

Abused Immigrant Slain After Plea For Legal Services Help Is Denied

New Law Limits Federal Program to Lawful Permanent Residents

By William Claiborne
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LOS ANGELES, June 4—A week before Mariella Batista, a Cuban immigrant, was shot to death by the estranged father of her son, the federally funded Legal Services Corp. rejected her frantic pleas for help in getting a protective court order against the man.

The reason: 12 days before the murder, Congress had adopted a law prohibiting Legal Services from assisting anyone who is not a lawful permanent resident—even if private funds, not government funds, are used in the case.

Batista, 28, who had fled Cuba on an inner-tube raft, was in the United States on "protected parole" status and was less than a month away from an interview with immigration authorities for lawful permanent resident status, which is normally granted to Cuban refugees.

Immigrant rights activists said Batista had a long history of being beaten by the man who eventually killed her and had repeatedly told Legal Services officials that she feared for her life.

Now, Batista is dead, shot as she approached a family court building in Riverside for a custody hearing. So, too, is the father of her son, who was gunned down by sheriff's deputies moments later. The head of the local Legal Services branch, who tried to help Batista find some other legal representation, is reported to have been traumatized by the murder, and recriminations have begun in Congress.

Sen. Edward M. Kennedy (D-Mass.), a member of the Senate Judiciary Committee, said he will introduce an amendment Wednesday exempting battered women from the Legal Services restrictions.

"Steps which should have been taken to protect Mariella from her abusive [common-law] husband were not taken because Congress denied her the access to the agencies that could have helped her," Kennedy said today.

According to law enforcement authorities, Batista went to the Riverside County family law court building on May 7 with her 9-year-old son for a custody hearing when Felipe Mirabal, 31, her estranged partner, approached and grabbed the boy from her. Mirabal kissed the boy and then shot Batista as she tried to run away. Mirabal shot Batista again after she fell on the lawn of the court building before sheriff's deputies ran out and shot and killed him, authorities said.

Susan Drake, deputy director of the National Immigration Law Center here, said that besides the victim's son, witnesses to the murder included Irene Morales, executive director of the Inland County Legal Services Corp., who a week earlier had told Batista that because of Congress's new restrictions, Legal Services could not help her.

Despite the denial, Morales had tried to help Batista in other ways, taking her into her home and driving her to the court building the morning of the murder, immigrant activists said.

Morales has declined to respond to repeated telephone inquiries over the past two weeks. Morales' ad-

ministrative secretary, Shana Spears, said, "She will not discuss this case, and everyone here is instructed not to discuss this case with the media."

In 1992, Batista and Mirabal fled separately to the United States from Cuba, where Mirabal had briefly been jailed following repeated instances of spousal abuse, according to Minty Siuchung, staff attorney for Ayuda, a Washington-based group for battered immigrants. Mirabal and the couple's son left Cuba first, were picked up by the Coast Guard and settled in the Riverside area. Batista, who also was rescued by the Coast Guard, initially settled in Mobile, Ala., where she worked as a housekeeper.

Siuchung said Batista moved to Riverside last year and lived with Mirabal and their son while she worked as an aide at the California School for the Deaf. But in February, she took her son and returned to Mobile, telling acquaintances at the time that the abuse had resumed and that she feared for her life.

Mirabal responded by claiming paternity rights and seeking custody of the boy, prompting Batista and the 9-year-old to return to Riverside last month for a mediation hearing, Siuchung said. Batista turned to Legal Services, which provides legal representation for the poor, at the recommendation of her Mobile employer, who is an attorney, Siuchung said.

According to Drake, a week before the mediation hearing, Legal Services officials called the Immigration Law Center to see if there was anything in Batista's immigration records that would make her eligible for assistance from Legal Services. The center is a national support organization that provides assistance to Legal Services in immigration matters.

"We had to tell them that they couldn't serve her because of the new restriction," Drake said. "All we could do is double-check the records and inform them that they couldn't help her."

The restriction prohibiting Legal Services from using even private funds to represent immigrants who are not lawful residents was contained in an amendment to the 1996 budget bill that President Clinton signed April 26. The provision was introduced by Rep. Harold Rogers (R-Ky.), a member of the House Appropriations Committee, to bar any kind of legal assistance to illegal immigrants by a federally funded agency. Rogers did not respond to requests for comment.

Drake said the Legal Services staff advised Batista that she would have to find a pro bono, or volunteer, attorney to help her in the case. She managed to find one, according to Drake, but the attorney was too busy to meet with Batista before the mediation hearing and showed up at courthouse at about the time of the murder.

Advocates of immigrants' and battered women's rights said today that Batista's murder is certain to be repeated with other poor immigrants.

"Tragically, it's also inevitable that what happened in Riverside will happen again if immigrant women can't seek protective orders from the courts through Legal Services," Siuchung said. "If they had access to civil protection orders, they would at least have some chance."