

EVIDENCE LIST FOR BATTERED IMMIGRANT WOMEN SEEKING PROTECTION ORDERS

June 7, 2011

This list is designed to provide advocates working with battered immigrants with a tool that will help them work more effectively with immigrant battered women preparing to seek protection orders. It can be used to help women who will be seeking protection orders “pro se” accompanied by an advocate and it can also be used as a tool for advocates helping women who will be represented by attorneys. It is highly recommended that advocates accompany battered immigrant women to the courts when they seek a protection order. Advocates should carefully write down any problems she encounters. By working with this check list advocates can help improve the success battered women will have in obtaining protection orders and ensuring that the protection orders they receive contain all of the remedies that they need. Protection orders that contain more complete remedies and creative remedies needed in specific cases will have a better chance at helping reduce the level of violence the victim has been experiencing and helping deter ongoing violence.

Many battered immigrants can receive protection orders with the assistance of advocates and will not need to be represented by attorneys. However, there are some instances in which it is highly recommended that the advocate help the battered immigrant find an attorney to represent her. Even when an attorney is involved in the case, the advocates will also need to continue helping the battered immigrant or migrant victim. The advocate can help assure that the attorney handles the case in a culturally competent manner. The advocate will also have established a closer trust based on the previous relationship with the battered woman and may be able to help with interpretation issues. The following are examples of when it is advisable that a battered immigrant have the assistance of an advocate and an attorney when she seeks a protection order:

- When the abuser arrives in court at the protection order hearing with an attorney. The advocate should help the battered immigrant ask for a brief continuance to locate an attorney who can assist her.
- When there have been threats of parental kidnapping.
- When the battered immigrant has been arrested along with her abuser in a dual arrest.
- When the abuser of a battered immigrant seeks a protection order against an immigrant victim.
- When the battered immigrant reports that it is likely that the abuser will fight her for custody of the children.
- When the abuser attempts to raise the immigration status of the victim as a factor in the protection order or custody case.

In using this list advocates should use the left column to check off when they have requested that the immigrant victim bring them a particular piece of evidence and the right column to check off that they have received the documentation. Some of the listed documentation the battered immigrant woman will be able to obtain herself. There will be other items that the advocate will need to assist her in obtaining. It is very important that the advocate do safety planning with the immigrant victim to assess the safety issues involved with the victim attempting to obtain any of the items listed below on her own.

Finally, in order to prepare to obtain a protection order, the advocate should help the battered immigrant document the complete history of abuse in the relationship. It is best if this includes all incidents of physical and sexual abuse, threats, harassment and emotional abuse. It would also be useful for the purpose of helping the immigrant victim determine what remedies she will need to document the history of

power and control in the relationship. Collecting this information from the victim will help her prepare for her protection order case and will also help her prepare for an immigration case she may have based on domestic violence.

The advocates should help the victim write up a chronology of the abuse in the relationship. You can use this chronology to help the victim prepare her petition for a protection order. For the protection order case the victim should list in her petition the date and place of each violent incident and each threat. She should include a description of the actual violent or threatening events that took place on that day and should not include in her petition other details about the event except the violence itself, except to mention whether the children witnessed the abuse and how it affected them and to note if the police arrived and whether she or the children needed medical attention. This is very different from an immigration case in which you will need to include the whole story of what happened including what they may have been fighting about and other details.

Many victims will recall more and more incidents as time goes on and as they develop a better relationship with the advocate. For this reason it is very important that at the end of the protection order petition the battered immigrant include a statement such as: "In addition to the specific incidents discussed above, the violence began in 1998 and has continued on at least a monthly basis since that time including, at least monthly incidents in which I was pushed, hit and scratched by the respondent." This will provide the court an overview of the level and frequency violence in the relationship and will help ensure that if she remembers another important incident that she does not include in her initial petition she can testify about it in court.

The following is a list of documents that will help the battered immigrant prove that she is entitled to receive a protection order with the remedies that she needs. These will be in addition to, not instead of, the history of abuse listed in her petition and her testimony about the abuse at the protection order hearing.

DOCUMENTS TO PROVE ABUSE

Has	Brought In	
_____	_____	Police reports
_____	_____	Transcript from 911 calls
_____	_____	Medical records
_____	_____	Hospital records documenting the abuse (even if she did not tell anyone at the hospital that her partner caused the abuse and even if she denied that the cause was domestic violence)
_____	_____	Photographs of any injuries
_____	_____	Torn clothing or destroyed property or photographs of these
_____	_____	A diary
_____	_____	Names of shelters where you have stayed
_____	_____	Names, addresses and telephone numbers of doctors, nurses, counselors, mental health professionals and social workers whom you or your children have spoken with or received treatment from in relation to the domestic violence.
_____	_____	Names, addresses and telephone numbers of people who: saw your bruises, heard you scream, witnessed any incident of the abuse, you told about the abuse, witnessed your abuser's threats against you, your children or your family members or you have stayed with

for refuge.

Names, addresses and telephone numbers of police officers, prosecutors, judges or other government officials who know about the domestic violence you experienced.

Information about the abuser's access to weapons.

Documentation or information about your abuser's history of mental illness, threats of suicide or criminal record

TO OBTAIN CUSTODY OF YOUR CHILDREN AND PROVE THE EFFECT THAT THE ABUSE HAS HAD ON YOUR CHILDREN

Has Brought In

Names, addresses and telephone numbers of people who can describe the effect that the abuse has had on you and your children.

Medical records documenting injuries to or affects of the abuse on your children

Hospital records documenting abuse of your children

Your children's medical and dental records including comments about who has been responsible for the children's medical care.

Your children's school records

Your children's passports and your children's immigration papers, if any.

Names, addresses and telephone numbers of teachers and counselors at your children's school who can describe how the children's school performance may have been affected by the domestic violence

Names, addresses and telephone numbers of doctors, nurses, counselors, mental health professionals, clergy and social workers whom you or your children have spoken with or received treatment from in relation to the domestic violence against your children or the effect that the domestic violence against you has had on the children.

Names, addresses and telephone numbers of persons who can who can describe your role as primary caretaker of your children and who can describe what, if any role, your abuser has played in the children's lives, including how he treats the children when they are in his care.

Information about the abuser's drug and alcohol use.

Names, addresses and telephone numbers of persons who would be willing to help supervise visitation or assist with pick up and drop off of the children so that there can be visitation without contact between you and your abuser.

The children's birth certificates

Court documents or other documents in which the father of the children acknowledges paternity

TO HAVE THE ABUSER REMOVED FROM THE FAMILY HOME

Has	Brought In	
_____	_____	A copy of the lease or mortgage (the abuser can be removed even if the house is in his name)
_____	_____	Documentation of the cost of the rent, mortgage, and utilities for the home (so that the abuser can be ordered to pay a portion of these costs or so that the victim can plan how she will make these payments without him, e.g. finding someone to move in with her and share some of these expenses).
_____	_____	An answer to the question if asked by the judge where the abuser will go.
_____	_____	A safety plan helping the victim determine whether it is safer for her to remain in the home removing the abuser with a protection order or whether she and the children need to move to an undisclosed location.

TO OBTAIN A STAY AWAY ORDER

Has	Brought In	
_____	_____	A list of places that the abuser is already familiar with that you or your children go to that the abuser should be ordered to stay away from (including your home, the homes of your family and friends, your place of employment, your children's schools, your day care provider, your church, your hairdresser)
_____	_____	A list of problems that you anticipate your abuser may state to the court when asked to stay away from these places

TO BE GRANTED CONTROL OR USE OF PERSONAL AND JOINT PROPERTY

For victims remaining in the home:

Has	Brought In	
_____	_____	A list of personal items of the abuser that he can take from the home

For victims who will be leaving the home:

Has	Brought In	
_____	_____	A complete list of items that she wants the court to allow her to take from the home including her clothing, family photographs, items of importance to her from her home country, medical records, documentation of abuse, of the marriage, and any documents that she may need for her immigration case. (See immigration case check lists)
_____	_____	A complete list of items belonging to the children including clothing, toys, school and medical records that she wants the court to allow her to take from the home.
_____	_____	A list of important items that she will need to pursue her employment or care for the children.

For all victims whether or not they stay in the home or leave

Has	Brought In	
_____	_____	A copy of the title to any jointly owned car
_____	_____	Documentation from her employer that she needs the car to work
_____	_____	A list describing any weapons that the abuser may have including their location to the best of her knowledge
_____	_____	Documentation of ownership of her property or jointly owned property that the parties might have ongoing disputes over
_____	_____	A list of property items that she is concerned will lead to ongoing disputes or contact with the abuser if the court does not decide who shall have use and control over the property.
_____	_____	Copies of statements from joint bank accounts and credit cards that the abuser would need to be ordered not to take or convert to his sole property
_____	_____	A list of property items that she is concerned that the abuser will sell, damage or destroy.

TO OBTAIN MONETARY RELIEF AS PART OF THE PROTECTION ORDER INCLUDING CHILD SUPPORT

Has	Brought In	
_____	_____	Your husband's or the father of your child's social security number
_____	_____	Your husband's or the father of your child's "A" number from his immigration case
_____	_____	A copy of your husband's or the father of your child's most recent pay

- _____ stub from his employer
- _____ The name, address, phone and fax number of your husband/father of your child's employer
- _____ A copy of your husband/father of your child's tax returns for the past three years
- _____ Information about how long your husband/father of your child has worked for his current employer and past employers
- _____ Proof of who is your child's father (child's birth certificate, acknowledgement of paternity or other proof)
- _____ Copies of records proving what assets (bank accounts, stocks, bonds, property), if any, your husband/father of your children owns
- _____ Copies of documentation proving that your husband/father of your children has placed you and/or your children on his health insurance policy
- _____ Documentation of your monthly expenses to support you and your children (you can use your local court's financial statement form to collect this information)
- _____ Copies of medical, dental, counseling bills for you or your children related to the domestic violence
- _____ Copies of bills for changing your locks at your home and repairing damages to your house, car or other property caused by your abuser. This may include costs of replacing items that were destroyed by your abuser.
- _____ A list of any costs you might have to spend to replace identification cards, immigration documentation, passports or other documentation belonging to yourself or your children that your husband/partner may have destroyed, hidden, or refused to turn over
- _____ Documentation of costs you will incur in INS fees and other charges you will have to pay for you and your children to obtain legal immigration status through an immigration benefit you and/or you children qualify to receive.