CHAPTER EIGHT

# Immigrant Victims of Interpersonal Violence and Protection Orders

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In 1994, a number of demographic, legal, and social changes converged (Ammar & Orloff, 2007), leading to what many believe to be one of the most progressive and inclusive pieces of legislation in the history of the United States—namely, the Violence Against Women Act (VAWA). The premise of the act and its approach to including women of color, immigrant, and underserved communities is what makes it progressive. The act perceives human rights as universal to all those living in the United States, contrary to the idea of *exceptionality*, which permeates much of U.S. legislation.

The VAWA 1994 is part of the Violent Crime Control and Law Enforcement Act of 1994. The act passed with bipartisan congressional support in 1994 by a vote of 235–195 and in the Senate by a vote of 61–38 (Whitehouse.gov, 2018). Bipartisan majorities in Congress reauthorized VAWA in 2000 and again in December 2005. Conservative Republicans opposed the act's 2012 renewal, objecting to expanding the act's protections for same-sex couples and for Native persons assaulted by non-Natives on tribal land. Ultimately, Congress reauthorized VAWA again in 2013, after a long legislative battle (Sacco, 2015).

VAWA 1994 created protections for women based not on their citizenship, but on their "humanity and vulnerability" (Ammar & Orloff, 2007; Murshid & Bowen, 2018; Perilla, 1999). Hence, the legislation included remedies to protect abused women who are noncitizens. VAWA self-petitioning allows spouses and children abused by their U.S. citizen and lawful permanent resident spouses or parents to file their own immigration cases for lawful permanent residency without the abusers' assistance, permission, or knowledge (see Castillo, Spratt, Longville & Orloff, 2015; Murshid & Bowen, 2018; Preda, Olavarria, Kaguyutan, & Carra, 2013 for additional

information on self-petitions). The VAWA 2000 and 2005 reauthorizations added and expanded protections for abused foreign nationals by creating the U and T visas for victims of a range of crimes, including domestic abuse, sexual assault, stalking, and human trafficking. The U visa is a form of immigration relief designed to offer access to legal immigration status and a path to lawful permanent residency. To qualify, applicant victims must demonstrate that they are being, have been, or are likely to be helpful to law enforcement, prosecutors, courts, or other government officials in the detection, investigation, prosecution, conviction, or sentencing of the criminals (U.S. Department of Homeland Security, 2015). The U visa offers protection to victims of 23 different crimes, including domestic violence, sexual assault, stalking, human trafficking, kidnapping-related crimes, and felonious assaults (U.S. Department of Homeland Security, 2015).

The T visa provides victims of severe forms of human trafficking, who have assisted law enforcement in an investigation or prosecution of human trafficking, with legal immigration status and a path to lawful permanent residency (DHS, 2015). T visas are also available for certain qualifying family members of trafficking victims. Victims granted T visas are eligible for employment authorization, as well as certain federal and state benefits and services (DHS, 2015). Congress created both the U and T visas in 2000 to provide the safety and stability victims need to seek help from the justice system and cooperate in the detection, investigation, and prosecution of perpetrators of crimes against immigrant victims (Orloff, Anver, Molina, Saint-Fort, & Husain, 2018; also see U.S. Department of Homeland Security, 2015).

VAWA also granted some battered immigrant victims access to limited public benefits (e.g., public housing, educational benefits, and health care) and ensured that all immigrant victims can access legal assistance, safe shelter, victim support, police protection, and other services necessary to protect their lives and safety (Castillo et al., 2015; Orloff & Kaguyutan, 2002). The last reauthorization of VAWA in 2013 contained new provisions for Native Americans as well as lesbian, gay, bisexual, transgender, and queer individuals, and expanded protections for victims of human trafficking (Modi, Palmer, & Armstrong, 2014; National Latina Network, 2013).

It is clear that Congress's 2000, 2005, and 2013 VAWA reauthorizations, with provisions to protect battered immigrant women, were not the panacea for eliminating violence against immigrant women (Olivares, 2014; Villalon, 2010). Since the first VAWA legislation passed in 1994, much has improved, and there is an increasing awareness of the different needs of battered immigrant women. There is also a growing body of research on the topic of battered immigrant women (e.g., Abraham, 2000; Ammar, Orloff, Dutton, & Hass, 2005; Erez & Ammar, 2003; Olivares, 2014; Raj &

Silverman, 2002, 2003). Training and technical assistance are now available for justice system agencies working with immigrant communities (including law enforcement, judicial officers/judges, attorneys, and advocates) (Feal & Buckthal, 2016; Garcia, 2007). Various organizations dedicated to serving particular immigrant groups or working in the general area of immigrant women have become well established as service providers. In addition, a large number of women and children have benefited from their ability to stay in the United States legally under VAWA legislation (Minnesota Advocates for Human Rights, 2007; Pyles, Katie, Suzette, & DeChiro, 2012).

Unfortunately, the increased immigration enforcement at both the federal and state levels in the United States since 2016 undermines the gains of providing much-needed legal and immigration protections for crime victims made in the last quarter of a century. This increased enforcement is occurring alongside heightened anti-immigrant sentiment across a variety of settings, including the media, neighbors, community members, and some state and local law enforcement agencies. This chapter explores the effect of this increased immigration enforcement on immigrant crime victims, especially immigrant and limited English proficient (LEP) victims of domestic violence.

## Protection Orders and Immigrant Victims of Crime

Ending an abusive relationship does not assure survivors of intimate partner violence (IPV) an end to the violence, nor is it a direct path to safety (Fleury-Steiner, Fleury-Steiner, & Miller, 2011; Hass, Dutton, & Orloff, 2000; Holt, Kernic, Lumley, Wolf, & Rivara, 2002; McFarlane et al., 2004). The end of a relationship actually marks what can be the most dangerous time for an abused woman (Black et al., 2011). Whether battered women leave or stay in the relationship, protection orders (in some states called restraining orders) provide victims of IPV a family court order directing the behavior of the perpetrator. This could include ending the abuse of the victims, authorizing the victims to live in the family home, removing the perpetrators from the home, granting victims custody of their children, economic relief, and other court orders designed to prevent future abuse (Fernandez, Iwamoto & Muscat, 1997). Protection orders are available in all 50 states, District of Columbia, U.S. Territories, and tribal lands (Orloff, Roberts, & Gitler, 2015). State legislators enacted these into law to give victims of IPV a form of justice system protection that is initiated and controlled by them, without requiring their extensive involvement or participation with police, prosecutors, or criminal courts (Kline & Orloff, 1993).

Research shows that while protection orders may not stop IPV altogether, they are effective in preventing reabuse and reducing the level of abuse if it recurs (Ammar, Orloff, Dutton, & Hass, 2012; Fleury-Steiner et al., 2011; Holt et al., 2002; McFarlane et al., 2004; Logan & Walker, 2009). Women, however, generally underuse this option (Hollenshead, Dai, Ragsdale, Massey, & Scott, 2006). Battered immigrant women particularly encounter barriers (Uekert, Peters, Romberger, Abraham, & Keilitz, 2006) and underuse protection orders as a remedy (Amanor-Boadu et al., 2012; Durfee & Messing, 2012; Ingram, 2007; Reina, Maldonado, & Lohman, 2013).

Research funded by the National Institute of Justice (Dutton, Ammar, Orloff, & Terrell, 2006) finds that abused immigrant women may not use protection orders because they are not aware of them as an available option. However, when victims seek help from advocates or attorneys who acquaint abused immigrant women with protection orders, a large number (89%) seek protection orders and find them very helpful. This research shows that with safety planning and support from advocates and/or attorneys, immigrant victims experiencing the highest levels of abuse were willing to seek and obtain protection orders. This was true despite the fact that some battered immigrant victims were afraid to pursue protection orders because of fear of escalating the violence, apprehension of their partners' threats to call the immigration authorities to deport them, concerns about being separated from their children, or worries about their partners shaming them within their communities. In addition, this research also shows that when immigrant victims obtained protection orders, the protection orders were effective in preventing recurring physical abuse but were less effective in deterring immigration-related abuse (Dutton et al., 2006).

## Theoretical Framing

An intersectional perspective frames this research because it calls attention to battered women's unique experiences, vulnerabilities, and needs (Burgess-Proctor, 2006). On *some* level, all IPV victims similarly experience some forms of abuse—a hard blow by an intimate partner leads to a broken bone and persistent verbal and psychological abuse is hurtful—regardless of who and where the victim is and what her experiences and social location are. Intersectionality, however, argues that "how [abuse] is experienced by the self and responded to by others ... and how and whether escape and safety can be obtained" varies among battered women, as battered women have "qualitatively different" life experiences (Bograd, 1999, p. 276).

Immigration status is one dimension that brings together a number of unique intersecting issues that shape the experiences of abuse (Sokoloff & Dupont, 2005; Sokoloff & Pearce, 2011). These issues include the high frequency with which abusers of immigrant intimate partners use immigration-related abuse as tools to establish and maintain coercive control over the victim as a key part of the pattern of domestic violence in the relationship (Ammar & Orloff, 2007; Dutton, Orloff, & Hass, 2000; Dutton et al., 2006; Orloff, Roberts & Gitler, 2015; Raj & Silverman, 2002). Immigration-related abuses can take a variety of forms. Some men threaten to report women to immigration enforcement officials (Raj & Silverman, 2002; Sokoloff & Pearce, 2011). Battered immigrant women—whether they have legal permission to live and work in the United States or are undocumented—are often afraid of deportation. Their abusers use deportation as an intimidation tactic to lock them into the abuse and prevent them from seeking help (Orloff et al., 2003). To maintain their dominance, some abusers who have filed immigration cases on their wives' behalf threaten to withdraw their sponsorship of their wives and/or children (Menjivar & Salcido, 2002; Raj & Silverman, 2002). When abused immigrant women have legal immigration status, abusers may take control over the victims' immigration documentation or threaten to destroy those documents (Raj & Silverman, 2002). .

Another dimension of immigration-related abuse is threatening to take the children (Murshid & Bowen, 2018; Raj & Silverman, 2003). Abusers with citizenship or legal immigration status in the United States may tell their immigrant partners or spouses legally incorrect information. For example, they may say that if the victim leaves or tries to seek help, the courts will give the abuser custody of the children because the victim does not have legal immigration status in the United States. Many battered immigrant women who are the primary caretakers of their children do not know about state laws that prevent courts from awarding custody to abusers and hence are intimidated by such threats (Ammar & Orloff, 2007).

Economic security is another dimension affecting immigrant women's experiences of abuse. Abused immigrant women are sometimes economically dependent on their partners, which increases their vulnerability to abuse and effects options for escape (Raj & Silverman, 2002). This economic insecurity affects immigrant women whose legal status is pending or who do not have legal status much more than those who have already obtained legal immigration status. Women with irregular or unresolved legal status cannot legally work and have very limited access to the public benefits safety net. Of the women who do work, many do so in the informal economy, which often pays low wages and is rife with abuse (Ammar & Orloff, 2007).

Language ability is another dimension influencing battered immigrant women's experiences (Menjivar & Salcido, 2002). The inability to speak or comprehend English sufficiently is a serious barrier to seeking meaningful services for battered immigrant women (Bui, 2003; Murshid & Bowen, 2018; Raj & Silverman, 2002). When battered immigrant women seek help to end domestic violence, the courts, police, legal, and social services systems are often ill equipped to help victims effectively communicate their needs to services providers (Menjivar & Salcido, 2002; Murshid & Bowen, 2018; Orloff, Dutton, Haas, & Ammar, 2003). The absence of qualified interpreters makes LEP victims of violence more dependent on their abusive partners, both emotionally and financially, which strengthens their abusers' ability to control them (Menjivar & Salcido, 2002).

## Focus on Immigrants

Some question the wisdom of focusing on immigrants in the United States when American-born minority populations of color represent a larger demographic imprint of those who have been oppressed and marginalized for centuries. However, it is essential to underscore that immigrants in the United States have, over the last three decades, become a part of this larger oppressed population of color that is discriminated against by the same entrenched historical racism, white privilege, and white supremacy that African Americans and the peoples of First Nations have endured. As a result, it is important to explore issues related to immigrant communities' experiences to have a more holistic understanding of the dynamics of U.S. society, culture, and politics.

Of America's 437 million people, almost 14% (43.7 million) are immigrants (U.S. Census Bureau, 2017). A significant proportion (49%, 21.2 million) of the U.S. immigrant population is naturalized U.S. citizens (U.S. Census Bureau, 2017). Another 26% (11.4 million) are immigrants with legal permission to live and work in the United States, and 25% (11.1 million) of immigrants in the United States are undocumented (U.S. Census Bureau, 2017). Undocumented/unauthorized immigrants constitute 3% of the U.S. population (U.S. Census Bureau, 2017).

The number of immigrants and their countries of origin have changed since the 1960s. In 1960, immigrants represented 5% of the overall U.S. population and almost 85% came from Europe and Canada (U.S. Census Bureau, 2017). Today, immigrants from Europe and Canada represent only 14% of the immigrant population (U.S. Census Bureau, 2017). The majority of immigrants to the United States come from diverse non-European and

non-Anglo parts of the world, including Asia (28%), Mexico (27%), Central America (8%), South America (7%), the Caribbean (10%), the Middle East (3%), and Sub-Saharan Africa (5%) (U.S. Census Bureau, 2017). It is the "new" migrants' *otherness*, especially in terms of their skin color, dress, religious practices, and languages, that is the factor prompting the anti-immigration sentiment and U.S. anti-immigrant policies.

For most of American history, there has been an uneasy relationship between the police and African American communities (Ulmer, 2017; Weitzer & Brunson, 2009). Systematic research and documentation show that law enforcement in the United States has played an oppressive and unfair role in African Americans' individual lives and communities in the past two centuries (Tonry, 2011; Weitzer & Brunson, 2009). Oral tradition passes on stories from enforcing runaway slave laws and Jim Crow oppression in the South, to more recent incidences of excessive force, verbal abuse, unwarranted police stops, and mistreatment by officers against younger generations of African Americans (Glover, 2010; Ulmer, 2017). The multiple historic and recent cases of arbitrary police killings of African Americans teach young black men early in life that they will always be under excessive scrutiny and suspicion by the police (Glover, 2010).

Today, this suspicion has spread to immigrant communities of color. Because of a number of factors, however, the relationship between immigrant communities of color and law enforcement has been an uncomfortable one. On the one hand, immigrant communities of color often come from countries where police are an arm of oppressive governments, which results in a general suspicion of the police in their newly adopted homeland (Becerra, Androff, Cimino, Alex, & Blanchard, 2013; Orloff et al., 2003). While law enforcement has often struggled to develop positive working relationships with immigrant communities of color, the lack of cultural sensitivity in their training and their inability to communicate with LEP communities often hamper those efforts (Shah & Estrada, 2009; Williams, 2015).

During the first 8 months of the Trump administration, immigration enforcement arrests and deportations increased by 40% (Bendix, 2017; U.S. Immigration and Customs Enforcement, 2018) compared to the previous year. State and local law enforcement involvement in federal immigration enforcement efforts further exacerbates strained relationships between local law enforcement and immigrant communities of color. The balance of this chapter documents the recent increase in immigration enforcement and empirically examines the consequences of this enforcement on battered immigrant crime victims' willingness to seek immigration relief and use protection orders issued by state family courts.

## Increasing Immigration Enforcement

In his inaugural address, President Donald J. Trump (2017) stated, "We must protect our borders from the ravages of other countries making our products, stealing our companies, and destroying our jobs. Protection will lead to great prosperity and strength" (Tyson & Maniam, 2016). In the 16 months that followed the election, President Trump issued a number of executive orders and his cabinet rescinded, terminated, and restricted a number of immigration policies. Some of these include three versions of the travel ban (Almasy & Simon, 2017; Epps, 2017; Finnegan, 2017), the attempt to rescind the Deferred Action for Childhood Arrivals (DACA) program, (see Cox & Rodriguez, 2017; Immigration Insider, 2018), increased enforcement at the border (Volpp, 2017), and enhancing public policy in the interior, which encouraged the policy of federal-state collaborations on enforcement of federal immigration priorities (Law Enforcement Immigration Taskforce, 2017; Volpp, 2017).

Taken together, these actions have increased immigration enforcement, attempted to eliminate protection for DACA youth, spurred anti-immigrant sentiment, and put pressure on state and local law enforcement to invest resources in cooperating with federal immigration enforcement efforts, which take resources away from fighting crime in communities.

## Research Questions

The research questions in this chapter focus on whether and how increased immigration enforcement after 2016 changed the number of cases attorneys' and advocates' clients filed or were willing to file under the VAWA self-petitioning and U visa programs, as well as their immigrant clients' willingness to file for protection orders in state family courts. The chapter also examines attorneys' and advocates' concerns about their clients' fears.

## Methods

### Sampling

This chapter is part of a larger study examining how increased immigration enforcement affects different professionals in the justice system since 2016. The study used both convenience and snowball techniques to sample professionals. The convenience sample consisted of groups/organizations that are members on a list of organizations from across the

country that the National Immigrant Women's Advocacy Project (NIWAP) has developed to deliver information about new trainings, new training materials, and new government policies affecting professionals in the field who work with immigrant victims. Snowball sampling occurred when some organizations sent information to their contacts encouraging them to access and participate in the electronic survey. NIWAP also partnered with professional associations that assisted in advertising the survey to their members. The sample list contained over 9,000 contacts, with 779 professionals responding. This chapter focuses on 389 advocates and attorneys from all 50 states and the District of Columbia who work with immigrant survivors of domestic violence, sexual assault, stalking, child abuse, elder abuse, human trafficking, and other violent crimes.

## Data Collection

The survey contains 136 open- and close-ended questions about multiple topics around the demographics of their clients, the types of immigration relief clients sought, and the extent and nature of immigration enforcement actions against clients. Questions also focused on the experiences of immigrant victims who were seeking orders of protection in civil court. Finally, a qualitative section asked the advocates/attorneys about their clients' concerns in the current immigration environment. Almost 80% of the questions required information about 2016 and 2017 to gauge any changes that may have occurred between the two years. While we had a good overall survey return rate, the completion rate of particular questions was uneven. Some questions in the survey had high response rates, while others did not. As a result, this chapter uses descriptive statistics and qualitative/narrative analysis of the open-ended questions to explore and supplement the descriptive statistical data.

## Results

### Sample

The majority of the attorneys and advocates who participated work in organizations where their focus is on domestic violence and or sexual assault (60%, n = 229). Most participants work in agencies they characterize as domestic violence coalitions or programs (28%, n = 106) and dual sexual assault and domestic violence programs (28%, n =106). The 303 respondents served an average of 436 clients per year, for a total of

134,502 immigrant clients in 2016 and 2017. Almost 116 of these clients, on average, were LEP. As a whole, the 303 attorneys and advocates who answered this question served 134,502 clients in 2016 and 2017, and 36,601 or 27% of those clients were LEP.

## Battered Immigrant Victims' Willingness to File for Immigration Relief

The participating attorneys and advocates had significant experience working with immigrant crime victims. They reported that their agencies work with immigrant victims on a number of different types of immigration cases. The total number of immigration cases for 2016 and 2017 was 4,228. The cases included VAWA self-petitions (n = 1,868) and U visa applications (n = 695).

The attorneys and advocates who responded to these questions (n = 134) filed 1,597 VAWA self-petition cases for their clients throughout 2016. For 2017, almost the same number of attorneys and advocates responded to the question (n = 135) and reported filing only 271 VAWA self-petitions during the first 10 months of 2017. Since the survey was conducted in October and November of 2017, this would amount to a monthly filing rate of 27.1 cases per month in 2017 and a total of only 325 cases for the calendar year of 2017. This reflects a 391% drop in the number of battered immigrants filing VAWA self-petitions.

Advocates and attorneys also reported a drop in U visa cases filed. Attorneys and advocates (n = 36) reported filing 425 U visa cases for their clients throughout 2016. In 2017, the answering attorneys and advocates (n = 28) reported filing only 270 U visa cases during the first 10 months of 2017, which amounts to an average monthly filing rate of 27 cases and a total of 324 cases for the calendar year of 2017. This amounts to a 31% drop in the number of immigrant victims' filing U visa applications.

The large drop (391%) in the number of battered immigrant clients whom advocates and attorneys helped file VAWA self-petitions is a particularly telling finding. This reduction could be due to their abusive spouses', who are U.S. citizens and/or lawful permanent residents, ability to use threats of deportation to silence and keep them locked in abusive relationships. However, our data do not allow us to confirm this empirically, although other research has confirmed it (Dutton et al., 2006 & Ammar et al., 2012). We extrapolate from the data because increases in anti-immigrant public discourse and increased immigration enforcement are potent tools. These tools often enhance the effectiveness of immigration-related abuse, which strengthens the power and control abusers have over their battered immigrant spouses. When VAWA self-petitioning victims returned to or stayed

with their abusers, they reported to their attorneys and advocates that they continued to suffer abuse daily (26%, n = 293), weekly (21%, n = 230), or monthly (24%, n = 261).

The drop (31%) in battered immigrant victims' filing U visa cases reported by the participants is also important. Nationally, IPV and child abuse victims account for 49% of U visa immigration cases filed each year (Orloff & Feldman 2011). The U visa was designed to provide immigration relief for victims of IPV and child abuse when the perpetrator is not a U.S. citizen or lawful permanent resident or is not the victim's spouse or parent. Finding a decline in U visa filings in 2017 provides support to the argument that increased immigration enforcement and anti-immigrant sentiment may also be contributing to immigrant IPV and child abuse victims being trapped in abusive homes. Participating attorneys and advocates (n = 61) reported that when U visa victims stay with their abusive partners or parents, the frequency of abuse they suffered is daily (38%, n = 23), weekly (23%, n = 14), and monthly (29%, n = 19).

In addition to clients' hesitation to file for immigration relief, attorneys and advocates reported an 8% drop in 2017 compared to 2016 in the monthly rate at which their battered immigrant clients were willing to call the police for help. They reported that 4,228 of their immigration and protection order clients in 2016 and 2017 did not call the police for help, decided not to file a court case, and/or filed but declined to follow through with a court case.

## Abuse Experienced by Immigrant Protection Order Clients

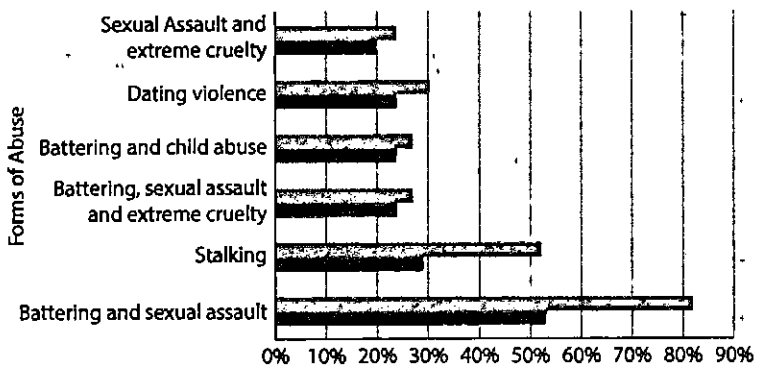
Together, 45 participating attorneys and advocates represented 775 immigrant protection order clients in 2016. Each attorney/advocate supported, on average, 17 immigrant protection order clients in 2016 (numbers ranged from 0 to 130 per participant). This increased in 2017 to 844 immigrant protection order clients for 33 participants. In 2017, the participants worked with an average of 26 immigrant protection order clients each (the number of clients ranged from 0 to 200 per participant). The majority of responding attorneys and advocates represented battered immigrant protection order clients in both 2016 and 2017.

Attorneys and advocates were asked to report on the types of violence experienced by their clients. In both years (2016 and 2017), the advocates/attorneys worked with clients seeking protection orders from very similar types of abuse and co-occurrence of violence. These forms included physical and sexual abuse (79%), stalking (45%), dating violence (31%), and child abuse (25%).

One hundred and thirty attorneys and advocates also reported on protection orders providing protections for their clients' children. Their clients' children were included in protection orders because they suffered the following types of abuse: child abuse (39%), battering and child abuse (30%), physical and sexual abuse (30%), and stalking (19%).

In both years (2016, n = 46 and 2017, n = 38), the survey participants noted that 84 out of 838 cases or 10% of their protection order clients stayed with or returned to their abusers. According to 104 participating attorneys and advocates, the ongoing abuse these victims and/or their children suffered included battering and sexual assault (50%), stalking (29%), dating violence (29%), and child abuse (18%). The frequency of abuse, most attorneys and advocates said, their immigrant women victims who obtained protection orders but who stayed or returned to their abusers reported was daily (60%, n = 9), followed by weekly (40%, n = 6), and then monthly (27%, n = 4).

Attorneys and advocates reported on the forms of abuse most commonly experienced by their immigrant clients seeking protection orders. The figures reported do not total to 100% because many of the cases involved multiple forms of violence. Figure 8.1 provides a summary of this data.




| | Battering and sexual assault | Stalking | Battering, sexual assault and extreme cruelty | Battering and child abuse | Dating violence | Sexual Assault and extreme cruelty |
|---|---|---|---|---|---|---|
| ■ 2017 | 82% | 52% | 27% | 27% | 30% | 24% |
| ■ 2016 | 53% | 29% | 24% | 24% | 24% | 20% |

Percentage Reported

■ 2017 ■ 2016

FIGURE 8.1 Most Common Forms of Abuse Experienced by Immigrant Clients Seeking Protection Orders in 2016 Versus 2017. *Source*: National Immigrant Women's Advocacy Project.

## Willingness of Immigrant Victims to Seek Protection Orders and Increased Immigration Enforcement

According to the attorneys and advocates, immigrant victims' willingness to turn to the justice system for protection orders did not change in 2017 from 2016. Eighty-four participants indicated that their VAWA self-petitioner clients were willing to obtain a protection order in 2016, and a slightly smaller number of attorneys and advocates (77) indicated the willingness of the same type of clients to obtain protection orders in 2017. For attorneys and advocates with U visa clients, 30 indicated that their clients were willing to obtain the same number of protection orders in 2016 as in 2017. However, the percent of advocates and attorneys reporting that their battered immigrant clients were unwilling to seek protection orders increased by 4% in 2017 compared to 2016 (18% vs. 22%). None of the participating attorneys and advocates said their clients were very unlikely to seek a protection order in 2016, while 7% (n = 3) said their clients were very unlikely in 2017.

These findings are consistent with research from a 2017 judicial survey (Rodrigues, Husain, Couture-Carron, Orloff, & Ammar, 2018) where 65% of judges (n = 301) reported no change in the rate at which battered immigrant victims sought protection orders and 23% of judges (n = 107) reported observing that immigrant victims were seeking protection orders in their courts at rates that were somewhat or much higher than in 2016. Also, judges in these courts reported taking steps to improve immigrant victims and litigants' access to justice in their courts. These steps included outreach to immigrant communities, ruling against attorneys who raise allegations about a party's or child's immigration status as an issue in a custody or protection order case, and authorizing immigrants afraid of immigration enforcement if they come to court to appear telephonically (Rodrigues, et. al. 2018).

The fact that in times of increased immigration enforcement, battered immigrants remain willing to seek protection orders from state family courts is not peculiar. It is thus consistent with the history of battered immigrant women's use of protection orders as one of the only forms of help available before the creation of the battered spouse waiver in 1990, the VAWA self-petition in 1994, and the U visa in 2000 (Kline & Orloff, 1993). These findings are also similar to research conducted more than a decade ago in which battered immigrants who experienced higher levels of abuse and mustered the courage to seek help to stop domestic violence are willing, with support from advocates and attorneys, to obtain civil protection orders (Ammar et al., 2012; Dutton et al., 2006). It could be that battered immigrant women's willingness to seek protection orders is not

influenced by external forces, regardless of how harsh they are, and that it is the availability of support and services that matters.

These findings can also be explained because of the delays immigrant victims encounter when filing immigration relief (Orloff et al., 2015). Previous research shows (Ammar et al., 2012; Dutton et al., 2006) that for some victims, the immigration-related abuse they suffered and their fears of deportation and separation from their children delay or sometimes deter them from filing for protection orders. The insignificant decrease in the number of protection orders immigrant victims are willing to seek could reflect the backlog of delays from previous years. Immigrant victims who file VAWA self-petitions and U visa cases experience one to four-year delays for work authorization (Orloff et al., 2015).

Nevertheless, the data provide patterns about the unwillingness of the immigrant victims of crime to seek protection orders since 2016. Attorneys and advocates in this study reported that they were able to encourage a very similar number of battered immigrant VAWA self-petitioner clients to seek protection orders in both 2016 and 2017. However, a large number of those who were unwilling to seek protection orders were VAWA self-petitioners whose abusers were U.S. citizens or lawful permanent residents. In 2016 and in 2017, attorneys and advocates reported that almost a quarter (24%, n = 439) of all of their VAWA self-petitioner clients either chose not to file, did not follow through, or withdrew a protection order case. Of all the VAWA self-petitioner clients who did not file, 14% chose not to file a protection order, 8% did not follow through on obtaining a full protection order once they had been granted a temporary protection order, and 1% withdrew their protection order cases.

The attorneys and advocates also provided detailed information about battered immigrants' decision making. Generally, more attorneys and advocates reported that their protection order clients either withdrew their applications or declined to pursue civil claims or criminal charges in court in 2017 than in 2016.

Among the protection order clients (n = 584) who provided their attorneys and advocates with information about the fears that led them to choose not to file or follow through with a case or to decide not to call the police for help, the top reasons they reported were the following:

- Fear of deportation, specifically that taking these steps would lead to deportation or that the perpetrator would retaliate by turning the victim in for deportation (43%, n = 208)
- Fear of losing their children (17%, n = 83)

- Fear that the justice system would not believe the victim because of her immigration status (14%, n = 69)
- Fearful of immigration enforcement at courthouses or that the judge would turn them in for immigration enforcement (13%, n = 64).

Thus reasons for these decisions are a combination of the perpetrators' immigration-related abuse and increases in courthouse immigration enforcement against victims. Both of these are issues that are often related to the general environment of where the battered women are living and what they hear about increased immigration enforcement and anti-immigrant sentiments. However, this research also confirms the important role that victim advocates and attorneys play in supporting battered immigrant women clients in obtaining protection orders. The assistance and support from attorneys and advocates provide immigrant victims with professional information about the availability of protection orders from family courts. This includes explaining that the local family courts are open to all persons. With this information, advice, and support, the data show that many immigrant victims choose to seek protection orders, regardless of their fears.

## Immigration Enforcement for Immigrant Victims With Protection Orders

Attorneys and advocates reported that fewer clients with protection orders experienced immigration enforcement actions initiated against them for both 2016 and 2017 (2%, n = 29 clients) relative to VAWA self-petitioners (18%, n = 342), U visa (9%, n = 58), and T visa (8%, n = 40) clients. The survey sought to understand both where immigrant victim clients experienced immigration enforcement actions and what triggered the enforcement actions. Here we report the data on protection order clients. The survey obtained information about the immigration enforcement experiences of two distinct groups of protection order applicants:

- Group 1: Immigrant victims who sought protection orders
- Group 2: Immigrant victims pursuing immigration relief who also sought protection orders

Advocates and attorneys participating in the survey reported on 41 cases of battered immigrant protection order clients (in Group 1) who were subject to immigration enforcement. The locations at which immigration enforcement occurred against protection order victims were victim services agencies (7%, n = 3), courthouses (49%, n = 20), traffic stops (24%, n = 10),

schools (7%, n = 3), and "other" locations (12%, n = 5). Among the 20 battered immigrant protection order clients who experienced immigration enforcement at courthouses, none of these enforcement actions occurred in connection with protection order proceedings. Enforcement actions occurred against protection order recipients in connection with divorce (25%, n = 5) and domestic violence cases, as well as other family or criminal court cases (75%, n = 15).

All of the locations where enforcement actions took place were federally protected under VAWA confidentiality statutes, except for the traffic stops. These are locations where immigration enforcement against immigrant crime victims is with very limited exceptions statutorily prohibited (Rodrigues et al., 2018). The DHS policies also severely limit immigration enforcement against any immigrant at sensitive locations, including schools, hospitals, and places of worship (Rodrigues, et al., 2018).

Despite these policies, in 2016 and 2017, the attorneys and advocates noted that the experiences of their VAWA and T or U visa clients who sought protection orders (in Group 2) showed 46 victims subjected to immigration enforcement while in court in connection with a protection order proceeding. The victims targeted for immigration enforcement at protection order proceedings all had pending immigration cases for VAWA self-petitions (72%, n = 33), U visas (17%, n = 8), or T visas (11%, n = 5). These findings regarding the experiences of immigrant victims in Groups 1 and 2 are consistent with a national survey of judges that found a 25% increase in courthouse enforcement against immigrant and LEP litigants in family court cases in 2017 compared to 2016 (Rodrigues et.al, 2018).

In addition, the survey sought to determine the reasons immigration enforcement officials knew about immigrant victims' court presence for those with protection orders or immigration relief victims seeking protection orders. The single most frequent cause of enforcement action in these cases was the perpetrator or the perpetrator's family reporting the victim to immigration enforcement (39%, n = 111). The second-most common trigger was the immigrant or LEP victim calling the police for help during a domestic violence incident and being arrested instead of or in addition to the perpetrator (20%, n = 56).

## Attorneys and Advocates' Reporting on Changes in Clients' Fears Post-2016

We asked attorneys and advocates to describe any changes or differences in their clients' concerns from 2016 to 2017. Almost all participants who

responded to this question (n = 34) reported an increase in fear of deportation and of losing their children among their clients. The research did not reveal any specific geographic differences. For example, one participant said,

> *Clients are definitely more concerned about being stopped by ICE or being deported. Even our clients who have valid T visas and have received travel authorization (e.g., to visit a sick family member) are scared of traveling abroad.*

Another participant echoed this as clients' concerns for their children, stating, "In 2017 and since [the] election, all reported primary fear of deportation and of losing their children." Clients' concerns for their children was a common theme in the data among battered immigrants (24%, n = 591). Even protection order clients whose orders typically grant them custody of their children continued to be concerned about their children (16%, n = 153). Clients are apprehensive about losing their children and fear for their children's safety. For example, one participant said there is an "increased concern for immigration being called and then detained or deported. They have concerns for their children's safety."

Multiple attorneys and advocates tied their clients' increased fear to the change in the presidential administration. One participant said the clients are "more afraid of deportation with the new president." Another participant said there is "more concern about being deported and children taken away due to Trump." Similarly, another participant reported, "Since Trump changed several things dealing with immigrants there has been more worries about being deported, children being taken away." Another participant said, "When Trump took office, there was a huge fear of increased immigration enforcement." Even clients who are not generally at risk for immigration enforcement now fear deportation. As one participant stated, "There is increased fear of deportation for clients who have no criminal record or other risk factors."

Participants not only noted the increase in fear among their clients but also communicated the implications of these fears for immigrants' access to the justice system and other public services. Multiple participants saw an increased aversion to contacting law enforcement and reporting crimes. For example, one advocate said, "Clients are more concerned about being detained by ICE in 2017. They are more reluctant to report crimes to the police department." This hesitancy exists among clients even when there is an immediate need for police protection, as suggested by the following statement: "[There is] concern with calling police in the midst of danger." A participant indicated that when victimized, clients are still reluctant to call the police, saying, "I notice that our clients are more apprehensive

about sharing their experiences as victims of trafficking with authorities, especially the police." Similarly, another participant said, "The amount of immigrant victims reporting domestic violence/sexual assault is a lot less than it was at this point last year."

One advocate discussed the fear of law enforcement in much more detail. The participant noted that this concern is not entirely unfounded:

> *Significantly more fear in calling 911, assisting prosecution and filing an immigration application. I cannot quantify how many times in particular our survivors decline to seek emergency help because they do not disclose the frequency of assaults and how many times they decided not to call 911. However,* ***many survivors have heard of victims being arrested in their community in the last year,*** *sometimes related to a domestic violence call for assistance, and all of them that have discussed this with me indicated that they would be less likely to ask for help because they never know if the officer showing up is there to help or is going to get them deported.*

The justification for these fears is also evident in another participant's story about one client:

> *A current domestic violence victim was arrested two times in relation to an incident of abuse. Once in 2016, after abuser filed false report. ICE was not notified, and she was released on bail. When a neighbor called 911 during another assault in spring 2017, police officer made a phone call and* ***ICE met her*** *[the victim] at the county jail. Police did not arrest her abuser in spring 2017, even though the 911 caller stated that he was strangling her, and she feared he would kill her.*

Participants also observed that clients' fears have had an effect on their willingness to go to court and/or assist in prosecution. For instance, one participant explained,

> *Compared to 2016 and previous years, clients were highly concerned with going to court for any matter right after the presidential election in November 2016. They feared being deported or being questioned about their immigration status at the court.*

Similarly, another participant stated, "Clients are more fearful to come to court, afraid they may be deported." A few participants noted that clients' fears of going to court have resulted in decreases in a variety of court filings.

For example, a participant reported, "I think the numbers of immigrant victims filing injunctions and coming in for help has gone down."

In addition to clients' apprehension affecting their access to the justice system, multiple participants specified the implications of these fears for accessing other public services. As one participant explained, there is "fear about accessing public benefits ... fear about accessing health care facilities due to increase immigration enforcement." Another participant said, "Clients are very wary of ... going out in public, signing up for benefits, and seeking help in general," and, as a participant pointed out, "they do not want to request public assistance anymore." One participant noticed a decline in her/his own immigrant clients; she/he said, "We have only had 4 new immigrant clients during 2017; they have stopped seeking services." Another participant discussed his/her concerns regarding clients' greater resistance to seeking help:

> *What concerns me even more though is that many more victims may not be seeking services at all. These situations are uncountable—we cannot count the people we never even hear from—only those that are forced into the system either by others or by those that overcome their fear enough to ask what might happen next.*

The data presented here clearly indicate that attorneys and advocates have observed a substantial increase in their clients' fears because of a boost in immigration enforcement. Given what their clients have witnessed (directly or indirectly) and experienced, these concerns are not entirely unwarranted. This greater overall reluctance to participate in society is summed up in one participant's statement: "Rather than approach law enforcement, child protection, school personnel, or other systems, people, clients, seemed to rely on their own networks to keep them safe."

## Conclusion

Although the results from this study are not generalizable, they nevertheless provide preliminary patterns of the impact of increased immigration enforcement, some of which are counterintuitive. One of the most troubling findings of this research is the extent to which battered immigrants (whose abusive husbands are U.S. citizens or lawful permanent residents) are increasingly refusing to file crime victim–based immigration applications because of fear of negative consequences resulting from their immigrant status. This, in turn, will and has contributed to many immigrant victims

being increasingly trapped in abusive marriages and more afraid to leave their abusers.

Despite declines in immigrant victims' willingness to file crime victim–based immigration applications, this research demonstrates no change in the willingness of immigrant victims to seek protection orders from state family courts. This finding that clients being served by advocates and attorneys continued to seek protection orders even in times of increased immigration enforcement is consistent with prior research. The National Institute of Justice–funded research found that battered immigrants, including those who are undocumented, are willing to seek protection orders with the help of advocates and attorneys who do safety planning and inform them about protection orders (Dutton et al., 2006). Language barriers and the inability of battered immigrants to navigate the protection order system unassisted result in battered immigrants seldom seeking protection orders "pro se" on their own without the assistance of an advocate or attorney. This has been true since battered immigrants began to obtain protection orders in the 1980s. Advocates and attorneys develop relationships with their local court systems and observe how court staff and judges treat their battered immigrant clients. Welcoming courts that provide just treatment and outcomes for immigrant victim clients allow advocates and attorneys to facilitate access to the courts and justice for future clients by presenting to them successful cases. Also, when battered immigrants are successful in obtaining protection orders that help them curb ongoing abuse, secure custody of their children, and take possession of the family home, word spreads to other immigrant women who come forward to also seek protection orders.

Protection orders were created to provide victims of IPV with a justice system family court remedy that the victim controls and that does not require the victim to have called the police or cooperated in a criminal case against the abuser. Protection orders are a powerful tool that women can use against their spouses, partners, and fathers of their children to reduce violence and protect their children. The victim decides when to file and what relief to seek from the court. Protection orders are an essential remedy for immigrant women, including those who choose not to leave their abusive relationships and those who try to leave and ultimately return to live with their abusers. Protection orders are very helpful for battered immigrants who have filed immigration cases but have limited access to public benefits and a possible 4- to 5-year wait for legal work authorization. Battered immigrant women in such precarious conditions often continue living with their abusers. This research has shown that battered immigrant women continue to seek protection orders to curb domestic

violence regardless of the rising level of anti-immigrant sentiment and immigration enforcement. While counterintuitive, this finding is very important because it helps us understand the layers of abuse, the priorities of battered immigrant women, and the services we need to provide them. For these victims, supportive attorneys and advocates who can help and inform them play a larger role than the macroeconomic context. This also helps us understand that we need to continue to protect funding for the organizations providing these supportive services and ensure that they do not suffer catastrophic funding cuts, so they can continue to do their work.

The findings from this research make clear the important role that advocates and attorneys play in offering help, support, and legal representation to battered immigrant women. Even in times when increased immigration enforcement strengthens abusers' abilities to use threats of deportation to keep victims in abusive relationships, trained advocates and attorneys continue to provide information and support that lead immigrant victims to seek protection orders and other victim services. Victim advocates and attorneys should not become frustrated or discouraged when immigrant victim clients are reticent to file for immigration relief; they should instead focus on the other tools they have to help keep battered immigrant victims and their children safe, including encouraging more immigrant victims to seek protection orders.

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