



**NOW LEGAL DEFENSE
AND EDUCATION FUND**

1522 K STREET, NW, SUITE 550, WASHINGTON, DC 20005 (202) 326-0040 FAX (202) 589-0511

March 28, 2001

Ms. Grace Carswell
Director
Immigration and Naturalization, Vermont Service Center
75 Lower Weldon Street
St. Albans, VT 05478

Dear Ms. Carswell:

NOW Legal Defense and Education Fund would like to commend the Immigration and Naturalization Service Vermont Service Center's (VSC) handling of Violence Against Women Act (VAWA) cases and the VSC's implementation of their specialized VAWA unit. With the specialized personnel, the VAWA unit is able to timely complete VAWA petitions, adjudicate *prima facie* determinations, and adjudicate requests for employment authorization. The specialization of this particular unit allows for greater efficiency within the adjudicating system as well as greater expediency for battered immigrants whose lives are at stake.

The creation of a special unit with dedicated staff who have chosen to work in the VAWA Unit builds upon the practices that other justice system and law enforcement agencies have developed for handling domestic violence cases. By creating a specialized VAWA Unit staffed by non-rotating staff who wished to serve in that unit, the INS adopted a system for adjudicating VAWA self-petitions that was patterned after the

models that courts and other justice system entities have found to be most successful. We understand that there have been recommendations to dismantle the current system in favor of a non-permanent, non-specialized staff within the VAWA unit. As advocates for battered immigrants, we believe that this recommendation would unravel the tremendous progress the VSC has made in efficient and fair service to these vulnerable immigrants. We urge the VSC to maintain the VAWA units specialized and permanent staff and continue their commitment to protecting battered immigrants with a model of service actually consistent with the best practices for handling domestic violence cases encouraged by experts and by the U.S. Department of Justice which provides Violence Against Women Act Grants to support each of the model programs discussed in this paper.

To best serve battered immigrants, we strongly suggest that the Vermont Service Center (VSC) maintain its specialized VAWA unit and keep it operating in a similar manner to the innovative domestic violence units around the country where the judges, prosecutors, and court personnel are permanent staff, well-trained, and well-versed in domestic violence law. With specialized personnel who have committed themselves to the plight of battered women, domestic violence units across the country are making great progress by efficiently moving cases through the judicial system while at the same time presenting as much specialized assistance to the victims as possible. Throughout the justice system courts, police, and prosecutors are called upon to address the same dual functions Congress has required of INS in VAWA self-petitioning cases. They must fairly adjudicate the merits of domestic violence cases while at the same time carrying out these adjudications in a manner that protects and fosters victim safety. Program after

program has found that because of the nature and dynamics of domestic violence, this is virtually impossible to do with staff turn over and without specialized training. Without the well-trained, and specialized staff working in the VSC's VAWA Unit, with domestic violence expertise INS could not process each application timely, efficiently, fairly, and with victim safety in mind. Expert staff devoted only to VAWA cases provide the Service's best defense against fraudulent applications. Expert adjudicators who handle domestic violence cases on a daily basis are best suited to distinguish a legitimate application from a pro se applicant from a fraudulent application. Further, they can do this while preserving victim safety and without running the risk of violating the special confidentiality provisions that apply to VAWA cases.

This letter will explore the advantages of specialized domestic violence units and highlight the benefits to both the legal system and the victims. We believe that the proliferation of successful specialized domestic violence units in the civil and criminal justice system context supports VSC's creation of a similar specialized and permanent system in the VSC.

In creating the VAWA Unit, VSC adopted the widely recognized model supported by the justice system experts on domestic violence nationwide. We commend INS for this effort. Reducing family violence and offering protection are the ultimate goals in providing relief to battered immigrants. The best way to achieve these goals is to maintain a permanent VAWA unit and permanent staff¹ who have the sufficient expertise

¹ When permanent staff wish to rotate off the unit they should be replaced with other adjudication staff who wish to serve in that unit and who wish to make at least an eighteen-month commitment to working in that unit. It is important to note that adjudicators should be encouraged to continue to work for that unit for longer than one year and there should be no specific requirement that any adjudicator with satisfactory job performance ratings in that unit be required to leave the unit because a particular time limit on service in the unit has been met.

and understanding of domestic violence and the dangerous impact a poor decision can have a battered immigrant seeking relief. Maintaining the permanent VAWA unit staff would also further the mission and goals of INS to provide accuracy, consistency, uniformity, and reliability when processing the battered immigrants' applications and protecting the INS from confidentiality violations.

Why does VSC need a permanently staffed Integrated VAWA Unit?

Battering by husbands, ex-husbands, and intimate partners is the single largest cause of injury to women in the United States and accounts for approximately thirty percent of all murders of women.² Domestic violence often occurs between parties who share a home and that home may also be where their children live, leading to considerably high rates of ongoing contact between the parties then in other types of crimes.³ Finally, the rate of recidivism among batterers is quite high, it is likely that they will batter again and that it will be the same victim.⁴ Victims in abusive relationships are often in constant fear for their lives and that of their children. For these reasons, domestic violence demands a different level of involvement and assessment than that used in other justice system matters. Implementing a permanently staffed, specialized domestic violence unit addresses the fundamental failures of the justice system to adequately, safely, and knowledgeably deal with victims of domestic violence and to overcome the constant obstacles faced by these women when entering the justice system

² Epstein, Deborah. *Effective Intervention in Domestic Violence Cases: Rethinking the Roles of Prosecutors, Judges, and the Court System*. Yale J.L. & Feminism, Vol. 11, No. 1, p. 3 (1999).

³ Steketee, Martha Wade and Susan Keilitz. (June 30, 2000) *Implementing an Integrated Domestic Violence Court: Systemic Change in the District of Columbia*. Williamsburg, VA: National Center for State Courts, p. 5.

seeking legal protection. The immigration relief granted battered immigrants by the Violence Against Women Act was one of many justice system protections designed to help victims of domestic violence and their children.

What Models of Specialized Domestic Violence Units should the VSC VAWA Unit Emulate?

Jurisdictions across the country have in recent years taken steps to improve the coordination of domestic violence cases by either moving all civil protection order cases to a single docket or by creating a dedicated calendar for domestic violence criminal prosecutions.⁵ Three of the most effective and coordinated systems implemented in this country are Cook County, Illinois, Washington, D.C., and Dade County, Florida. These programs serve as models being emulated by states across the country. All three courts are integrated systems that combine the use of specialized domestic violence staff: civil and criminal attorneys (prosecution units), specially trained judges in domestic violence issues, specially trained police enforcement teams, specially trained court personnel, and victim advocates.

1. Cook County, Illinois Integrated Domestic Violence Court

⁴ Steketee, Martha Wade and Susan Keilitz. (June 30, 2000) *Implementing an Integrated Domestic Violence Court: Systemic Change in the District of Columbia*. Williamsburg, VA: National Center for State Courts, p. 5.

⁵ Examples of specialized criminal misdemeanor domestic violence dockets can be found in Winnipeg, Ontario. E. Jane Ursel, *The Family Violence Court of Winnipeg*, Manitoba L.J. 100, 100-102 (1994). More examples of specialized domestic violence dockets can be found in Denver County, Colorado, Philadelphia County, Pennsylvania, and Marion County, Indiana. See Merryman, Mirtha. "Specialized Domestic Violence Courts: A New Means to Address an Age Old Problem," 33, 51, 62 (1994) (unpublished manuscript on file with author). Another example of specialized domestic violence dockets for criminal misdemeanor and felony cases can be found in San Francisco, California. See *The San Francisco District*

The Cook County integrated domestic violence court is called the Target Abuser Call (TAC) Team. The TAC team is comprised of specially trained prosecutors, investigators, and victim-witness specialists who are assigned to domestic violence cases throughout the city of Chicago and its suburbs. This is the only system in the country that permanently combines civil, criminal, victim advocacy, and police enforcement professionals together to combat domestic violence, correct failures of the justice system dealing with domestic violence incidents, and reduce the obstacles faced by the victims when entering the judicial system.

The TAC team approach has many advantages and significant achievements that are similar to and achievable by the VSC VAWA Unit with a permanent staff. First, the multi-agency nature of the team allows for each need of the victim to be addressed directly, needs such as protection orders, shelter, economic resources, child custody, child support, and emotional support during both the civil and criminal justice processes.⁶ Second, the TAC team approach is vertical in that all the members of the team are either permanent staff or on 18-month rotation and they are aware of the approach to prosecution, advocacy, and victim assistance in each victim's case. The team approach allows for a trusting relationship to develop between the victim and the team members assigned to her case, including the judge and assures consistency in ruling made in each case.⁷

Attorney's Office Domestic Violence Felony and Misdemeanor Prosecution Protocol, District Attorney's Office, San Francisco, California, 13, 22, 26, January 1997.

⁶ Cook County State's Attorney Office, Cook County State's Attorney Office Domestic Violence Division (TAC) Informational Booklet, p. 45 (1998).

⁷ Cook County State's Attorney Office, Cook County State's Attorney Office Domestic Violence Division (TAC) Informational Booklet, p. 46 (1998).

Third, TAC Team members maintain contact with the victims in order to ensure long-term relief from violence even after the judicial processes have concluded.⁸ Fourth, overall The TAC Team has a 65% to 77% conviction rate and higher rate of appearance in court by the domestic violence victim than other domestic violence prosecution programs.⁹ Fifth, there has been an increase in services and referrals provided to victims due to early intervention and multi-agency commitment.¹⁰ Finally, there has been a vast increase in communication and understanding between the agencies working together to combat domestic violence.¹¹ For battered immigrant women, lack of immigration status is a significant barrier that deters them from calling the police, fleeing an abusive relationship or seeking assistance from domestic violence programs. A key Congressional goal of VAWA 2000's immigration provisions was to remove obstacles inadvertently interposed by immigration laws that hinder or prevent battered immigrants from fleeing domestic violence safely and prosecuting their abusers.¹² In creating the VSC VAWA Unit and staffing it with specially trained personnel, INS adopted a similar approach like the TAC Team. The individualized needs of battered immigrant self-petitioners to remove the immigration related obstacle that hampers their access to justice and social service relief are being directly addressed by a specialized VSC VAWA Unit that quickly, fairly, and accurately processes VAWA self-petitions with trained and dedicated staff who understand the dynamics of domestic violence are understood.

⁸ Cook County State's Attorney Office, Cook County State's Attorney Office Domestic Violence Division (TAC) Informational Booklet, p. 46 (1998).

⁹ Cook County State's Attorney Office, Cook County State's Attorney Office Domestic Violence Division (TAC) Informational Booklet, p. 47 (1998).

¹⁰ Cook County State's Attorney Office, Cook County State's Attorney Office Domestic Violence Division (TAC) Informational Booklet, p. 47 (1998).

¹¹ Cook County State's Attorney Office, Cook County State's Attorney Office Domestic Violence Division (TAC) Informational Booklet, p. 47 (1998).

¹² *Congressional Record*. Vol. 146, October 11, 2000, No. 126, p. S10192.

Again, following the lead of programs like the TAC Team, the VSC VAWA Unit has created a team with permanent staff of persons who choose to serve in the VAWA Unit. To the extent that persons will rotate off of the VAWA Unit, like the Chicago model, the rotation should be eighteen-month and persons who rotate on to the VAWA Unit must be persons who have expressed an interest in serving on the Unit, who receive specialized training, and are mentored by VAWA Unit staff with greater seniority. This approach allows one adjudicator to handle all aspects of a particular self-petitioner's case. This vertical system also facilitates swift decision making at both the prima facie determination stage of the case and with regard to approvals and denials. Another very important aspect of the current system is that it has greatly improved the quality of the notices of action issued by the Service dramatically reducing the number of cases in which the notice of action requests information that is already in the record or unnecessary. Having each case assigned to a particular specially trained adjudicator also facilitates swift action on cases in which the VAWA Unit learns through calls to the VAWA Unit Hotline that immediate adjudication is essential when, for example, the victim has a pending deportation case or needs immediate access to public benefits. Having one permanent staff person assigned to each case, provides greater VSC system accountability and makes it easier for pro se as well as those with advocates and attorneys to call the hotline with questions and to assess the progress of their applications. In order to build on the VAWA Unit current success all VAWA Unit Adjudicators should be permanently assigned and those whose assignments are not permanent should be on an eighteen-month rotation. No one should be assigned to serve in the VAWA Unit who has not volunteered for that assignment. In adopting this approach, which parallels the

national model of the TAC Team and other similar programs, VSC has appropriately made a commitment to handling VAWA self-petitions in a manner that will enhance victim safety in keeping with the spirit of the legislation Congress passed to help battered immigrants. The commitment comes from a dedicated, well-trained staff and the better trained the staff, the more applications will be processed efficiently and accurately to provide high quality immigration services to needy battered immigrants. Further, creation of a dedicated VAWA Unit has also greatly enhanced community perceptions. The dedicated staff work with each other to develop expertise in the dynamics of domestic violence and the unit interacts well with and responds to concerns raised by advocates for battered immigrants who identify problems that may arise in the processing of self-petition cases or in the implementation of new laws and policies affecting VAWA self-petitioning cases.

2. Washington, D.C. Integrated Domestic Violence Court

The Washington, D.C. Integrated Domestic Violence Court is made up of three components and is also a collaborative of several government, university, and community agencies. The three components are a centralized intake unit called the Domestic Violence Intake Center (DVIC), a specialized clerk's office called the Domestic Violence Coordination Unit (DVCU), and dedicated domestic violence courtrooms and judicial assignments called the Domestic Violence Unit (DVU).¹³ All three of the components are located in D.C. Superior Court building and incorporate a diverse, specially trained,

¹³ Steketee, Martha Wade and Susan Keilitz. (June 30, 2000) *Implementing an Integrated Domestic Violence Court: Systemic Change in the District of Columbia*. Williamsburg, VA: National Center for State Courts, p. 1.

permanent or yearly rotating domestic violence staff.¹⁴ The three components of the D.C. integrated domestic violence system act together to provide victims one-stop shopping in the legal process. One-stop, user-friendly service is also an overall goal of the INS.¹⁵

When asked whether the one-stop shopping was effective in a study conducted of the D.C. DVU, the victims responded overwhelmingly that the specially-trained intake center staff really listened to their concerns, helped them to understand the process and safety issues, and in all areas of domestic violence law (protection orders, criminal cases and child support cases) the victims felt that the court process made things better for them.¹⁶ The integrated professionals that work within the DVU in D.C. all work together to provide an effective, coordinated, and organized one-stop shopping solution to the obstacles faced in the judicial system for battered women. Similarly, with creation of the VSC VAWA Unit public satisfaction has risen particularly since VSC has to date maintained its VAWA Unit on a permanent basis. It is extremely important that the current system be maintained and supported.

3. Dade County, Florida Integrated Domestic Violence Court

The Dade County, Florida Domestic Violence Court is an integrated model where there are three full-time judges, permanent victim advocates, coordinators, prosecutors, public defenders, social workers, and clerical staff that are all trained to work with

¹⁴ Steketee, Martha Wade and Susan Keilitz. (June 30, 2000) *Implementing an Integrated Domestic Violence Court: Systemic Change in the District of Columbia*. Williamsburg, VA: National Center for State Courts, p. 1.

¹⁵ Office of Policy and Planning, "Strategic Plan Toward INS 2000." U.S. Immigration and Naturalization Service, 1994, p. 16.

¹⁶ Steketee, Martha Wade and Susan Keilitz. (June 30, 2000) *Implementing an Integrated Domestic Violence Court: Systemic Change in the District of Columbia*. Williamsburg, VA: National Center for State Courts, p. 46-47.

domestic violence cases.¹⁷ The court was created with four goals in mind, to stop the violence, to protect the victim and children, to make the offender accountable, and to make treatment available as needed.¹⁸ The court accomplishes its goals as it links together all jurisdictional aspects of the domestic violence cases so that they can have a standardized and individualized approach to family violence.

Specially trained permanent staff are equipped to handle each case individually and systematically, and detailed action plans are developed cooperatively in all cases.¹⁹ And, the combined efforts of the court, government, and community are designed to reduce the total number of cases in the system and to reduce recidivism among abusers. The benefits of combined efforts like the Dade County model can also be seen with the VSC VAWA Unit where the specially trained staff have developed an expertise in domestic violence. The longer they remain, the more consistent, uniform, and reliable the VSC system of processing the battered immigrants' applications is and the better image INS VSC has with needy battered immigrant self-petitioners, with their advocates, and their attorneys. Further, creation of a team has also improved INS's reputation for responsiveness to women's issues with the Department of Justice and with Congress.

How is a permanently staffed VSC VAWA Unit compatible with the mission and goals of the INS?

In "Strategic Plan Toward INS 2000," the INS sets out many goals and objectives for its offices to strive for across the country. One of the most important objectives

¹⁷ Lictman, Susan. "UM ALUMS Help Stop the Violence," *Barrister*: Miami, Florida, 1993, p. 10.

¹⁸ Lictman, Susan. "UM ALUMS Help Stop the Violence," *Barrister*: Miami, Florida, 1993, p. 10.

¹⁹ Dakis, Linda. "Dade County's Domestic Violence Plan: An Integrated Approach," *Trial*: Florida, Feb. 1995, p. 48.

outlined for INS is to be an innovative immigration policy leader by reinventing itself; the reinvention includes creating simple, streamlined, and consistent processes to make it easier for applicants for immigration benefits to comply with immigration law.²⁰ In particular, this requires timely and straightforward procedures applied by well-trained staff, fair and consistently applied decisions, and greater adjudicator understanding.²¹ Permanent staff leads to greater public understanding of the dynamics and effects of domestic violence on victims and their children, more consistent procedures when treating litigants, rulings, and orders, greater system accountability, and greater confidence by the community that the INS as part of the justice system is responding effectively to domestic violence within these integrated models.²² INS initiatives are based on these integrated program activities. VSC and its VAWA Unit are commended for their efforts to reach out to maintain and more fully develop productive alliances with organizations at other levels of government and with non-governmental organizations working with battered immigrants in the community to coordinate INS's integrated approach to the VAWA application system. As listed in the goals of INS, a permanent staff has helped to coordinate and make seamless the processes that occurs when battered immigrants apply for VAWA.

Victims who have full access to the one-stop shopping judicial process are more likely to avail themselves of the protections of the process, especially when the process is coordinated and consistent.²³ Many integrated domestic violence courts reported that the

²⁰ Office of Policy and Planning, "Strategic Plan Toward INS 2000." U.S. Immigration and Naturalization Service, 1994, pp. 2 and 7.

²¹ *Id.* at p. 7.

²² Keilitz, Susan. (2000) *Specialization of Domestic Violence Case Management in the Courts: A National Survey*. Williamsburg, VA: National Center for State Courts, p. 5.

²³ Keilitz, Susan. (2000) *Specialization of Domestic Violence Case Management in the Courts: A National Survey*. Williamsburg, VA: National Center for State Courts, p. 7.

most common reasons the coordinated systems worked were improved assistance to victims, enhanced victim safety, and increased batterer accountability.²⁴ Thus, if all issues related to domestic violence that occur in a victim's environment can be integrated into one adjudication where a permanent, knowledgeable staff is working,²⁵ the judicial system and the victim's well-being will be better served.

Not only has the VSC become more mindful of the battered immigrant victims' well-being and safety because of its permanent staff, but also VSC has been able to better ferret out fraud despite the high volume of VAWA applications that come into the center. The VAWA unit staff are able to share information with each other about each case which will provide greater system accountability which helps them identify patterns and dynamics among both the valid approvable applications and the fraudulent ones.²⁶ Since specialized staff shares information with each other, each case is adjudicated appropriately, consistently, and in a timely manner and the fraudulent cases are disposed of quickly. The VAWA Unit's current approach and structure provides the public with a one-stop, user-friendly service where the staff knows the status of each case and fully understands the process of adjudication.²⁷ And, the one-stop service raises the positive community perception about the service and increases public satisfaction. A permanently staffed VAWA unit is able to timely adjudicate each application, give the applications individualized attention, and ferret out the fraudulent applications that only slow the

²⁴ The National Center for State Courts surveyed 103 integrated courts with specialized processes for domestic violence victims. Keilitz, Susan. (2000) *Specialization of Domestic Violence Case Management in the Courts: A National Survey*. Williamsburg, VA: National Center for State Courts, p. 29.

²⁵ Karan, Judge Amy and Susan Keilitz. "Domestic Violence Courts: What are they and How should we manage them?" 50 *Juvenile and Family Court Journal* 2, 77.

²⁶ Office of Policy and Planning, "Strategic Plan Toward INS 2000." U.S. Immigration and Naturalization Service, 1994, p. 17.

²⁷ *Id.* at 16.

system down. Thus, a permanently staffed VSC VAWA Unit is completely consistent with and further the various goals and objectives of the INS Strategic Plan 2000.

Conclusion

We urge the VSC to create the specialized VAWA Unit and/or the use of eighteen-month rotations that are staggered. Only persons who express an interest in working for the VAWA Units should be assigned to that Unit and all Unit members should receive ongoing training on domestic violence. New adjudicators should receive specialized training and mentoring, and only relatively small numbers of new adjudicators should rotate on or off at any one time.

The use of domestic violence units and specialized domestic violence processes with permanent staff are integral to all justice system efforts to reduce domestic violence. Within the three types of domestic violence courts as illustrated by Cook County, Washington, D.C., and Dade County models, results show that the services provided are better for both the judicial system and the victim. A permanent staff and staff on longer rotations keep the services consistent, coordinated, up-to-date, and beneficial to the INS, victim, and community.²⁸ VSC should review the goals and purposes for which the VAWA unit was initiated and then evaluate what would happen if the staff rotations became shorter periods of time. Upon revisiting the goals of the VAWA unit, VSC will find, as this paper does, that a more permanent staff is the best way to handle adjudications of VAWA applications or if not, then maintaining staggered eighteen-

²⁸ Steketee, Martha Wade and Susan Keilitz. (June 30, 2000) *Implementing an Integrated Domestic Violence Court: Systemic Change in the District of Columbia*. Williamsburg, VA: National Center for State Courts, p. 4.

month rotations will maintain consistency and community responsiveness. NOW Legal Defense and Education Fund wishes to thank you for the significant work you and the VAWA Unit have done to increase safety and offer enhanced opportunity to many battered immigrant women and their children.

Sincerely,

Leslye Orloff
Director, Immigrant Women's Program, NOW Legal Defense and Education Fund

Janice Kaguyutan
Staff Attorney, Immigrant Women's Program, NOW Legal Defense and Education Fund

Cecilia Olavarria
Staff Attorney, Immigrant Women's Program, NOW Legal Defense and Education Fund

Leigh Taylor
Legal Intern, Immigrant Women's Program, NOW Legal Defense and Education Fund