Veronica Tobar Thronson is an Assistant Clinical Professor of Law and Director of the Immigration Law Clinic. Previously, Thronson was the Directing Attorney of the Domestic Violence Project at the Legal Aid Center of Southern Nevada where she practiced in the areas of family and immigration law from 2002 to 2010. Thronson also was the Director of Training and Legal Services at the New York Immigration Coalition, a non-profit umbrella advocacy organization for over 200 groups in New York that work with immigrants, refugees, and asylees. Thronson developed community outreach materials and programs, and conducted training for advocates and attorneys on immigration and benefits law and their impact on immigrant communities. She appeared bi-weekly on an internationally broadcast program of Univision, providing information on current immigration law, benefits law and immigrant-related topics. Thronson also was a regular commentator for other local and national newspapers and radio programs on these topics. Thronson currently serves on the advisory board of the National Center on Immigrant Integration Policy at the Migration Policy Institute, in Washington, DC and was Vice-Chair of the Nevada Network Against Domestic Violence. She also taught Community Property as an adjunct professor at the William S. Boyd School of Law at UNLV. In 2006, the Southern Nevada Domestic Violence Task Force honored Thronson with its S.T.A.R. award, created to honor an individual for stellar work on behalf of victims. In 2009, Thronson received the Louis Wiener Service Award, given to an advocate who has made substantial contributions in representing victims. Thronson is admitted to the practice of law in the states of New York, New Jersey, Nevada and Michigan.

Hannah Brenner joined the Michigan State University College of Law faculty in 2009. She currently is a Lecturer in Law and Co-Director, with Professor Renee Knake, of the Frank J. Kelley Institute of Ethics and the Legal Profession. In addition, she is also a core faculty member and serves on the advisory committee of the Center for Gender in the Global Context at Michigan State University and is a member of the university's Violence Against Women Research and Outreach Initiative. Her research and teaching interests primarily surround issues of gender, leadership and the legal profession, and violence against women. Professor Brenner's courses include Torts, Law & Gender & Domestic Violence. She is particularly concerned with the importance of educating law students about the dynamics of domestic violence. She has co-authored several articles on mandatory arrest policies and domestic violence, and her forthcoming article, *Transcending the Criminal Law's Once Size Fits All Response to*

Domestic Violence, investigates legislative and policy innovations that move beyond the traditional criminal law response.

J. Ruben Parra-Cardona, Ph.D. is an Assistant Professor in the program of couple and family therapy at Michigan State University. He is currently involved in research focused on the cultural adaptation of evidence-based parenting interventions for Latino populations. He is the principal investigator of a R34 study funded by the National Institute of Mental Health (NIMH). The primary goal of this investigation is to compare and contrast the differential treatment efficacy and cultural relevance of two culturally adapted versions of an evidence-based parenting intervention. Dr. Parra-Cardona is also a core member of the MSU *Violence Against Women Research and Outreach Initiative*. Currently, his violence research focuses on the evaluation of cultural relevance of services for Latino survivors as well as Latino men who batter and abuse. Dr. Parra-Cardona serves on the editorial boards of three leading journals in the fields of family therapy and family studies (i.e., *Journal of Marital and Family Therapy*, *Family Process*, and *Family Relations*). Dr. Parra-Cardona's clinical experience has included the provision of services to Latino street children engaged in drug trafficking and prostitution, child and adult victims of sexual abuse and violence, federal adult probationers convicted for drug trafficking, Latino parents, and Latino youth involved in the justice system. Dr. Parra-Cardona is a member of the board of directors of a leading family therapy institute in Mexico and Latin America (Centro de Investigación Familiar A.C; CIFAC) and adjunct clinical faculty in a leading family therapy institute in northern Mexico (Instituto Regional de Estudios de la Familia, IREFAM). Most recently, Dr. Parra-Cardona was invited to join the board of directors of the Family Process Institute.

Julia L. Perilla, Ph.D., is a clinical community psychologist and faculty member in the Department of Psychology at Georgia State University. Her work of over two decades in the areas of domestic violence, diversity, Latino families, and trauma uses a human rights and social justice framework, which she applies to her research and interventions with immigrant communities. Dr. Perilla serves as the director of the National Latin@ Research Center on Family and Community Change, a project of GSU and Casa de Esperanza's National Latin@ Network for Healthy Families and Communities. In 1990 Dr. Perilla founded Caminar Latino, a comprehensive intervention for Latino families affected by domestic violence where she still works with men who have used violence against their families as a group facilitator. She was a founding member of Alianza, the National Latino Alliance for the Elimination of Domestic Violence, with whom she collaborated until 2008. Dr. Perilla serves on the Editorial Board of the American Psychological Association's *Psychology and Violence Journal*, the national steering committee of the National Domestic Violence, Trauma and Mental Health Center and was involved in the American Psychological Association's Presidential Initiative on Violence Against Women and Children. Dr. Perilla received the Georgia State University Exceptional Service Award in 2000; the Georgia Commission on Family Violence 2001 Gender Justice Award for her work with immigrant populations affected by domestic violence; the Georgia Psychological Association 2003 Community Service Award; and the Georgia Psychological Association Division of Women Psychologists 2005 Woman of the Year

Award. She also received the Georgia State University 2011 Carl V. Patton President's Award for Community Service and Social Action.