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# RECENT DEVELOPMENTS

## BATTERED IMMIGRANT WOMEN'S WILLINGNESS TO CALL FOR HELP AND POLICE RESPONSE

Leslye E. Orloff, Mary Ann Dutton,  
Giselle Aguilar Hass and Nawal Ammar<sup>1</sup>

### ABSTRACT

This Article examines the barriers that battered immigrant women face when contacting the police for assistance in stopping or escaping intimate partner violence. It analyzes partial results from a large-scale research project undertaken by Ayuda, Inc. from 1992 to 1995 meant to assess the needs of immigrant Latinas in the Washington D.C. metropolitan area. The results of this study demonstrate that only a small percentage of battered immigrant women who experienced severe domestic violence was willing to call the police. Those women who did call were more likely to have been in the country for more than three years, to have talked about the abuse with more than one person prior to calling the police, to have children who witnessed the abuse, and to have a form of permanent legal immigration status. The study found no evidence that the immigration status of the perpetrator affected the willingness of the victim to call the police. It found that a large number of the women who contacted the police had pro-

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1. Leslye E. Orloff, J.D., Director, Immigrant Women Program, NOW Legal Defense and Education Fund. Ms. Orloff founded the domestic violence program at Ayuda, Inc., where she was involved in the development and implementation of this study. Mary Ann Dutton, Ph.D., Research Professor, Department of Psychiatry, Georgetown University. Giselle Aguilar Hass, Psy.D., Associate Professor, Argosy University Washington D.C., and Nawal H. Ammar, Ph.D., Associate Professor of Justice Studies, Kent State University. The authors would like to extend their thanks to the following persons whose work contributed to the development of this article: Edna Yang, Amanda Anderson, Margo Coleman, Dana Jackson, and Adrienne Ellis.

tection orders and that having a protection order proved to correlate positively with the arrests of the perpetrators.

However, participants reported that police responses were far from adequate. In many cases, the police failed to speak with the victim and although there was visible evidence of a crime at the scene, they failed to arrest the batterer. The authors emphasize the need for police departments to employ bilingual officers and/or contract with interpreter services to improve police communication with victims. The authors also recommend that police officers receive more training on how to respond appropriately to domestic violence calls and how to work with victims from diverse immigrant communities.

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## I. INTRODUCTION

Domestic violence does not occur at a higher frequency within one socio-economic class, racial group, or geographic area.<sup>2</sup> However, some victims of domestic violence are at a greater risk of longer exposure to and greater impact from domestic violence because of their lack of access to culturally responsive services from the community in which they live.<sup>3</sup>

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2. Lisa E. Martin, *Providing Equal Justice for the Domestic Violence Victim: Due Process and the Victim's Right to Counsel*, 34 GONZ. L. REV. 329, 332 (1998-1999). See generally, Honorable Karen Burstein, *Naming the Violence: Destroying the Myth*, 58 ALB. L. REV. 961 (1995); Zanita E. Fenton, *Domestic Violence in Black and White: Racialized Stereotypes in Gender Violence*, 8 COLUM. J. GENDER & L. 1 (1998); Mary Ann Dutton, Leslye E. Orloff, & Giselle Aguilar Hass, *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications*, 7 GEO J. POVERTY L. & POL'Y 245 (2000).

3. See Dutton, *supra* note 2; Leslye Orloff, *Lifesaving Welfare Safety Net Access for Battered Immigrant Women and Children: Accomplishments and Next Steps*, 7 WM. & MARY J. WOMEN & L. 597 (2001); Cecelia M. Espenosa, *No Relief for the Weary: VAWA Relief Denied for Battered Immigrants Lost in the Intersections*, 83 MARQ. L. REV. 163 (1999); Lee J. Teran, *Barriers to Protection at Home and Abroad: Mexican Victims of Domestic Violence and the Violence Against Women Act*, 17 B.U. INT'L L.J. 1 (1999); see also Virginia P. Coto, *Beyond/Between Colors* LUCHA, *The Struggle for Life: Legal Services for Battered Immigrant Women*, 53 U. MIAMI L. REV. 749 (1999) (summarizing difficulties facing organizations providing legal services to poor, battered immigrant women); Karin Wang, *Battered Asian American Women: Community Responses from the Battered Women's Movement and*

Immigrant women<sup>4</sup> who encounter language barriers, cultural differences, and stereotyping by mainstream society are often invisible to the anti-domestic violence movement.<sup>5</sup> The pervasive lack of understanding of the life experiences of battered immigrant women by the systems designed to protect battered women and immigrant victims greatly reduces the likelihood that immigrant victims will be able to escape the violence in their lives.<sup>6</sup> While there have been some attempts to remove the barriers that battered immigrant women face, these attempts have not been completely successful. This is partially attributed to the lack of responsiveness and culturally appropriate treatment that battered immigrant women receive when interacting with the police.

There are many strategies battered women use to escape, avoid, and stop intimate violence. Some strategies are informal (e.g., speaking with friends), while others are formal (e.g., seeking help from government or social services agencies). However, when a woman realizes that her partner's abuse will not stop without outside intervention and she needs to take decisive action, calling the police may be one of her first formal responses.<sup>7</sup> Indeed, appropriate police intervention has been found to have a significant impact in lowering the rate of subsequent domestic violence.<sup>8</sup> However, scholars have found that police have not al-

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*the Asian American Community*, 3 ASIAN L.J. 151 (1996); *Respecting Diversity: Responding to Underserved Crime Victims*, in NATIONAL VICTIM ASSISTANCE ACADEMY ch. 8 (Anne Seymour et al., eds., 2000), available at <http://www.usdoj.gov> (last visited Nov. 6, 2003); *Immigrant Women: Barriers*, FAMILY VIOLENCE PREVENTION FUND, available at <http://endabuse.org/programs/display.php3?DocID=113.htm> (last visited Nov. 6, 2003).

4. The term immigrant women is used in this article generally to refer to immigrant women who were born in countries outside of the United States and includes immigrants, refugees, documented and undocumented immigrants, and persons who may currently be naturalized citizens.

5. Tien-Li Loke, *Trapped in Domestic Violence: The Impact of United States Immigration Laws on Battered Immigrant Women*, 6 B.U. PUB. INT. L.J. 589, 590 (1997). See generally Sandra D. Pressman, *The Legal Issues Confronting Conditional Resident Aliens Who Are Victims of Domestic Violence: Past, Present, and Future Perspectives*, 6 MD. J. CONTEMP. L. ISSUES 129 (1995).

6. Leslye E. Orloff, *Societal Issues and Family Violence*, in THE NATIONAL CONFERENCE ON FAMILY VIOLENCE: HEALTH AND JUSTICE CONFERENCE PROCEEDINGS 67, 70 (1994).

7. Giselle Aguilar Hass, Mary Ann Dutton & Leslye E. Orloff, *Lifetime Prevalence of Violence Against Latina Immigrants: Legal and Policy Implications*, in DOMESTIC VIOLENCE: Global Responses 90-113 (Edna Erez & Kathy Laster eds., 2000).

8. See Raymond Paternoster et al., *Do Fair Procedures Matter? The Effect of Procedural Justice on Spouse Assault*, 31 LAW AND SOCIETY REVIEW 163 (1997); Eve S. Buzawa & Carl G. Buzawa, DOMESTIC VIOLENCE: THE CRIMINAL JUSTICE RESPONSE (1990).

ways fulfilled their protective role due to prejudice, call screening, gender bias, language barriers, and lack of culturally competent training and understanding about the life experiences of immigrant communities and domestic violence victims.<sup>9</sup>

At the same time, many immigrants have a strong distrust of the police due to negative perceptions or experiences with police in their countries of origin<sup>10</sup> and experiences of racism and prejudice with the police in the United States.<sup>11</sup> When this lack of trust is combined with fears including arrest, deportation,<sup>12</sup> and retribution from their abusers,<sup>13</sup> it becomes clear why many battered immigrant women hesitate to contact the police to report abuse. The life experiences of battered immigrants require that police officers be more aware of the intersection of culture, law, gender, language barriers, and victimization in handling domestic violence in immigrant families.

The call for change in police relationships with immigrants who experience domestic violence is particularly important in light of the changing immigrant demographics in the United States. The rate of immigrants entering the U.S. has tripled over the past generation; during the 1990s, the country witnessed the largest influx of immigrants to date.<sup>14</sup> The immigrant population now extends beyond people who are foreign born to include the children of these families. In the year 2000, 20% of school-aged children had immigrant parents,<sup>15</sup> and it is estimated that by the

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9. Jenny Rivera, *Domestic Violence Against Latinas by Latino Males: An Analysis of Race, National Origin, and Gender Differentials*, 14 B.C. THIRD WORLD L.J. 231, 247 (1994); Daniel E. Georges-Abeyie, *Law Enforcement and Racial and Ethnic Bias*, 19 FLA. ST. U.L. REV. 717, 720 (1992).

10. See 1 U.S. COMM'N ON CIVIL RIGHTS, RACIAL AND ETHNIC TENSIONS IN AMERICAN COMMUNITIES: POVERTY, INEQUALITY AND DISCRIMINATION 75 (1993) [hereinafter "U.S. Comm'n on Civil Rights"]; Orloff, *supra* note 3, at 610.

11. See Kevin M. Pimentel & Ronnie H. Rhoe, *Asian American's Greatest Hits: A Review of Angelo Ancheta's Race, Rights, and the Asian American Experience*, 4 MICH. J. RACE & L. 169 (1998); Flo Messier, *Alien Defendants in Criminal Proceedings: Justice Shrugs*, 36 AM. CRIM. L. REV. 1395 (1999); see generally *Respecting Diversity: Responding to Underserved Crime Victims*, *supra* note 3.

12. See Dutton, *supra* note 2, at 293.

13. See Richard A. Berk et al., *Cops on Call: Summoning the Police to the Scene of Spousal Violence*, 18 LAW & SOC'Y REV. 479, 486 (1984); PATRICIA TJADEN & NANCY THOENNES, NATIONAL INST. OF JUSTICE & CDC, EXTENT, NATURE, AND CONSEQUENCES OF INTIMATE PARTNER VIOLENCE: FINDINGS FROM THE NATIONAL VIOLENCE AGAINST WOMEN SURVEY 51 (2000); CALLIE MARIE RENNISON & SARAH WELCHANS, U.S. DEP'T OF JUSTICE, INTIMATE PARTNER VIOLENCE 7 (2000).

14. MICHAEL FIX & WENDY ZIMMERMAN, THE URBAN INSTITUTE, THE INTEGRATION OF IMMIGRANT FAMILIES iii (2000).

15. *Id.* at iv.

year 2040, 27% of the U.S. population will be immigrants or the children of immigrants.<sup>16</sup>

It is critical to realize that the increase in the sheer number of persons immigrating to the United States means that geographic areas of the U.S. which typically have not had significant immigrant populations are now being called upon to respond to the needs of diverse populations of immigrants and refugees who are new arrivals in the United States. While the majority of immigrants live<sup>17</sup> in the West<sup>18</sup> and the South,<sup>19</sup> immigrants now have an increasingly significant presence in the Northeast<sup>20</sup> and Midwest.<sup>21</sup> This influx of immigrants is also affecting rural areas in which greater numbers of immigrant families are settling in communities that have not historically been home to immigrant or minority populations.

Further, over the past thirty years there has been dramatic growth in the diversity of the U.S. immigrant population and the number of languages spoken. As of 1990, there were 31.8 million foreign language speakers that spoke a language other than English in the home.<sup>22</sup> However, the diversity of countries of origin and languages spoken by these immigrants has risen dramatically since 1970.<sup>23</sup> The number of countries with at least 100,000 foreign born persons residing in the United States grew from 20 in 1970 to 27 in 1980 to 41 in 1990 and has continued growing.<sup>24</sup> As the immigrant population becomes an increasingly dominant portion of American society, it is critical that police officers learn to work with all types of battered immigrant and refugee populations in order to effectively help them counter, reduce, and hopefully bring an end to the domestic violence they experience.

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16. MICHAEL FIX & JEFFREY PASSEL, THE URBAN INSTITUTE, IMMIGRATION AND IMMIGRANTS: SETTING THE RECORD STRAIGHT 40 (1994).

17. LISA LOLLOCK, U.S. DEP'T OF COMMERCE, THE FOREIGN-BORN POPULATION IN THE UNITED STATES 2 (2001).

18. 39.9% of immigrants lived in the western United States in 2000. *Id.*

19. 26.8% of immigrants lived in southern states in 2000. *Id.*

20. 22.6% of immigrants lived in northeast states in 2000. *Id.*

21. 10.7% of immigrants lived in Midwest states in 2000. *Id.*

22. FIX, *supra* note 16, at 31.

23. *See id.* at 27.

24. *Id.*

## II. OVERVIEW OF POLICE INTERACTIONS WITH MINORITY COMMUNITIES

The historic record of policing in minority communities in the U.S. leaves a lot to be desired.<sup>25</sup> As the U.S. population becomes increasingly diverse,<sup>26</sup> the need for adequate police training to effectively address issues that affect minority populations becomes more important. Reports of police violence and discrimination against immigrants have increased; such violence and discrimination is due in part to issues such as lack of language capacity, training, financial resources, and cultural competency.

### A. *Police Interactions With Immigrant Populations*

Issues of race, class, and ethnicity have always been at the forefront of discussions about the criminal justice system.<sup>27</sup> All branches of the U.S. government—judicial, legislative, and executive—have a history of racism.<sup>28</sup> The history of racial prejudice within the executive branch is often exemplified through the actions of police officers. The history of racism against African-Americans is clear from Jim Crow laws, segregation, and racial

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25. ARMANDO MORALES, ANDO SANGRANDO (I AM BLEEDING): A STUDY OF MEXICAN AMERICAN POLICE CONFLICT (1972); Jack L. Kuykendall, *Police and Minority Groups: Toward A Theory of Negative Contacts*, 15 POLICE 47-56 (1970).

26. See ELIZABETH M. GRIECO & RACHEL C. CASSIDY, U.S. CENSUS BUREAU, OVERVIEW OF RACE AND HISPANIC ORIGIN: CENSUS 2000 BRIEF 2-3 (2001), available at <http://www.census.gov/prod/2001pubs/c2kbr01-1.pdf> (reporting that 75% of all those who responded recorded their race as white alone, 13% reported as Hispanic alone, 12% reported as African-American or Black alone, 4% responded Asian alone, just under 1% responded as only American Indian or Alaska Native, 0.1% indicated Native Hawaiian or other Pacific Islander alone, 5.5% of respondents indicated some other race alone, and 2.4% of respondents reported two or more races); see also FIX, *supra* note 16, at 40 (stating that it is expected that 27% of Americans will either be foreign-born immigrants or second generation Americans by 2040).

27. See generally DAVID COLE, NO EQUAL JUSTICE: RACE AND CLASS IN THE AMERICAN CRIMINAL JUSTICE SYSTEM (1999); Carolyn Wolpert, *Considering Race and Crime: Distilling Non-partisan Policy from Opposing Theories*, 36 AM. CRIM. L. REV. 265 (1999); Andrew O. Leipold, *Objective Tests and Subjective Bias: Some Problems of Discriminatory Intent in the Criminal Law*, 73 CHI.-KENT L. REV. 559 (1998); Malia Brink, *Race, Crime and the Constitution: Forward*, 3 U. PA. J. CONST. L. 1 (2001).

28. See, e.g., *Loving v. Virginia*, 388 U.S. 1 (1967); *Plessy v. Ferguson* 163 U.S. 537, 559 (1896) (Harlan, J. dissenting), overruled by *Brown v. Board of Education*, 347 U.S. 483 (1954); Chinese Exclusion Act, ch. 126, 22 Stat. 58 (1882), repealed by Chinese Exclusion Repeal Act of 1943, ch. 344, 57 Stat. 600; Earl M. Maltz, *Citizenship and the Constitution: A History and Critique of the Supreme Court's Alienage Jurisprudence*, 28 ARIZ. ST. L.J. 1135 (1995).



profiling.<sup>29</sup> Discriminatory practices by police officers have also extended to various immigrant populations who are too often viewed by police as persons not legally residing in the United States and suffering from a cultural lag. These assumptions, combined with the fact that newer immigrants are often living in poverty,<sup>30</sup> have fostered the image that immigrants pose a problem and a danger to U.S. social fabric.<sup>31</sup>

The relationship between police officers and immigrant populations is one that has been strained for a variety of reasons. Unguided and untrained police action against immigrant populations has often resulted in the violation of the rights of citizens, lawful residents, and other noncitizens.<sup>32</sup> Some of the most brutal acts of violence and police brutality have occurred against immigrants.<sup>33</sup> However, overt physical violence has not been the only negative response by police in their interactions with immigrant populations. Due to their own prejudices or simple lack of

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29. See *Plessy*, 163 U.S. at 559; *Dred Scott v. Sandford*, 60 U.S. 393 (1856); *Korematsu v. United States*, 323 U.S. 214 (1944); Joseph Gordon Hylton, *Evolving Voices in Land Use Law: A Festschrift in Honor of Daniel R. Mandelker: Part I: Historical Background: Chapter I: The Supreme Court: Prelude to Euclid: The United States Supreme Court and the Constitutionality of Land Use Regulation, 1900-1920*, 3 WASH. U. J. L. & POL'Y 1 (2000); *United States v. Adkins*, 1 Fed. Appx. 850 (2001).

30. Although newly immigrated families have higher poverty rates than the general U.S. population, the growth rate for immigrant earnings over time surpasses the growth rate for native-born families. Harriet Orcutt Duleep, *Immigrant Earnings Growth 1960-1990: Initial Insights From Longitudinal Data on Individuals*, available at <http://gsbwww.uchicago.edu/research/workshops/wae/Duleep.pdf> (last visited Nov. 20, 2003). Incomes of households headed by naturalized citizens who have lived in the U.S. for 10 years or more slightly exceed that of native U.S. citizens. Fix, *supra* note 16, at 21.

31. See Mark D. Rosenbaum & Daniel P. Tokaji, *Healing the Blind Goddess: Race and Criminal Justice: No Equal Justice: Race and Class in the American Criminal Justice System*, 98 MICH. L. REV. 1941 (2000); see also COLE, *supra* note 27. Immigrants who enter the United States without permission from the Immigration and Naturalization Service and those who overstay their immigration visas have not violated U.S. criminal laws. The proper terminology to refer to this portion of the non-citizen population in the U.S. is "undocumented." Undocumented immigrants are persons who currently do not have documentation from the Immigration and Naturalization Service that would give them legal permission to live and work in the United States.

32. Linda Reyna Yañez & Alfonso Soto, *Local Police Involvement in the Enforcement of Immigration Law*, 1 TEX. HISP. J.L. & POL'Y 9 (1994), U.S. COMM'N ON CIVIL RIGHTS, *supra* note 10, at 143-45.

33. See, e.g., Michael Cooper, *Officers in Bronx Fire 41 Shots, and an Unarmed Man is Killed*, N.Y. TIMES, Feb. 5, 1999, at A1; Scott Glover & Matt Lait, *Police in Secret Group Broke Law Routinely, Transcripts Say*, L.A. TIMES, Feb. 10, 2000, at A1; *Mixed Verdict in Louima Torture Case*, STAR TRIB. (Minneapolis-St. Paul) June 9, 1999, available at 1999 WL 4559149.

knowledge, there have been a number of cases where police officers have arrested, harassed, and accused immigrants of various crimes and threatened them with deportation.<sup>34</sup>

Police officers use discretion in making arrests. This discretion often turns into selective law enforcement, and encompasses the use of coercive force and/or verbal threats when officers come into contact with immigrants.<sup>35</sup> An officer's perception of a person's race, ethnicity, and social class can (and often does) determine what legal enforcement measures will be used in any given instance.<sup>36</sup> These perceptions may be based on personal experience and/or stereotypes that an individual police officer has with regard to a particular ethnic group.<sup>37</sup>

These same problems of perception and stereotyping that affect and strain the relationship between immigrants and police officers also affect and strain the relationship between police officers and immigrant victims of domestic violence. Researchers have found that the patriarchal occupational subculture of police officers or departments often leads to individual attitudes which tend to blame the victim, project blame on other institutions, and foster negative images of women as manipulative individuals.<sup>38</sup> This does not mean, however, that these perceptions cannot be changed through adequate training and education, access to interpreters who are trained in working with domestic violence victims, and the development and implementation of appropriate policies.

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34. See, e.g., *Gonzales v. City of Peoria*, 537 F. Supp. 793 (D. Ariz. 1982) (discussing one citizen and four lawful resident plaintiffs' challenges of police arrests made under the Immigration and Nationality Act in violation of their civil rights); see also *Velasquez v. Senko*, 643 F. Supp. 1172 (N.D. Cal. 1986) (discussing raid on Latino business which led to violations of civil rights and the arrest of U.S. citizens and lawful permanent residents). See also, Leslye Orloff et al., *Ensuring the Battered Immigrants Who Seek Help from the Justice System Are Not Reported to the INS*, in LESLYE E. ORLOFF & RACHEL LITTLE, *SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN*, A "HOW TO" MANUAL FOR BATTERED WOMEN'S ADVOCATES AND SERVICE PROVIDERS 278-88 (1999).

35. See generally *Freeman v. City of Santa Ana*, 68 F.3d 1180 (9th Cir. 1995).

36. *Georges-Abeyie*, *supra* note 9, at 720; U.S. COMM'N ON CIVIL RIGHTS, *supra* note 10, at 20.

37. See Trish Oberweis & Michael Musheno, *Policing Identities: Cop Decision Making and the Constitution of Citizens*, 24 LAW & SOC. INQUIRY 897 (1999).

38. See George S. Rigakos, *Constructing the Symbolic Complainant: Police Subculture and the Nonenforcement of Protection Orders for Battered Women*, 10 VIOLENCE AND VICTIMS 227 (1995).

The dire need for culturally appropriate law enforcement training has become more evident in the aftermath of the September 11, 2001 tragedy. The sudden thrust of law enforcement into the day-to-day realities of diverse cultural groups living in the U.S. has more than revealed how antiquated police training and police department policies are when it comes to intervening in domestic violence cases of immigrant victims. The daily ordeals battered immigrant women endure when contacting law enforcement for service are exacerbated when stereotyping, culturally insensitive, xenophobic, and gender biased attitudes persist among police officers and are unmitigated by appropriate training and continuing education.

### B. *Police Interactions With Victims of Domestic Violence*

Historically, domestic violence has been viewed as a private problem.<sup>39</sup> This view has gradually begun to change with activism and some legislation, but the change in perspective has been slow in coming. As a result, police intervention in domestic violence cases has historically been minimal.

The tools used by law enforcement to protect victims were not often used effectively due to the police outlook on domestic violence as a private matter.<sup>40</sup> Protection orders have not always been treated seriously and a tendency to arrest victims has been related to police finding violent acts by the perpetrators justifiable.<sup>41</sup> The response to this lack of attention eventually led to the development of mandatory and pro-arrest policies that take away the discretion and power from police officers in deciding whether or not to arrest the batterer.<sup>42</sup> Much emphasis has been placed on mandatory arrest as a primary form of police intervention in domestic violence cases, but this singular focus can prove to be

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39. See Dorothy Q. Thomas & Michele E. Beasley, *Domestic Violence as a Human Rights Issue*, 15 HUM. RTS. Q. 36 (1993).

40. ELIZABETH PLECK, *DOMESTIC TYRANNY: THE MAKING OF SOCIAL POLICY AGAINST FAMILY VIOLENCE FROM COLONIAL TIMES TO THE PRESENT* (1987).

41. See Daniel Sanders, *The Tendency to Arrest Victims of Domestic Violence: A Preliminary Analysis of Officer Characteristics*, 10 J. INTERPERSONAL VIOLENCE 147 (1995).

42. See generally Joan McCord, *Deterrence of Domestic Violence: A Critical View of Research*, 29 J. RESEARCH CRIM. & DELINQUENCY 229 (1992); Lawrence W. Sherman, *The Influence of Criminology on Criminal Law: Evaluating Arrests for Misdemeanor Domestic Violence*, 83 J. CRIM. L. & CRIMINOLOGY 1 (1992); Jane Sadusky, *Working Effectively with the Police: A Guide for Battered Women's Advocates*, available at <http://www.vaw.umn.edu/BWJP/policeV.htm>.

detrimental to battered women whose life experiences are determined by issues of race, class, ethnicity, and immigration status.<sup>43</sup>

The Violence Against Women Act (VAWA) passed by Congress in 1994 and improved in 2000,<sup>44</sup> sought, among many goals, to reform the manner in which law enforcement officers intervened in domestic violence cases. VAWA provided funding, technical assistance, development of model training programs, and support for police department units that specialized in appropriate response to domestic violence calls for help.<sup>45</sup> Overall, although there has been significant improvement in police response to domestic violence in some communities following the passage of VAWA, police response to domestic violence in many communities continues to be lacking. The personal attitudes of some police officers about what domestic violence is (a private problem) and how it should be handled (through mediation rather than arrest or formal charges) has the effect of marginalizing victims of domestic violence and even disregarding their requests for help.<sup>46</sup> These problems of lack of appropriate response from the police and police department policies to domestic violence are further compounded when the battered woman is an immigrant. This can occur because the police do not have the capacity to communicate effectively with the immigrant victim in her own language, the police may use her abuser or her children to translate for her, and/or police may believe the statements of her citizen spouse or boyfriend instead of the victim's statements due to gender, race, or cultural bias.

### C. *Police Interactions with Battered Immigrant Women*

Battered immigrant women, especially those of color, face multiple barriers when trying to access services to try to stop the

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43. See generally Miriam H. Ruttenberg, *A Feminist Critique of Mandatory Arrest: An Analysis of Race and Gender in Domestic Violence Policy*, 2 AM. U. J. GENDER & L. 171 (1994); Gena L. Durham, *The Domestic Violence Dilemma: How Our Ineffective and Varied Responses Reflect Our Conflicted Views of the Problem*, 71 S. CAL. L. REV. 641 (1998).

44. Violence Against Women Act of 1994, Pub. L. No. 103-322, 108 Stat. 1796 (codified as amended at 42 U.S.C. § 13701); Violence Against Women Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended at 22 U.S.C. § 7101).

45. Violence Against Women Act of 2000 § 1104; Violence Against Women Act of 1994 § 40231.

46. See Joanne Belknap, *Law Enforcement Officers' Attitudes About the Appropriate Responses to Women Battering*, 4 INT'L REV. OF VICTIMOLOGY 47 (1995); see also Randall Armentrout, *Car 54 Where Are You?: Police Response to Domestic Violence Calls*, 40 DRAKE L. REV. 361 (1991).

abuse or to aid their escape from violent relationships.<sup>47</sup> The treatment of immigrants by police in general influences whether battered immigrant women will trust the police and call for help.<sup>48</sup> The interaction between police officers and immigrants has been a tenuous one in which immigrants have been arrested and threatened with deportation for minor criminal violations based largely upon the fact that they are immigrants. Domestic violence, especially when perpetrated against a person of the same race or ethnicity as the batterer, is not perceived by law enforcement officials as unusual within immigrant communities.<sup>49</sup> Violence is often viewed by officers as being a part of the immigrant culture and the lives of immigrant women, leading some police officers to conclude that domestic violence is not a crime when the victim is an immigrant.<sup>50</sup> Other times, they may misperceive the victim's hesitancy to get involved with the legal system as a sign that she may not follow through on the prosecution of the criminal case.<sup>51</sup> In light of these problems and practices, it is not surprising that anecdotal evidence from advocates working with immigrant victims of domestic violence indicates that the number of arrests for domestic violence within immigrant communities is relatively low.<sup>52</sup>

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47. See generally Pressman, *supra* note 5; Dutton, *supra* note 2, at 249-53; Leslye E. Orloff & Dave Nomi, *Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the DC Metropolitan Area*, POVERTY AND RACE 9-10 (1997); Mary Ann Dutton & Giselle Aguilar Hass, *Use of Expert Testimony Concerning Battering and Its Effects on Immigrant Women*, in MARY ANN DUTTON, ET AL., DOMESTIC VIOLENCE AND IMMIGRATION: APPLYING THE IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT: A TRAINING MANUAL FOR ATTORNEYS AND ADVOCATES Appendix C (2000); Orloff, *supra* note 34, at 279; LETI VOLPP, WORKING WITH BATTERED IMMIGRANT WOMEN: A HANDBOOK TO MAKE SERVICES ACCESSIBLE 16-20 (1995); Catherine F. Klein & Leslye Orloff, *Providing Legal Protection for Battered Women: An Analysis of Statutes and Case Law*, 21 HOFSTRA L. REV. 801 (1993).

48. See Rivera, *supra* note 9.

49. See *id.*

50. See generally Linda Ammons, *Mules, Madonnas, Babies, Bathwater, Racial Imagery and Stereotypes: The African-American Woman and the Battered Woman Syndrome*, 1995 WIS. L. REV. 1003, 1017 (1995); Rivera, *supra* note 9.

51. The battered immigrant woman's hesitancy may be due to the law enforcement officer's inability to communicate with her using an impartial interpreter. She may believe her abuser's threats that if she cooperates with law enforcement against him, he will have her deported or will retaliate against her in other ways.

52. These anecdotal experiences are confirmed by the research findings reported in this article.

Battered immigrant women's lack of trust in the system and its officers intersects with many other fears: fear of deportation,<sup>53</sup> fear of retribution by abusers, fear of being the one arrested and separated from children, and fear of future economic, social and/or employability repercussions. These issues preclude many battered immigrant women from requesting the help they need to counter the domestic violence they experience in their lives.<sup>54</sup> These barriers become even more pronounced when the batterer is a U.S. citizen and the victim is a non-citizen.<sup>55</sup> Police officers are more likely to believe the citizen batterer when he contradicts the battered immigrant woman's accusations of violence.<sup>56</sup> In many instances, the fact that battered immigrant women have no legal immigration status or documentation in the U.S. is a result of the batterer's use of the victim's immigration status as a weapon of abuse.<sup>57</sup>

In certain instances, the police in effect act as the gatekeepers to the judicial system. Their discretion is the determining factor in deciding whether immigrant victims will gain access to the system and be able to find protection from the violence perpetrated against them in their homes. In many cases, unfortunately, the most difficult hurdle for battered immigrant women is that of police indifference and inaction.<sup>58</sup> This inaction can act as an almost impassible barrier for many battered immigrant women to overcome, leaving them trapped and without any legal remedies.

These concerns led the authors of this article to carefully examine the barriers that Latina battered immigrant women face when contacting the police for assistance in attempting to curb,

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53. LESLYE ORLOFF ET AL., *NEW DANGERS FOR BATTERED IMMIGRANTS: THE UNTOLD EFFECTS OF THE DEMISE OF 245(i)* (1999) (collection of stories of battered immigrant victims' experiences of domestic violence perpetrated against them by their U.S. citizen or lawful permanent resident spouses illustrates how fears of deportation prevented many from calling the police for help).

54. Dutton, *supra* note 2, at 251, 256.

55. Klein, *supra* note 47, at 1022-26.

56. See generally Orloff, *supra* note 53; ROBIN L. CAMP ET AL., *UNTOLD STORIES: CASES DOCUMENTING ABUSE BY U.S. CITIZENS AND LAWFUL RESIDENTS ON IMMIGRANT SPOUSES* (1993).

57. Loke, *supra* note 5, at 590; see also Ryan Lilienthal, *Old Hurdles Hamper New Options for Battered Immigrant Women*, 1592 BROOKLYN L. REV. 1595 (1996); Dutton, *supra* note 2, at 293 (stating that "threats of deportation are very powerful tools used by abusers of immigrant women to keep them in abusive relationships and prevent them from seeking help").

58. Donna Coker, *Piercing Webs of Power: Identity, Resistance, and Hope in Latent Theory and Praxis: Shifting Power for Battered Women: Law, Material Resources, and Poor Women of Color*, 33 U.C. DAVIS L. REV. 1009, 1042-43 (2000).

stop, or escape intimate partner violence. This article analyzes partial results from a large-scale research project undertaken by Ayuda, Inc. from 1992 to 1995 meant to assess the needs of immigrant Latinas in the Washington, D.C. metropolitan area. One of the primary objectives of this study was to investigate the barriers that existed for battered immigrant Latinas who sought justice system assistance and other social services to help them end domestic violence.

## 1. Methods of Study

### Participants

The participants were 230 women who reported intimate partner violence from a larger study and who had been recruited by announcement distributions at local institutions in the Washington, D.C. metropolitan area, including schools, health clinics, churches, community based organizations, and by communication from woman to woman in the Latina immigrant community. Women who met the criteria for the study were those who had immigrated to the United States, identified Spanish as their first language, and reported some form of intimate partner violence since being in the United States. Participants included both help-seeking women and women in the general community.

The participants were questioned by trained interviewers who were members of the participants' own community. The interviewers and interviewees were matched in terms of ethnicity and psychosocial background. All interviewers had personal experience with domestic violence. For rapport purposes, the interviewers acknowledged their personal experience with domestic violence to the participants at an appropriate point in the survey. Participants were briefed about the requirements of their participation, told that their participation would not have negative immigration or other legal consequences, and told that the confidentiality of individual survey respondents would be protected. Respondents provided consent to participate in the study and the participants were offered a referral to a local support group for victims of domestic violence.

### Interview

The interview was modeled after a Coalition for Immigrant and Refugee Rights and Services (CIRRS) study that was con-

ducted in San Francisco in 1990.<sup>59</sup> The survey instrument sought information regarding demographics, language abilities, immigration status, current problems, domestic violence, acculturation, support systems, economics, work history, housing, and other relevant data. Interviews were conducted in Spanish with each session lasting approximately one to two hours.

### Analysis

The Statistical Package for the Social Sciences (SPSS) was used to obtain descriptive statistics, chi square analyses, and analyses of variance. Four research questions were the focus of the portion of this study reported here:

1. What proportion of battered immigrant women called the police because of a problem with a current or former intimate partner? How often do they call?
2. What factors were associated with battered immigrant women's willingness to call the police?
3. What was the nature of police response when battered immigrant women called due to a problem with a current or former intimate partner?
4. What factors were related to arrest following battered immigrant women's calls to police due to a problem with a current or former intimate partner?

### Computed Measures

Three separate abuse measures were used in the study: physical, sexual, and psychological. In addition, the researchers constructed a violence measure ("domestic violence offense") to examine those forms of abuse that as a matter of law constitute domestic violence under the criminal and protection order laws of all states.<sup>60</sup> In addition, the researchers constructed a similar category to identify those acts of violence that constitute a "child abuse offense." The types of acts that were included in the cate-

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59. CHRIS HOGELAND & KAREN ROSEN, COALITION FOR IMMIGRANT AND REFUGEE RIGHTS AND SERVICES, *DREAMS LOST, DREAMS FOUND: UNDOCUMENTED WOMEN IN THE LAND OF OPPORTUNITY* (1991).

60. It is important to note that for the research analyzing when battered immigrants called the police and the police response to calls from battered immigrants, the researchers included in the definition of domestic violence only those offenses that under state criminal and protection order laws would be considered domestic violence. Some forms of domestic violence that are sufficient to grant immigrant victims protection under immigration laws - most notably extreme cruelty - were not included in this domestic violence definition because in many states, extreme cruelty is not covered under criminal domestic violence laws. See Orloff, *supra* note 47, at 848-66.



gories of "domestic violence offense" against an adult victim or a "child abuse offense" against a child victim included: assaults (hit, pushed, scratched, pulled hair, with fist, kicked, choked, bit, burned); weapons (attacked, hit, threatened or shot with a gun, knife, machete or other weapon); kidnapping (locked victim or her children in the house or a room); sexual assault (rape, sexual assault, assault during pregnancy, incest, forced sexual relations, child sexual assault); criminal threats (threats to kill, bodily harm, harm victim, her children or her family members); and attempted assaults (drove a car at the victim or her children, tried to run over the victim or her children, drove in a manner that endangered her or her children, threw objects at her or her children).

*Visible physical injury.* A visible physical injury scale included cuts, visible bruises, and other wounds and injuries that made it visibly difficult for the victim to move. If such injuries were present, an arrest should occur as a matter of law because such injuries provide evidence of a domestic violence offense.

*Other evidence.* An "other evidence" measure was constructed which included torn clothing, property in disarray, police witnessing victim abuse and police hearing threats. An "other evidence" score refers to the number of other types of evidence present that the victims reported to be at the scene when the police arrived.

*Crime scene evidence.* A crime scene evidence variable was constructed as a total score representing visible physical injury and other evidence since both types constitute viable evidence in a crime scene investigation.

*Immigration status.* Immigration status was divided into three categories: stable, temporary, and undocumented. The "stable" immigration status category contained citizens, naturalized citizens, and lawful permanent residents. The "undocumented" category consisted of persons without legal permission to be in the United States either because they had entered without inspection or because they had entered lawfully and had overstayed or violated the terms of their visa. The "temporary" immigration status category included cases where the Immigration and Naturalization Service (INS)<sup>61</sup> was aware of the pres-

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61. The Homeland Security Act of 2002, Pub. L. 107-296, 116 Stat. 2135 (Nov. 25, 2002), abolished the INS and moved the functions performed by the INS into the new Department of Homeland Security. Immigration and citizenship services previously provided by INS are now performed by the U.S. Citizenship and Immigration

ence of the immigrant and the immigrant had legal permission from the INS to live and, in most cases, work in the United States. However, persons in this immigration category had forms of immigration status that were not permanent. The status was limited as to length of time, was dependant upon a specific familial or employment relationship, or was designed to offer temporary relief to persons due to conditions in their home country.

### III. RESULTS OF STUDY<sup>62</sup>

#### *Demographics*

The sample consisted of 230 immigrant women who had experienced violence or abuse from a past or current intimate partner. Half of the respondents were between the ages of 30 and 41 years (50.9%,  $n = 86$ ), with 40.8% ( $n = 89$ ) under 30 years and only 9.2% ( $n = 20$ ) 42 years or older.<sup>63</sup> Half of the women reported not being involved in a current intimate relationship at the time of the survey (50.0%,  $n = 109$ ). Most of the participants were employed (64.2%,  $n = 138$ ) either full or part-time, the majority of whom (60.7%,  $n = 68$ ) reported an average annual income below \$9,000. In addition, more than three-quarters of the women had very little or no English speaking skills (75.6%,  $n = 169$ ) and 20% ( $n = 45$ ) reported very little or no Spanish reading literacy.

The immigration status of the respondents in the sample was primarily undocumented (44.4%,  $n = 95$ ) but also included temporary (28.5%,  $n = 61$ ) and stable (27.1%,  $n = 58$ ) status categories. The immigration status of respondents' spouses included a greater proportion of stable (40.7%,  $n = 59$ ) compared to respondents and somewhat fewer undocumented (39.3%,  $n = 47$ ) and temporary (20%,  $n = 29$ ).

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Services (CIS). Enforcement activities previously performed by INS are now performed by the Bureau of Immigration and Customs Enforcement (ICE). This paper either refers specifically to the appropriate bureau or uses the phrase "immigration authorities" to generally refer to more than one bureau.

62. The authors of this article continue to analyze the wealth of data collected in this survey. In a future article, the authors plan to include information from a multivariate statistical analysis of some of the data discussed in this paper along with reporting on other survey findings.

63. Not all immigrant women survey participants answered all questions asked by interviewers. When respondents did not answer a particular question, the result was missing data. This missing data explains why figures do not add up to  $n = 230$  in these and other survey data analyses.

### Calls to Police

Of the sample, 27.0% (n = 53) indicated that at some point while in the United States they had called police for assistance due to violence or abuse from an intimate partner. Among these callers, the number of calls made ranged from 1 to 10. Of those who called, nearly an equal number of respondents reported they had called the police once (27.3%, n = 12), twice (22.7%, n = 10), three times (22.7%, n = 10), and more than three times (27.2%, n = 12).

### Factors Related to Battered Women's Calls to Police Demographics

Overall, 65.1% (n = 125) of the respondents reported living in the United States for three or more years. These women were more likely to call the police than women who had been in the U.S. for less time (32.8% vs. 16.4%,  $\chi^2 = 5.93$ ,  $df = 1$ , 192,  $p < .01$ ). Overall, 47.2% (n = 91) of the women reported current involvement in an intimate relationship. These women were less likely to call police than women who were currently not in an intimate relationship (20.9% vs. 33.3%,  $\chi^2 = 3.74$ ,  $df = 1$ , 193,  $p < .05$ ).

Battered women who had a stable immigration status were more likely to call police (43.1%) than those with either a temporary status (20.8%) or who were undocumented (18.8%) ( $\chi^2 = 10.7$ ,  $df = 2$ , 184,  $p < .01$ ). There was no significant effect on women's calls to police depending on the immigration status of their spouse, their intimate partner, or the father of respondents' children on women's calls to police. Variables found not to be related to immigrant women respondents' calling the police included respondents' education, income, English language ability, Spanish language ability, current employment, and whether the spouse had presented immigration papers for the respondent.

### Violence-Related Variables

Overall, 84.1% (n = 190) of the immigrant women respondents reported abuse that involved physical and/or sexual violence. The remaining 15.9% (n = 36) of women reporting abuse reported experiencing events that constituted psychological abuse only. As expected, the *type of violence* that women experienced was related to whether or not they called police. Women who were physically and/or sexually abused were more likely to

call police than women who reported psychological abuse only (31.5% vs. 5.9%,  $\chi^2 = 9.34$ ,  $df = 1$ , 196,  $p < .01$ ). Overall, 12% ( $n = 22$ ) of the sample had been abused by more than one intimate partner, however there was no difference in the proportion of multiply abused women who called police compared to women who had been abused by one partner only.

Violent acts were coded based on whether or not they involved *severe physical* abuse,<sup>64</sup> defined as being hit, punched, kicked, attacked with a knife, choked, bitten, or hit with an object. In this study, 66.9% ( $n = 71$ ) of the women reported experiencing severe violence. Those who experienced severe physical abuse also reported calling police more often than those who did not (29.7% vs. 4.0%,  $\chi^2 = 13.23$ ,  $df = 1$ , 151,  $p < .001$ ). Interestingly, 93.8% of those who called police had been severely abused even though severely abused women account for only 66.9% of the immigrant women respondents in the survey. Violent acts were also coded according to whether or not they would constitute a domestic violence offense in most jurisdictions. Overall, the 81.1% (159) of women who reported experiencing domestic violence that would constitute a domestic violence offense were more likely to call police than those who did not (32.7% vs. 2.7%,  $\chi^2 = 13.69$ ,  $df = 1$ , 196,  $p < .001$ ). Again, 98.1% ( $n = 52$ ) of all women who called the police had experienced a domestic violence offense, even though this sample included only 81.1% ( $n = 159$ ) of women with domestic violence offenses overall.

Two additional variables were examined only among those women who called the police. Overall, 59.6% ( $n = 21$ ) reported some form of visible *physical injury* at the time they called police. Specifically, 51.9% ( $n = 21$ ) reported having bruises, 13.7% ( $n = 7$ ) having cuts, 11.5% ( $n = 6$ ) having wounds, and 7.7% ( $n = 4$ ) having wounds that made it difficult to move. Those who reported some form of physical injury also reported calling police more often than those women who reported no physical injury (68.9% vs. 0%,  $\chi^2 = 11.94$ ,  $df = 1$ , 52,  $p < .001$ ). Thus, 100% of calls to police were from women who were injured, even though injured women comprised only 81.5% of the overall sample. Further, women who reported being injured by domestic violence sometime in the past (overall, 79.9%,  $n = 147$ ) were more likely to call police than women who reported never having been

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64. Hass, *supra* note 7.

injured in the past (32.7% vs. 13.5%,  $\chi^2 = 5.28$ ,  $df = 1$ , 184,  $p < .05$ ).

The extent to which *other types of evidence* were present was also studied only among women who called the police. In 51.1% ( $n = 23$ ) of the cases in which women called police, evidence other than physical injury was present at the scene when the police arrived such as torn clothing, property in disarray, or else the police witnessed violence or threats. For all cases reported to the police, 34.8% ( $n = 8$ ) of women reported more than one other type of evidence was present at the crime scene. Combining both injury and other types of evidence described above, 68.9% ( $n = 31$ ) of the respondents reported at least one of these types of *crime scene evidence*. Of those reporting some type of crime scene evidence, 19.3% ( $n = 6$ ) reported more than one type.

Respondents were asked about the amount of time that generally passed between abusive incidents. Overall, more than a third of the respondents 35.4%, ( $n = 70$ ) reported abuse experiences every one to two days, 27.3% ( $n = 54$ ) every three days to one week, 20.7% ( $n = 41$ ) weekly to monthly, and 16.7% ( $n = 33$ ) less often than once a month.

Those in the sample who reported experiencing abusive incidents every one to two days called police more often (33.3%,  $n = 20$ ) than those who experienced violence between three days and one week (10.9%,  $n = 5$ ), but not significantly more often than those who experienced violence every one week and one month (31.4%,  $n = 11$ ) or more often than one month (37.9%,  $n = 11$ ;  $\chi^2 = 9.23$ ,  $df = 3$ , 170,  $p < .05$ ).

Overall, 29.1% ( $n = 52$ ) reported that their *children had witnessed the domestic violence*. Mothers whose children had witnessed violence reported calling the police more often than mothers whose children had not witnessed the violence (63.5% vs. 37.8%,  $\chi^2 = 9.81$ ,  $df = 1$ , 179,  $p < .001$ ). Overall, 22.8% ( $n = 22$ ) reported that a *child had never experienced abuse* sufficient to constitute a criminal offense. However, respondents called the police due to intimate partner violence at similar rates whether or not child abuse was also present.

### Social Support

Overall, 90.7% ( $n = 135$ ) of respondents had talked to more than one person about their experience with domestic violence. Talking with more than one person was associated with a greater likelihood of calling police (31.9% vs. 0%,  $\chi^2 = 5.40$ ,  $df = 1$ , 147,

$p < .01$ ). All (100%) of the women who called the police for help had spoken to someone else about the abuse prior to making any call to the police. Interestingly, however, while most women reported a "supportive" (87.1%,  $n = 115$ ) versus a "negative" (12.9%,  $n = 17$ ) response from those with whom they talked, the type of response was not associated with the calling of police (33.3% and 33.6% for negative and supportive response, respectively).

### Police Response

Among women who called police, 54.4% ( $n = 25$ ) reported that police responded within fifteen minutes. Other response times were between 16-30 minutes (26.1%,  $n = 12$ ), 31-60 minutes (6.5%,  $n = 3$ ), and an hour or more (14%,  $n = 6$ ). Upon arrival, in nearly one-third of all cases (31.1%,  $n = 14$ ) police never spoke to the woman, speaking instead to the abusive partner (11%,  $n = 5$ ) or to others (20%,  $n = 9$ ). About a third (34%,  $n = 16$ ) of the women reported that Spanish was spoken when police arrived. Finally, a little over a quarter (28.6%,  $n = 16$ ) of police calls resulted in the arrest of the abusive partner.

### Factors Related to Arrest

The only variable related to whether police made an arrest was whether the battered woman had a protection order at the time of the call. Nearly one-third of respondents in the study, 32.7% ( $n = 17$ ), reported having a protection order in effect when they called police. Police were more likely to make an arrest when the victims reported having a protection order (50% vs. 20.7%,  $\chi^2 = 4.13$ ,  $df = 1$ ,  $45$ ,  $p < .05$ ).

The crime scene evidence score (0 - 4), calculated as a sum of items in the crime scene evidence variable, showed no difference in cases in which an arrest was made versus cases where an arrest was not made. Nearly everyone who called police had experienced at least one form of violence that would constitute a criminal offense. Among those who experienced a form of violence that would legally constitute a criminal offense, police made an arrest only 29.6% ( $n = 16$ ) of the time. Additionally, neither the respondents' nor the perpetrators' immigration status, nor the respondents' English language ability was related to whether or not police made an arrest.

## DISCUSSION

There is an important limitation to the current study. First, the sampling method did not involve a random sampling procedure, but rather a combination of two methods. The first used a convenience sample of help seeking battered immigrant women. The second involved a snowball approach<sup>65</sup> where women who had already participated in the study referred other women to it. Two factors influenced these strategies. One was an interest in recruiting a large number of immigrant women, including battered immigrant women. Secondly, we were interested in recruiting a significant number of women whose immigration status was undocumented. As this was a new endeavor, we were concerned that random and anonymous contacts would unlikely result in a successful recruitment effort. For these reasons, caution should be used in generalizing these results to the population of battered immigrant Latinas.

A. *Factors That Influence Battered Immigrant Women's Contact With the Police*

Of all the battered immigrants surveyed, only 27% were willing to call the police for help in a domestic violence incident. Among those women that were physically and/or sexually abused as opposed to emotionally abused, 31.5% reported calling the police for help. Both of these reporting rates are much lower than reporting rates found by several national studies for domestic violence victims. A 1998 Department of Justice study reported that 53% of domestic violence victims report the abuse to the police<sup>66</sup> and a survey of shelter residents found that 58% of the victims reported the violence.<sup>67</sup> The results of this study provide insight into some of the possible reasons for this discrepancy in reporting rates. The difference most likely stems from the roles that acculturation, having children who witnessed abuse, and fear of deportation play in the lives of battered immigrants.

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65. When each woman was interviewed, she was asked to provide the names of friends or acquaintances that might also be interested in participating in the survey. Those referrals were contacted and invited to participate in the study.

66. RENNISON, *supra* note 13, at 7.

67. Martha L. Coulter et al., *Police-Reporting Behavior and Victim-Police Interactions as Described by Women in a Domestic Violence Shelter* 14 J. INTERPERSONAL VIOLENCE 1290, 1293 (1999).

## 1. Acculturation

Acculturation is a process in which new immigrants begin to adapt to their new country.<sup>68</sup> The longer immigrants reside in the United States following immigration, the more accustomed to and knowledgeable about U.S. customs, laws, and systems they become. This survey found in fact that the longer battered immigrants lived in the United States, the more likely they were to try to access U.S. based systems of protection. Battered Latina immigrants surveyed who had been residing in the United States for more than three years were twice as likely to call the police for help during a domestic violence incident as were those who had been living in the U.S. for less than three years (32.8% vs. 16.4%). This significant gap in reporting suggests that acculturation may play an important role in the willingness of battered immigrants to call police, for help.

In the United States legal system, versus the legal systems of other countries, women who experience domestic violence and sexual assault have been empowered to take action to hold their perpetrators accountable for these crimes. In the U.S., this approach is designed to both curb ongoing violence against women and to offer victims protection and help toward healing from abuse. In the United States, there is an emerging feminist culture that is reaching many women and sending the message that domestic violence is a crime and an unacceptable response to any relationship. The longer immigrant women are exposed to the notion that domestic violence is unacceptable, and that in the U.S. there are systems they can access that offer protection and to try to stop the abuse, the more willing newly arrived immigrant women are to seek formal help from U.S. based justice, health care, and social services systems. Women come to the U.S. often believing that men have the right to abuse their intimate partners; they have been told by their abusers and by allies of their abusers in the cultures they have come from that domestic violence is an acceptable cultural norm. Once immigrant women arrive in the U.S. and get immersed in U.S. culture, they are apt to be exposed to the feminist norms through mass media, radio, film and newspapers and through word of mouth among women in immigrant communities who have been in the United States longer. Through these communications, newly arrived im-

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68. Acculturation is the process of becoming adapted to a new or different culture. See MERRIAM COLLEGIATE DICTIONARY (10th ed. 1998).



migrant women learn that domestic violence is not an accepted norm and that there is help available. The longer immigrant women are exposed to this information, the more they are empowered to act under the new norms that they have adapted through acculturation. Our data shows clearly that within three years of their arrival in the United States, the immigrant Latinas we interviewed were calling the police for help and in doing so were acting in response to the newly adapted cultural norm.

Many immigrant women immigrate to the United States from countries in which the courts and police made no efforts to offer protection to domestic violence victims.<sup>69</sup> Despite this fact and despite the fact that many experience isolation power and control tactics,<sup>70</sup> the longer immigrant women reside in the United States following immigration, the more they become accustomed to and knowledgeable about U.S. customs, laws and justice and social services systems. It seems that, with time, immigrant battered women are able to develop more trust in the new system and a better understanding of their rights.

An important clue as to how some of this important acquisition of information and acculturation takes place appears to be from immigrant women talking to and sharing information with each other. Battered immigrant women in the current study who had talked with more than one person about the violence were significantly more likely to call the police during a domestic violence incident (31.9% vs. 0.0%). Battered immigrants who had spoken to no one about the abuse or who had only spoken to one person did not call the police for help even though they had suffered injuries in a domestic violence incident. This finding suggests that battered women tend to rely first on informal help-seeking strategies before moving to formal strategies such as calling the police.

## 2. The Children Having Witnessed the Abuse

The impact of the violence on children can be a powerful motivating factor in a woman's decision to leave. If she decides

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69. LESLYE E. ORLOFF, *Societal Issues and Family Violence*, in THE NATIONAL CONFERENCE ON FAMILY VIOLENCE: HEALTH AND JUSTICE CONFERENCE PROCEEDINGS 67, 70 (1994); Brief of Amici Curiae in Support of Respondent's Appeal from the Decision of the Immigration Judge at 7, *INS vs. Vallabhaneni*, (A76 724 694).

70. Out of the battered immigrants in the general population sample, 29% reported that their abusers were using isolation tactics as part of the psychological abuse they were experiencing. Hass, *supra* note 7, at 104.

to leave, she may be placing her children into poverty and could risk instigating more violence.<sup>71</sup> Yet despite these risks, when a battered woman sees that the abuse is adversely affecting her child, or when she believes that the abuser may turn against the child, she is more likely to turn to legal protection to help her end the violence.<sup>72</sup> Of the Latina women surveyed in this study, those with children who had witnessed the abuse were more than 1.5 times more likely to call the police for help (63.5% vs. 37.8%). This study suggests that many immigrant Latinas call for help when children are witnessing their mother's abuse. This is particularly important since fear of losing children has been cited as the second most important obstacle that prevented battered immigrants from leaving an abusive relationship.<sup>73</sup> Thus, it appears that although fear of losing children to custody battles is often an obstacle to women seeking help, when the abuse begins to affect the children, this becomes the motivating factor spurring battered immigrants to seek help not only from informal sources of support, but also to seek formal help from the police.

This finding is consistent with research finding that the welfare of a battered woman's children can be one of her greatest motivating factors in following through with her court case.<sup>74</sup> In a study where women were asked why they filed for protection orders, 50% felt that the abuse was affecting their children and in 15% of the cases the batterer was also assaulting the children.<sup>75</sup> The findings reported here confirm that as the danger moves from an immigrant battered woman's personal safety to that of her children, her help-seeking efforts increase.

### 3. The Victim's Fear that She Will Be Deported

Most importantly, the results of this survey suggest that a battered immigrant victim's immigration status made a significant difference in whether or not an immigrant domestic violence

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71. SUSAN SCHECHTER & JEFFREY L. EDLESON, *DOMESTIC VIOLENCE AND CHILDREN: CREATING A PUBLIC RESPONSE*, 5 (New York: Open Society Institute 2000).

72. See Karla Fischer and Mary Rose, *When Enough is Enough: Battered Women's Decision Making Around Court Orders of Protection*, 41 *CRIME AND DELINQUENCY* 414, 418 (1995).

73. Dutton, *supra* note 2 at 274-79.

74. Edna Erez and Joanne Belknap, *In Their Own Words: Battered Women's Assessment of the Criminal Processing System's Responses*, 13 *VIOLENCE & VICTIMS* 251, 261 (1998).

75. Fischer, *supra* note 72, at 417.

victim would call the police for help. In this study, battered immigrants with stable permanent immigration status were significantly more likely to call the police for help in a domestic violence case than other battered immigrant women (43.1 %) This reporting rate dropped to 20.8% for battered immigrants who were in the United States legally but on temporary non-immigrant visas and further dropped to 18.8% if the battered immigrant was undocumented. These reporting rates are significantly lower than reporting rates of battered women generally in the United States, which range between 53%<sup>76</sup> and 58%.<sup>77</sup>

Fear of being reported to immigration authorities and of subsequent deportation is one of the most significant factors preventing immigrant victims of domestic violence from seeking help from legal and social service systems.<sup>78</sup> In many instances, U.S. immigration law formally ties the legal immigration status of an immigrant wife to the citizenship status of legal immigration status of her spouse.<sup>79</sup> Abusers of immigrant domestic violence victims actively use their power to control their wife's and children's immigration status together with fears about and threats of deportation as tools to keep their abused spouses and children from seeking help or from calling police to report the abuse.<sup>80</sup>

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76. See Coulter, *supra* note 67. Reporting rates for the general population of battered women in the United States are 53%.

77. See RENNISON, *supra* note 13 (reporting a 58% reporting rate for battered women in the United States).

78. Dutton, *supra* note 2, at 292-93.

79. See, e.g., INA section 204(a)(1) and 204(a)(2)(allowing citizens and lawful permanent residents to file with INS to confer legal permanent residency on their spouse and children; 8 C.F.R. 214.2(f)(3)(spouses and children may follow student visa holders on F visas); INA Section 101(a)(13)(H)(spouses and children of temporary skilled workers on work visas H 1-B, H-2-A, H-2-B, H-3 can receive H-4 visas); 8 U.S.C. § 1101 (a)(13)(G) and (N)(spouses and children of diplomats). In each of the above listed cases the spouse or parent with the visa or other legal status has to choose to file for legal immigration status for their spouse or children.

80. The legislative history of the Violence Against Women Act of 1994 found that "[m]any immigrant women live trapped and isolated in violent homes, afraid to turn to anyone for help. They fear both continued abuse if they stay with their batterers and deportation if they attempt to leave." COMMITTEE ON THE JUDICIARY, REPORT ON THE VIOLENCE AGAINST WOMEN ACT TO ACCOMPANY H.R. 1133, 103d Cong. (1993). The legislative history of the Violence Against Women Act of 2000 also underscores Congress's ongoing recognition of how immigration laws "may hinder or prevent battered immigrants from fleeing domestic violence safely and prosecuting their abusers by allowing an abusive citizen or lawful permanent resident to blackmail the abused spouse through threats related to the abused spouse's immigration status . . . if the abused spouse sought to leave the abuser or report the abuse. THE VIOLENCE AGAINST WOMEN ACT OF 2000 SECTION BY SECTION SUMMARY, 146 Cong. Rec. 10192, 10195 (Oct. 11, 2002).

It is important to keep in mind that many battered immigrant women come from countries in which the police, the courts, and the justice system can not be relied upon to protect battered women.<sup>81</sup> In some instances, the country has no laws that make domestic violence a crime or that offer protection to domestic violence victims. In other instances, a law exists, but is not enforced particularly against abusers who are politically connected, have served in the military or the police force, or who have sufficient economic means to avoid being held accountable.<sup>82</sup> Additionally, much of the information an immigrant woman has about the U.S. legal system may come from her abuser. Without access to information about U.S. justice and social service system interventions that can offer her protection and can hold her abuser accountable for his crimes, the abuser's immigration related abuse can be very effective in keeping immigrant victims from seeking help, including calling the police.<sup>83</sup>

#### 4. Immigration Status of the Abuser Did Not Affect Willingness to Call the Police

For battered immigrant women, the complexities that can arise from reporting violent acts to the police become more complicated because the report may trigger not only criminal court action, but may also lead to the deportation of a non-citizen abuser.<sup>84</sup> The issue is complicated by the fact that deportation of the abuser can be a good option for some women and not helpful for others. The abuser's deportation can help some women recover tremendously by allowing them to remove the violence from their lives. For other women, the opposite is true. The abuser's deportation may create enhanced dangers related to economic survival, her ability to attain legal immigration status, and her safety and the safety of family members.<sup>85</sup>

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81. See U.S. COMM'N ON CIVIL RIGHTS, *supra* note 10.

82. *Id.*

83. For numerous case history examples of how abusers use threats of deportation to silence victims that were submitted to Congress in conjunction with the Violence Against Women Act's of 1994 and 2000, see generally, Orloff, *supra* note 53; CAMP, *supra* note 56.

84. Ann Benson et al., *Immigration Consequences of Criminal Conduct: An Overview for Criminal Defenders in Washington State*, WASHINGTON DEFENDER ASSOCIATION (2001), available at <http://www.defensenet.org/immigration/immig2002.htm>.

85. Orloff, *supra* note 34, at 206.

Some battered women's advocates have argued against the deportation of abusers because the advocates believe that it may increase the danger for some victims and prevent other victims from seeking help from the police and the justice system. This study found no evidence to support the conclusion that battered immigrants were refraining from calling the police out of concern for their abuser's immigration status. We found no relationship between the immigration status of the abuser and the willingness of the victim to call the police.<sup>86</sup>

## 5. Effect of Protection Orders

Of the battered immigrants in the survey who called the police for help, 37% had already obtained a protection order. This is encouraging as it may show that once battered immigrants have begun to take steps to protect themselves they are willing to take additional steps to help ensure protection for themselves and their children. This finding provides another reason why battered immigrants should be encouraged by advocates, attorneys, and justice system personnel to obtain protection orders in domestic violence cases. It also underscores how important it is that protection orders and family courts remain open to all persons who are victims of domestic violence crimes committed in a state and/or who reside in a state without regard to the protection order applicant's immigration status.<sup>87</sup>

### B. *Police Response to Calls from Immigrant Victims*

#### 1. Police Did Not Treat Calls for Help From Battered Immigrants Seriously or Appropriately

Latina victims of domestic violence reported that police responding to calls for help generally did not intervene effectively

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86. The survey collected some data on the willingness of battered immigrants to cooperate in the criminal prosecution of their abusers. This data has not yet been analyzed and will be addressed as part of a future publication. Calling the police for help to stop domestic violence occurring at the time of the call is a separate issue from whether the victim will ultimately decide that she can safely participate in her abuser's prosecution. Although concerns about the abuser's deportation may not affect the victim's willingness to call the police, these concerns may, in fact, prevent her from cooperating in any prosecution that grows out of that arrest.

87. See generally Hanano v. Alassar, 2001 Va. Cir. LEXIS 169, at 10 (Va. Cir. Ct. 2001). (The immigration status of a legal or undocumented immigrant does not preclude them from formulating the necessary intent to establish domicile or residency for purposes of divorce actions); Howard A. Davidson. *Special Groups: Immigrant Women and Children*, in THE IMPACT OF DOMESTIC VIOLENCE ON CHILDREN: A REPORT TO THE PRESIDENT OF THE AMERICAN BAR ASSOCIATION 19 (1994).

and did not follow either pro-arrest or mandatory arrest procedures that were in place at the time that the survey was conducted. Although the police responded within fifteen minutes to over half (54.4%) of the calls, the response time was in excess of an hour in 14% of the cases.<sup>88</sup> Survey participants were asked questions about incidences in which they had placed calls to the police for help during a domestic violence incident. Almost half (49.9%) of the battered immigrants who reported that they had called the police for help had called for help on more than one occasion. In response to the question about whom the police spoke to when they arrived on the scene, 31% of the immigrant victims who called for help reported that when the police arrived they spoke to others on the scene instead of the victim herself and in 11% of the cases police spoke only to the abuser. This may be due in part to the fact that only 34% of officers communicated with the victims in Spanish.

These communication problems are even more troubling in light of the fact that the vast majority of battered immigrants who called the police (72.7%) reported making multiple calls for problems related to domestic violence. Of the battered immigrant women who called the police, 93.8% were experiencing severe physical abuse and were more likely to have experienced previous injuries. Immigrant women survey respondents also reported that they were experiencing abusive incidents at frequent intervals. Over half were abused at least once a week. In addition, among the battered immigrants who called the police, 98.1% experienced a history of criminal domestic violence offences.

This research also found that in addition to having a history of severe and frequent physical abuse (which often constituted criminal acts), 100% of the battered immigrant women who called the police were injured at the time of the call. A large proportion (59.6%) of the battered immigrants who called the police during a domestic violence incident reported that they had visible injuries when police arrived. Of the women who called, 51.1% reported that other evidence of domestic violence was present on the crime scene including torn clothing, property in disarray or the police officer witnessed violence or threats. Dis-

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88. In the narrative response to the question about whether the battered immigrant felt that the police had responded appropriately to her call for help one battered immigrant reported that she had "called the police at 1:30 a.m. and they did not arrive until 7 a.m."

turbingly, 34.8% of these women reported that two or more additional types of evidence were present. When the police arrived at the scene of the domestic violence incidents reported by the women in this survey, 68.9% of the time at least one injury or other form of crime scene evidence was present.

Despite the prevalence of physical evidence, crime scene evidence and the history of the abuse (that with proper interviewing the police could have discovered), the arrest rate for abusers when police responded to calls from the battered immigrants in the survey was only 28.6%. Further, this arrest rate is even more troubling in light of the fact that 32.7% of the battered immigrants who reported domestic violence to the police already had protection orders issued by the court against their abusers.

Most survey participants who answered questions that called for a narrative response told interviewers that their abusers were not arrested because of the way the police handled the case. Various women expressed their dissatisfaction with the police in the following ways:

- "They did not pay any importance to the problem;"<sup>89</sup>
- "Very bad because the police never did anything;"<sup>90</sup>
- "They told my partner to go away but when the police left he came back;"<sup>91</sup>
- "They did something wrong because they did not do anything because he was scratched;"<sup>92</sup>
- "They came but did not do anything because he had left;"<sup>93</sup>
- "The police came and told him to leave;"<sup>94</sup>
- "They came and asked him to calm down or they would arrest him;"<sup>95</sup>
- I "went personally to their office. . .was left waiting for two hours . . .and they did not arrest him;"<sup>96</sup>
- "I called because he threatened me, on one of those occasions he had also hurt me. The police did not take him

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89. No le dieron ninguna importancia al problema.

90. Muy mal porque la policía no hizo nada nunca.

91. No, porque a mi compañero le dijeron que se vaya pero cuando la policía se fue el regreso.

92. Hicieron mal porque no hicieron nada porque él estaba arañado.

93. Buenos, ellos llegaron pero no hicieron nada porque el se fue antes.

94. La policía vino y le dijo que se fuera.

95. Llegaron y le pidieron que se calmara o lo iban a llevar preso.

96. No, porque no lo arrestaron. Además yo estuve dos horas esperando para que me atendieran porque yo fui personalmente a la oficina.

- away, they talked to him and he promised not to hit me anymore.”<sup>97</sup>
- “They came when he was hitting me too much they told me to calm down and to seek help.”<sup>98</sup> On a later occasion the same victim called for help when she had “bruises, torn clothes and the house was in chaos. . . when they came they did not arrest him because he escaped through the window;”
  - She called “after being beaten, her partner tried to kidnap their daughter. The police came after 5 or 10 minutes, spoke Spanish, gave her their names and badge numbers, wrote a report, gave her the number, read her protection order, but did not arrest the abuser.”

In some incidents victims spoke favorably about the police intervention:

- “During the first two calls they did not pay much attention because the bruises were not visible (the next day they appeared black and blue). The third time I called they arrested him immediately and they transferred me to the hospital;”<sup>99</sup>
- “The police attended to me very well;”<sup>100</sup>
- “The police acted well but he had left;”<sup>101</sup>
- “I felt good because many people helped me.”<sup>102</sup>

Police interventions need to be improved so that all battered women and battered immigrant women get the response they need when calling the police for help during a domestic violence incident. When the police arrive as they did in the cases reported by women in the survey, see evidence of domestic violence such as visible injuries, and fail to make an arrest or fail to get a warrant for arrest, their lack of action to punish the abuser sends a clear message to all involved. The abuser learns that he can continue to abuse and the police will not stop him and the battered immigrant victim learns that what the abuser has been telling her all along – that the police will not help her – is the truth. As a result, the victim will be less likely to contact the police again.<sup>103</sup>

97. La llame porque él me amenaza, en una de esas ocasiones él me había agredido. La policía no se lo llevo, hable con él y él prometió que no me golpearía mas.

98. Vinieron cuando me estaba golpeando demasiado, me dijeron que me calmara y que buscara ayuda.

99. En las dos primeras llamadas no pusieron mucha atención porque no se notaban mucho los golpes (al otro día me aparecieron los moretones). La tercera vez lo arrestaron inmediatamente y me hicieron trasladar al hospital.

100. La policía me atendió muy bien.

101. La policía actuó bien, solo que el ya se había ido.

102. Me sentí bien porque muchas personas me ayudaron.

103. Orloff, *supra* note at 36.



On the other hand, when police see evidence of abuse and make arrest, victims feel "good because . . . people have helped" them.

## 2. Language Access

All survey participants spoke Spanish as their native language and all were born outside of the United States. The overwhelming majority (75.6%) of the battered immigrants participating in this survey spoke little or no English. Talking to police called to the scene during a domestic violence incident is difficult and traumatic for any domestic violence victim.<sup>104</sup> Only those battered immigrants who reported speaking English very well could be expected to communicate effectively with police in English since it was not their native language. Even battered immigrant women who speak English well usually find that it is easier to communicate about traumatic incidents and intimate details of their lives in their native language.<sup>105</sup>

In light of the low level of English language proficiency among the battered immigrants participating in the survey who reported calling the police for help, it is particularly disturbing that two-thirds of the time when the police arrived they did not attempt to communicate with the battered immigrant victims in Spanish either directly or through an interpreter. The need for bilingual police officers and/or interpreters working with police forces in communities with significant immigrant populations has long been recognized.<sup>106</sup> One of the primary goals of the anti-domestic violence movement has been to encourage battered women to report and get help for the abuse.<sup>107</sup> However, battered

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104. For this reason special recommended police practices have developed that make communication between police and domestic violence victims at the scene of a domestic violence call safer and less traumatic for victims. See generally WOMEN'S JUSTICE CENTER, FORM FOR EVALUATING POLICE RESPONSE TO DOMESTIC VIOLENCE (2000), available at [http://www.womenjustice.com/help\\_police\\_evaluation.html](http://www.womenjustice.com/help_police_evaluation.html); see B.J. Hart, *Domestic Violence Model Protocol for Police Response E4* (1989), available at <http://www.mincava.umn.edu/hart/modelpo.htm>.

105. See Wang *supra* note 3, at 165 (noting that it may be difficult for battered women to speak of the abuse that they have suffered with someone who does not speak their native language).

106. See *Racial and Ethnic Tensions in American Communities: Poverty, Inequality, and Discrimination*, 1 U.S. COMM'N ON CIV. RTS. 12. (1993). (Documenting the many problems that arose in the District of Columbia's substantial Latino community as a result in part of the fact that the D.C. Metropolitan Police Department had few Spanish-speaking officers and was not using interpreters in cases of crimes committed against members of the D.C. Latino community).

107. Wang, *Supra* note 133 at 165.

immigrant women who want assistance may not be able to seek such assistance due to language barriers.<sup>108</sup>

In 1992, the United States Commission on Civil Rights issued a report examined the effects that lack of language access to the police has on crime victims from language minority communities and examined police-immigrant community relations.<sup>109</sup> Some examples of the problems the Commission discovered included the following stories that illustrate problems still occurring in communities across the country when language barriers impede appropriate police intervention in cases involving non-English speaking crime victims. In one instance, a rape victim tried to report her attack to the police. As a result of the language barrier between this rape victim and the police emergency telephone 911 operators, the police operators reportedly hung up on her three times.<sup>110</sup> The report also identifies incidents in which an English-speaking police officer was called to the scene in a domestic violence case in which the parties spoke Spanish<sup>111</sup> and the officer (who could not speak Spanish) was prevented from effectively sorting out what had happened and could not make a decision to enhance safety for the victim and the children.<sup>112</sup> The victim's trust in the police and the justice system was eroded because the victim was not given adequate assistance.<sup>113</sup>

The language barrier between the police and the battered woman creates a barrier that not only isolates and excludes language minority groups, but also affects how effectively police can intervene in immigrant communities.<sup>114</sup> The U.S. Civil Rights Commission report cites an example of how ineffective police policies for working with immigrant communities can detrimentally impact both victims and police officers that want to effectively serve immigrant populations. The Washington, D.C. Metropolitan Police Department assigned two Spanish-speaking officers to work at the Third District police station in the heart of D.C.'s Latino community. However, if crimes against Latinos oc-

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108. *Id.*

109. *Id.*

110. *See Racial and Ethnic Tensions in American Communities, supra* note 106.

111. *Id.*

112. *Id.* at 263-64 (testimony by Maria Elena Orrego, Executive Director, The Family Place).

113. *Id.*

114. *See supra* note 3, at 40 (citing DISTRICT OF COLUMBIA ADVISORY COMMITTEE, POLICE-COMMUNITY RELATIONS IN WASHINGTON, D.C. 3 (June 1981)).

curred during the hours when these officers were not on duty or were busy with other police business, rather than use interpreters to offer assistance to victims when they called for help, crime victims were instructed to go the police department community center to meet with a Spanish-speaking officer at a later date.<sup>115</sup> This practice did not work well for either the victim or the Spanish speaking officers who told the U.S. Civil Rights Commission: "So every time they had a problem with a Hispanic that they felt that they needed some type of interpretation, you have to take a car out of service, send them to pick us up, bring us to Columbia Road, we interpret, and dump us back to the area where we were not even needed."<sup>116</sup>

If the battered immigrant woman is not able to obtain assistance from the police due to language barriers, then she may instead rely on her family and may try to change her abuser's violent behavior to cope.<sup>117</sup> Relying on family members is often ineffective and may even be dangerous for they may be biased, fail to interpret correctly, or provide the abuser with information about the victim.<sup>118</sup> The battered immigrant may also edit the conversations she has with family members for fear of gossip or because she is concerned that what she says will be repeated to the abuser. For these same reasons police departments should also train officers not to rely on children, family members, or community members to translate in domestic violence cases.

It is particularly inappropriate for the police to rely on the victim's children to translate.<sup>119</sup> The battered immigrant may be too intimidated to speak openly about the abuse in front of a child or may edit her stories in order to protect her children or simply out of embarrassment. Moreover, children of abuse victims may be traumatized by the abuse, or may fear that the abuser will punish them if they help the victimized parent.<sup>120</sup>

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115. *Id.* at 40-41.

116. *Supra* note 3, at 41 (testimony by Espinal, *Hearing Transcript*, vol. 2, at 524-25).

117. *See* Wang, *supra* note 3, at 165.

118. Loke, *supra* note 5, at 624 (citation omitted).

119. *See* SUSAN M. BREALL & DEBORAH A. ADLER, WORKING WITH BATTERED IMMIGRANT WOMEN: A GUIDEBOOK FOR PROSECUTORS 9 (2000).

120. *Id.*

#### IV. POLICY IMPLICATIONS, SERVICE PROVISIONS AND TRAINING NEEDS

Contrary to misperceptions, battered immigrant women are often willing to call the police for help to stop incidences of domestic violence perpetrated against them. Willingness to call the police is affected by immigration status, how long a battered immigrant has lived in the United States, the number of support persons she has talked to (overwhelmingly female), whether or not the violence has begun to affect her children, and whether she has obtained a protection order. There are many steps that can be taken by police departments to counteract the obstacles that immigrant battered women face in their ability to effectively use reporting to the police to curb, stop and/or try to escape the intimate violence in their lives. Advocates and attorneys working with battered immigrant women can play an important role supporting battered immigrant women's efforts to involve police in her case. They can also advocate for needed reforms in police practices, ideally as part of a coordinated community response to domestic violence that reflects the needs of battered immigrant women.

##### A. *Utilizing legal resources that protect immigrant battered women*

###### 1. Violence Against Women Act (VAWA) Protections

Until October of 2000, many battered immigrants who were in the United States on temporary visas had no real immigration protection from their abuser's power, control, abuse and retaliation. The Violence Against Women Act of 1994 (VAWA 94)<sup>121</sup> offered access to legal immigration status for battered immigrants abused by their U.S. citizen or lawful permanent resident spouse or parent without the abuser's knowledge or control ("Violence Against Women Act"). The Violence Against Women Act of 2000 (VAWA 2000)<sup>122</sup> recognized that despite VAWA's 1994 protections, there were still many battered immigrants who were effectively cut off from resources within the justice and social services systems that they and their children needed to access

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121. Violence Against Women Act of 1994, as included in the Violence Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 106 Stat. 1953-1955 (1994).

122. The Violence Against Women Act of 2000, Pub. L. No. 106-386, 114 Stat. 1464 (codified as amended at 22 U.S.C. § 7101).

in order to escape ongoing domestic violence.<sup>123</sup> As a remedy for the plight of battered immigrants not provided protection by VAWA 1994, Congress expanded VAWA protection to offer, for the first time, legal immigration options for battered immigrants without regard to the immigration status of their abusers and without regard to whether the abuser is a husband or parent.<sup>124</sup> VAWA 2000 created a non-immigrant crime victim visa ("U visa") for immigrant crime victims who can successfully demonstrate substantial physical or mental injury stemming from criminal activity.<sup>125</sup> The U visa is offered so long as the victim is, is likely to be, or has been willing to be helpful in a criminal investigation or prosecution.<sup>126</sup> The victim must also obtain certification from a police officer, prosecutor, judge, or other federal, state or local authority investigating or prosecuting the criminal activity<sup>127</sup> to be filed along with the victim's self-petition. After three years, a crime victim awarded a U visa can apply for lawful permanent residency if she can demonstrate that she needs to remain in the United States for humanitarian reasons, for family unity, or because her presence is in the public interest.<sup>128</sup> With this new U-visa option, many more battered immigrants can re-

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123. Leslye E. Orloff and Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protections for Battered Immigrant Women: A History of Legislative Responses*, 10 AM. U. J. GENDER SOC. POL'Y & L. 95 (2001) (noting that while VAWA 1994 helped battered immigrants whose abusers were U.S. citizen or lawful permanent resident spouses or parents, battered immigrants who were not married to their abusers, whose abusers were undocumented or whose abusers had legal permission to live in the United States but who were not lawful permanent residents could not prior to VAWA 2000 access domestic violence related immigration relief. This last category included spouses and children of non-immigrant visa holders (e.g. students, diplomats, work visa recipients) who prior to VAWA 2000 retained the full legal right to control the immigration status of their spouses and children. These spouses and children could often only attain legal immigration status as a derivative of their sponsor spouse or parents immigration visa).

124. *Violence Against Women Act of 2000, Joint Managers Statement*, 106th Cong. Sess. 2, 146 Cong. Rec. 126 (2002).

125. "[T]he criminal activity referred to . . . is that involving one or more of the following or any similar activity in violation of Federal, State or local law: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy, or solicitation to commit any of the above mentioned crimes" 8 U.S.C. § 1101 (a)(15)(u)(iii).

126. H.R. 3244, 106th Cong. (2000) (enacted).

127. 8 U.S.C. 1101 (a)(15)(U)(i)(III).

128. H.R. 3244, 106th Cong. (2000) (enacted); 8 U.S.C. § 1255(l).

ceive protection and safely access police protection without suffering immigration consequences or risking deportation.

This research among battered immigrant women demonstrated that more than one fourth of women surveyed contacted the police for help with domestic violence at least once. As a result, it is clear that battered women's advocates, legal services and pro bono attorneys and immigration rights groups, along with police and other justice system personnel who do in fact interact with battered immigrants, all need to learn about U visa protections. Each must play an active role in identifying those immigrants who qualify for U visa and VAWA protection and providing immigrant crime victims with information about options through which they can attain legal immigration status. The police and those they work with including prosecutors, court house staff, and judges must be encouraged not only to identify victims who may qualify for VAWA or the U visa, but further provide U visa applicants with the certification they need from a government official so that immigrant crime victims can file for the U visa protections Congress created for them. Such actions benefit both victims and society. They simultaneously enhance protection for the victim and her children and at the same time strengthen the ability of police, prosecutors, courts, and the state to hold abuser of immigrant victims accountable for their criminal actions.

## 2. Encouraging the immigrant battered woman to file for a protection order

The results of the survey discussed in this article underscore that Civil protection orders are among the most powerful tools that help battered immigrant women escape ongoing abuse and exert some control over their lives. According to a study by the National Center for State Courts, civil protection orders deterred ongoing physical and psychological abuse in the majority of cases and at the same time helped the victims improve their feelings of well being.<sup>129</sup> In a U.S. Department of Justice study, 85% of participants said that their life improved following their application

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129. SUSAN KEILTIZ, PAULA HANNAFORD & HILLERY EFKEMAN, NATIONAL CENTER FOR STATE COURTS, CPOS: THE BENEFITS AND LIMITATIONS FOR VICTIMS OF DOMESTIC VIOLENCE (1997).

for a protection order, 80% felt safer, and 90% felt better about themselves.<sup>130</sup>

The victim may also use a protection order as evidence in her immigration case as proof that the violence occurred.<sup>131</sup> Protection orders are particularly important for women who are not yet ready to leave their abusers,<sup>132</sup> as well as for women who need to obtain information to file a self-petition or cancellation of removal case under VAWA or to file for a battered spouse waiver of her abuser's required cooperation in filing a joint petition to convert her conditional residency to lawful permanent residency.<sup>133</sup>

"Catch all" provisions included in protection orders can be used to provide battered women a broad range of needed relief,<sup>134</sup> including relief that is culturally sensitive to her needs.<sup>135</sup> Courts across the country have ordered various forms of relief that are particularly useful in the cases of battered immigrants. Helpful provisions include: ordering that the abuser give the battered immigrant victim access to immigration papers and documents; that the abuser cannot contact immigration authorities or any other government official or agency about the immigrant victim or any case she has pending, absent court order;<sup>136</sup> that the abuser may not withdraw an application that he has filed on behalf of the victim for her permanent residency; that the abuser will turn over to the victim items that she needs to self-petition under VAWA; that the abuser may not remove the children from the U.S. or obtain a visa for the children to travel to his home

130. NATIONAL INSTITUTE FOR JUSTICE, U.S. DEP'T OF JUSTICE, CIVIL PROTECTION ORDERS: VICTIMS' VIEWS ON EFFECTIVENESS 2 (1998).

131. AMERICAN BAR ASSOCIATION, DOMESTIC VIOLENCE AND IMMIGRATION: APPLYING THE IMMIGRATION PROVISIONS OF THE VIOLENCE AGAINST WOMEN ACT 147 (2000).

132. Klein, *supra* note 47, at 944, 1020, 1026.

133. AMERICAN BAR ASSOCIATION, *supra* note 131. A battered spouse waiver is a case that a battered immigrant spouse can file to allow her to move from conditional residency to lawful permanent residency. She can get a battered spouse waiver without her abusive spouse's knowledge, assistance or cooperation and she can do so without having to wait the full two years after she was awarded conditional residency. INS Section 216(c)(4)(C).

134. Klein, *supra* note 47, at 912.

135. Culturally competent protection orders include provisions that are aimed at specifically undermining power and control in the relationship, particularly those aspects of power and control that are culturally or immigration abuse related. Orloff, *supra* note 34, at 160.

136. Brief of Amici Curiae in Support of Respondent's Reply Brief in Ruiz v. Carrasco, Case Nos. 98-FM-39 and 98-FM-40 (D.C. Cir. 2001).

country absent court order; that the respondent sign a Freedom of Information Act request to be filed with U.S. Citizenship and Immigration Services (CIS) granting access to information that the victim needs for her immigration case; and that the abuser pay all fees associated with the victim's and children's immigration cases.<sup>137</sup> These creative protection order provisions can prove extremely helpful in empowering battered immigrants to reduce and/or eliminate the violence from their lives.

B. *Developing Policies and Outreach Strategies That Build Upon Factors That Encourage Battered Immigrant Women to Call the Police For Help*

1. Breaking the silence

Isolation is a major control tactic used by abusive partners with their victims. It includes such acts as prohibiting contact with family and friends, forbidding the abused woman to work or attend school, and isolating her from her friends and family members and may include using threatening or offensive behavior toward both the immigrant victim and her friends or family members. Through isolation, an abused woman is cut off from important sources of social and tangible support that are essential to her efforts to escape, avoid, or remain safe from abuse. Social support has been shown to be extremely important in battered women's efforts to gain assistance.

The battered immigrant women in this survey who reported calling the police for help in a domestic violence incident were all persons who had spoken to two or more people about the domestic violence prior to calling the police. All of the women who called the police for help had spoken to someone else about the abuse prior to making the call the police. The survey found that immigrant women spoke almost exclusively about the domestic violence with other women – their female friends (49.6%), mothers (30.1%), sisters (22.5%), or another battered woman (10.4%).<sup>138</sup> Between 8% and 9% of women reported speaking to a shelter worker, police officer, lawyer, or clergy about the abuse and less than 6% of women reported speaking to anyone else (social worker, health care provider, co-worker, employer, brother, father, or male friend) about the abuse.<sup>139</sup> Talking with

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137. AMERICAN BAR ASSOCIATION, *supra* note 131, at 154-56.

138. Dutton, *supra* note 2, at 259-66.

139. *Id.*



more than one person was associated with a greater likelihood of calling police (31.9% versus 0%). None of the women who reported never having spoken to anyone about the abuse called the police regarding domestic violence. Importantly, it appears that the act of talking to others about the abuse was vital. The type of response the immigrant victim received from the individuals with whom they spoke about the abuse, whether it was supportive or nonsupportive, did not influence whether women who spoke to one or more persons about the abuse were willing to call the police for help.

A common stereotype exists that abused women who do not leave the relationship are not trying to extricate themselves from the violence in their lives. This misconception is very troubling since immigrant women in particular need to be able to access justice and social service system assistance in order to counter violence without regard to whether or not they wish to separate from their abusers. The culturally based barriers to leaving an abusive relationship reported by other researchers<sup>140</sup> were found to be extremely high for the battered immigrant Latinas in this survey population.

Comparing battered immigrants, who at the time of the survey were still living with their abusers with those who were not, it was found that cultural norms and concerns about the role of the woman as wife and mother in Latino families, a woman's cultural and religious obligation to keep the family together, and concerns about not having value in the community as a single woman/mother were pervasive factors that kept battered immigrants from leaving their abusers. In a previous analysis of data of this research study, we found that Latinas still residing with their abusers reported higher rates of the following barriers: fear of losing children (48.2%), a need to keep the family together (41.2%), not wanting to separate children from their father (41.2%), the perception that a good wife/mother does not leave (18.8%), and religion (18.8%).<sup>141</sup> Concerns about how a single woman would be treated by the community were also ranked higher for battered women still with their abusers, including the fear of being alone and gossip. The other culturally re-

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140. Rachel Rodriguez, *The Power of the Collective: Battered Migrant Farmworker Women Creating Safe Spaces*, 20 HEALTH CARE FOR WOMEN INTERNATIONAL 417, 418-423 (1999).

141. Dutton, *supra* note 2, 276-79.

lated barrier that was higher among those still with their abusers was the inability to speak English (25.9%).<sup>142</sup>

Despite these strong cultural disincentives to seeking help, the data showed that the vast majority of the battered immigrants surveyed reported talking to one or more persons about the abuse.<sup>143</sup> For many battered women the first step in the help-seeking process is talking to people about the abuse. Other methods by which women try to escape or avoid the abuse include calling the police, obtaining a protection order, going to shelters, speaking with clergy, obtaining a separation or divorce from the abuser, using children for protection, and complying with the batterers' urges.<sup>144</sup>

Studies have suggested that the most common way for a woman to receive help is through a progression of these methods. Most women go from personal methods (talking with the abuser), to informal (talking with a friend), to formal strategies (going to a shelter, clergy or social services agency), to legal strategies.<sup>145</sup> If they meet success at each of these steps, they will be more confident about their chances of receiving help that is useful to them and will continue to take steps toward ending the violence. At the same time, unsuccessful attempts such as calling the police for help and receiving a response that does not take the violence seriously can undermine the battered woman's efforts to take control over her life and stop the violence.<sup>146</sup> This survey's findings about the connection between battered women's efforts to confide in others about the abuse and her willingness to call the police provides strong evidence that, contrary to prevailing stereotypes, battered immigrants do take steps to bring an end to domestic violence even when they have not chosen to separate from their abusers.

Since many women who are in violent relationships actively seek help either through informal or formal methods, it is important that those persons they are most likely to talk to are educated about how to respond appropriately. The majority of

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142. *Id.*

143. *Id.* at 266.

144. See, Mary Ann Dutton, *EMPOWERING AND HEALING THE BATTERED WOMAN: A MODEL FOR ASSESSMENT AND INTERVENTION* 41 (1992).

145. *Id.*; see, Lee H. Bowker, *Marital Rape: A Distinct Syndrome?*, 64 *SOCIAL CASEWORK: THE J. OF CONTEMP. SOCIAL WORK* 347, 350 (1983).

146. See discussion *infra* regarding this survey's findings that police were handling calls for battered immigrants appropriately and not taking the domestic violence reported by immigrant victims seriously.

battered immigrant women turn to a female friend or female relative when they are ready to speak to someone about the abuse they are experiencing.<sup>147</sup> Therefore it is important to impart information about domestic violence, laws and social services available to victims to all females in immigrant communities.

This information needs to be adapted and translated for use in diverse immigrant populations. Battered women's programs, police, and courts considering translating domestic violence outreach materials for various immigrant populations should not merely hire translators to translate existing materials developed for English speaking U.S. born battered women. Rather they should contract with community-based organizations that have experience serving battered immigrants from various immigrant groups and have the organization's experts adapt and interpret the outreach materials. This approach will ensure that the resulting outreach materials will be culturally competent and work most effectively in reaching the targeted groups of immigrant victims.<sup>148</sup>

Outreach and educational campaigns geared toward immigrant women should be designed to reach both the victim and the women she turns to for help. Informing all women in immigrant communities that domestic violence is a crime and that the U.S. justice and social services systems offer help and protection, including immigration relief to immigrant victims, can help prevent ongoing domestic violence by encouraging immigrant victims to

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147. Dutton, *supra* note 2, at 259. A study on the effectiveness of protection orders made similar findings with regard to battered women generally. NATIONAL INSTITUTE FOR JUSTICE, U.S. DEP'T OF JUSTICE, CIVIL PROTECTION ORDERS: VICTIMS' VIEWS ON EFFECTIVENESS 2 (1998).

148. Not all community-based organizations working in immigrant communities will be competent to undertake this work. They must have a depth of experience working with domestic violence victims from that immigrant community so that they can adapt materials to address specific challenges that domestic violence victims from that cultural community face. To identify community based organizations with expertise and cultural competency working on domestic violence victims in particular immigrant communities, seek a group that is a member of the National Network to End Violence Against Immigrant Women. To identify an appropriate organization contact one of the National Network's co-coordinating organizations: The Immigrant Women Program of NOW Legal Defense and Education Fund, (202) 326-0040, [iwp@nowldef.org](mailto:iwp@nowldef.org), The Family Violence Prevention Fund, (415) 252-8900 ext. 16, [leni@endabuse.org](mailto:leni@endabuse.org); The National Immigration Project of the National Lawyer's Guild, [gail@nationalimmigrationproject.org](mailto:gail@nationalimmigrationproject.org). Additionally, the Immigrant Women Program of NOW Legal Defense and Education Fund has developed outreach materials providing an overview of legal rights for immigrant victims that organizations can use to adapt for their use in their own communities. These materials can be obtained by calling the number listed above.

seek help sooner. Further, when women who are turned to for support are informed, they are better able to effectively aid their female friends and family members who are the victim in understanding that the violence is not her fault and to help her take appropriate steps to increase the victim and her children's safety including escaping the abuse.<sup>149</sup> In order for police to best help the victims, they should employ female officers more often. Victims may be more likely to open up to a woman officer just as they are more willing to talk to female friends and family members.

Through community policing, officers can establish relationships with immigrants and thus increase the chance that the victim or someone in whom she has confided will attempt to get legal help. Community policing efforts need to be designed to specifically involve immigrant community members. Departments may need to have separate meetings with various immigrant communities to create an opportunity for community members to address issues important to them. However, community policing in immigrant communities will only be effective in addressing domestic violence issues if female members of the community become actively involved. Police will have difficulty reaching immigrant women if the community members attending community-policing activities are predominately male. To address the problem of how to reach female members of the immigrant community, police should collaborate with community-based organizations that work with immigrant women and victims of domestic violence.

Identifying and collaborating with community-based organizations serving battered immigrant women has other advantages for the police. Professionals in these organizations can work closely with police on individual cases by offering assistance with translation and offering a place that police can bring immigrant victims for culturally competent services. Through such collaborations, police can also receive specialized training about the various needs of immigrant domestic violence victims and of immigrants, and thus will be better prepared to handle calls for help from battered immigrant women. Police domestic violence units and programs that collaborate with victim advocacy programs should work with victim advocacy groups to ensure that the services of these collaborations are accessible to immigrant

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149. Dutton, *supra* note 50, at 282.

victims. Ideally, bilingual, bicultural advocates should be hired and interpreters with training in domestic violence should be hired to assist with languages other than those spoken by police department personnel and victim advocates.

The police can also take a leadership role in identifying other professionals who need to learn about domestic violence and the dynamics of domestic violence in immigrant communities. In their outreach efforts, police can involve professionals who come in contact with immigrant women in their work. There are many professionals from whom battered immigrants seek services that never identify domestic violence victims or make information about domestic violence available to those who seek their professional services. These professionals along with the police should receive training on domestic violence and should become part of outreach efforts on the issue. The professional services that immigrant women seek mostly include: immigration lawyers, maternal and child health care providers, child care and reproductive health care providers, public benefits agencies from which they seek services for their children, emergency medical services, and English classes.<sup>150</sup>

Community based organizations and the police should work together to develop outreach campaigns designed to educate battered immigrants and their support persons and ensure that they can call the police without fear of being reported to immigration authorities. These community education campaigns should also include the distribution of educational materials to crime victims by the police and community based organizations. These materials should be available in all relevant languages, describe VAWA immigration relief and U visa protections, and contain referrals to local agencies that can help immigrant victims. Additionally, police should be encouraged to bring immigrant crime victims to community-based agencies that can offer them culturally competent services.

## 2. Training Officers Not to Inquire Into the Immigration Status of Crime Victims

Police departments must undertake a variety of activities to increase the likelihood that battered immigrant victims of domestic violence will call the police for help. First and foremost, they should identify the significant language of minority and immi-

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150. *Id.* at 286.

grant populations within the community. Police should then develop collaborative working relationships with community-based organizations, grassroots women's groups and churches that serve the identified immigrant community.

The next step is to address immigrant victims' fears that police and other justice system officials will report them to immigration authorities for deportation. Police departments should train all officers to refrain from asking the immigration status of victims who call the police for help. Officers must be informed that there is no federal law that requires that state and local police inquire about the immigration status of crime victims or witnesses. The training should explain current immigration law requirements, clarify that officers generally do not have an obligation to ask a crime victim questions about immigration status or report to immigration authorities persons who may be undocumented, and eliminate officer misunderstandings about reporting.

It is important to note that individual police and justice system personnel in some jurisdictions have misconstrued provisions of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRAIRA)<sup>151</sup> and have used that incorrect reading of the law to justify an individual officer's voluntary choice to ask battered immigrants and other immigrant crime victims questions about their immigration status. There have been isolated incidents in which police, prosecutors, and judges have reported victims to the immigration authorities.<sup>152</sup> If battered immigrants believe that police will report them to the immigration authorities when they call for police protection from their abusers, women and children will continue to endure ongoing abuse rather than call for help and their abusers' crimes will go unpunished. Such a confusion and fear is bound to increase among immigrant women in light of the prevailing post-September 11, 2001 conditions of homeland security.

Much confusion about reporting stems from common misunderstandings about particular provisions of IIRAIRA that became law in 1996. IIRAIRA preserved and expanded protections for battered immigrants that had been included in VAWA 1994. However, IIRAIRA contained many revisions to the immigration law that were intended to be harmful to immi-

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151. Illegal Immigration Reform and Immigration Responsibility Act of 1996, Pub. L. No. 104-208, 110 stat. 3009, 8 U.S.C. § 1101 et. seq. (hereinafter IIRAIRA).

152. Orloff, *supra* note 34.

grants in general. One such provision was designed to outlaw sanctuary city ordinances under which local jurisdictions mandated that their employees not inquire into the immigration status of persons who came into contact with city government. Section 287(g)(10) of the Immigration and Nationality Act (INA) was amended by IIRAIRA to require that all jurisdictions allow any officer or state government worker who chooses to do so to communicate with immigration authorities regarding the immigration status of any individual.<sup>153</sup> This section also allows any state employee to choose to voluntarily cooperate with immigration authorities in identification, apprehension, detention and removal of any persons not lawfully present in the United States.<sup>154</sup>

Some police officers, prosecutors, and judges to justify their decision to inquire about the immigration status of crime victims have misinterpreted section 287(g)(10) of the Immigration and Nationality Act. Some go so far as to argue that inquiries into immigration status of crime victims are mandatory.<sup>155</sup> From the face of the statute, this is untrue. Local law enforcement does not have the authority to enforce the civil provisions of immigration law.<sup>156</sup> There are some instances in which a local, state, or federal law enforcement officer would be required under federal law to ask questions about immigration status. Perpetrators arrested by law enforcement officers for drug related offenses must be referred to immigration authorities if the officer has reason to believe that the perpetrator may not be lawfully residing in the United States.<sup>157</sup> The Anti-Terrorism and Effective Death Penalty Act of 1996 provides state and local police, if authorized by state or local law, with limited authority to arrest non-citizens in the U.S. when the non-citizen is present illegally and has previously been convicted of a felony and was deported or left the

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153. Immigration and Nationality Act (INA) § 287(g)(10)(A), 8 U.S.C. § 1357(g)(10)(A)(2000).

154. INA § 287(g)(10)(B), 8 U.S.C. § 1357(g)(10)(B) (2000).

155. Orloff, *supra* note 74, at 282.

156. *Gonzales v. Peoria*, 722 F.2d 468, 476-477 (1983). *But see United States v. Santana-Garcia*, 264 F.3d 1188, 1193-94 (2001), where the court held that state law enforcement officers have general authority to investigate and make arrests for violations of federal immigration law. However, the court did not consider the distinction between civil and criminal provisions of the INA and all of the authorities upon which it relied involved arrests for criminal immigration violations. *Santana-Garcia* should not be read as deciding state and local police have the authority to enforce civil provisions of immigration law because the court did adequately analyze that issue.

157. INA § 287(d), 8 U.S.C. § 1357(d) (2000).

U.S. after such a conviction.<sup>158</sup> The only other instance in which state officials can be required to seek information about the immigration status of persons they encounter and then report such information to immigration authorities is if the state has a contract with the U.S. Attorney General to carry out immigration investigations.<sup>159</sup> As of the writing of this article, Florida and Alabama are the only jurisdictions in which local law enforcement officers have been deputized to enforce the civil provisions of immigration law.<sup>160</sup>

No police officer or justice system official is required, as a matter of law, to inquire into the immigration status of crime victims who turn to the system for help. When individual officers choose to inquire into the immigration status of crime victims, they are essentially deciding that volunteering to help immigration authorities is more important to them than bringing criminals to justice. Officers who adopt this approach undermine community relations between the police department and immigrant communities and encourage the commission of crimes against immigrant victims. This approach has resulted in the deportation of battered immigrant victims who were actually qualified for legal immigration status under VAWA, but were never informed of that right or given an opportunity to prove their eligibility.

The results of this survey underscore that police departments and other justice system officials must take active steps to counter perceptions that immigrant victims cannot safely turn to the police for help without risk of being reported to immigration authorities. To counter these perceptions, police departments should train their officers not to inquire into the immigration sta-

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158. The police officer must obtain confirmation from INS (now ICE) of the status of such individual and may keep the individual in custody only as long as necessary for INS (now ICE) to take the person into federal custody for removal. Antiterrorism and Effective Death Penalty Act (AEDPA) of 1996, § 439, 8 U.S.C. § 1252(c) (2000).

159. INA § 287(g)(1)-(9), 8 U.S.C. § 1357 (g)(1)-(9) (2000).

160. In Florida, only 35 officers have received the required training and are authorized to enforce federal immigration law. See Memorandum of Understanding between the State of Florida and the U.S. Attorney General (2002), available at [http://www.fdle.state.fl.us/osi/domesticsecurity/domestic\\_security\\_orig/ds\\_5/INS\\_FDLE\\_MOU.pdf](http://www.fdle.state.fl.us/osi/domesticsecurity/domestic_security_orig/ds_5/INS_FDLE_MOU.pdf). In Alabama, 21 state troopers have completed training and are similarly authorized to enforce federal immigration law. See News Release, Alabama Department of Public Safety, State Troopers Complete Immigration Enforcement Training: Alabama Implements Agreement with U.S. Immigration and Customs Enforcement (Oct. 3, 2003), available at <http://www.dps.state.al.us/public/administrative/PIO/newsrelease/10-03-03-ICEGraduation.pdf>.



tus of crime victims.<sup>161</sup> The training should explain in detail how voluntary reporting by individual officers undermines immigrant community trust in the police and discourages immigrant crime victims from calling the police. Police departments should also meet with domestic violence service providers and groups providing legal and social services to the immigrant community to publicly explain that police officers have been trained not to ask questions about the immigration status of victims.

### 3. Increasing Language Competency<sup>162</sup>

If police departments and other justice system officials are to be effective in providing protection to immigrant victims of domestic violence in the same manner as they do to other domestic violence victims, law enforcement agencies must increase their multilingual capacity. As the U.S. population becomes increasingly diverse, language access will become an even more important issue. Without language access entire groups of victims will be cut off from police protection and the persons who perpetrate crimes against immigrants will not be held accountable for their actions. Police departments must dedicate funds to hiring bilingual staff and facilitating language access so that all crime victims can communicate effectively with police.

Over 75% of the Latina immigrant women participating in this survey spoke little or no English. Despite this fact, 27% of immigrant Latina domestic violence victims called the police for help during a domestic violence incident on one or more occasions. Spanish speaking victims by and large placed these calls to 911 operators. However, nearly one-third (31.1%) of the victims reported that when the police arrived responding to her 911 call for help, the police never spoke to her at all. Instead, police

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161. At least one jurisdiction has gone one step further. Seattle, Washington has passed an ordinance which states as follows: "Notwithstanding Seattle Municipal Code Section 4.18.010, unless otherwise required by law or by court order, no Seattle City officer or employee shall inquire into the immigration status of any person, or engage in activities designed to ascertain immigration status of any person." There is an exception for cases in which the "officer has reasonable suspicion to believe: (1) has previously been deported from the United States; (2) is again present in the United States; and is committing or has committed a felony criminal law violation." This is in large part to enhance protection for battered immigrants and other immigrant crime victims. Seattle Wash. Municipal Code § 4.18 (2003).

162. This article reports initial findings regarding problems that can arise when police officers do not communicate with domestic violence victims in their native language. A future article will analyze in more detail a greater number of variables that reflect upon problems of language access.

spoke to her abusive partner (11%) or to others (20%), but not to the victim who had called for help. Further, in only about a third of the cases (34.0%) did the police who arrived at the scene speak to the victims who called in Spanish.

Much has been written about the importance of having interpreters within the justice system.<sup>163</sup> Theories behind why it is imperative for non-English speaking persons to have access to interpreters in the court system are equally applicable to explain the importance of having interpreters available to the police when they are responding to a call from a battered immigrant woman. It is now generally accepted that a non-English speaking defendant appearing in court may not be able to understand the charges against him, follow court proceedings, or communicate with his attorney without the aid of an interpreter. Similarly, without the aid of an interpreter a non-English speaking battered immigrant woman may not be able to communicate effectively with police at the crime scene and may not understand her rights, such as the right to press criminal charges against her abuser, the right to obtain a protection order, the right to have the police escort her and her children to the nearest battered women's shelter,<sup>164</sup> and the right to apply for certain domestic violence related immigration benefits without her abuser's knowledge or consent.<sup>165</sup> If police cannot communicate effectively with immigrant crime victims, then perpetrators of crimes against immigrant women will routinely escape prosecution, and it will become known in the community that domestic violence and other crimes can be committed against immigrant victims without risk of criminal penalty.

Instead of relying on family, children and community members to translate for police in domestic violence cases, all police departments should hire multilingual staff members and set aside

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163. Messier, *supra* note 8, at 1405-09; Leslie V. Dey, *Disinterring the "Good" and "Bad Immigrant": A Deconstruction of the State Court Interpreter Laws for Non-English-Speaking Criminal Defendants*, 45 KAN. L. REV. 838, 843 (1997); Deborah M. Weissman, *Between Principles and Practice: The Need for Certified Court Interpreters in North Carolina*, 78 N.C. L. REV. 1904 (2000); Honorable Sharon E. Grubin & The Honorable John M. Walker, "Report of the Second Circuit Task Force on Gender, Racial, and Ethnic Fairness in the Courts," ANN. SURVEY OF AMERICAN LAW 83-85 (1997) (noting that "Without interpretation non-English Speakers are unable to assist in the development of their cases, to help counsel understand the events that gave rise to the matter, and to provide their counsel with information that contradicts or weakens the opposing case").

164. Messier, *supra* note 8, at 1400.

165. Orloff, *supra* note 123.

funds in their annual budgets for hiring interpreters.<sup>166</sup> Police departments working in communities with large immigrant populations, as well as those with smaller numbers of immigrants, need to include funds to pay for interpreters in their budgets. In areas with significant language minority populations, it is better and more cost effective to hire bilingual staff than to budget for sufficient numbers of paid interpreters to meet the department's needs.

Police departments should identify the primary immigrant populations in their community and should recruit and hire officers and emergency phone operators who are bilingual in those languages identified. Departments should hire as many bilingual officers as possible and bilingual officers should be assigned to work in the communities with the largest immigrant populations. The additional time that may be involved in working on cases with non-English speaking victims and witnesses, and the fact that these officers will be called upon to translate when possible for other officers, must be included in the officer's job descriptions. This work needs to be recognized and valued. Bilingual officers must have the same possibilities for promotion as other officers. When a bilingual officer is promoted, the department should try to fill that officer's former position with another bilingual officer.

Even when police departments hire bilingual officers, the growing language diversity in immigrant populations makes it likely that police departments will still receive calls from immigrant victims who speak other languages. To address this issue, police departments should hire interpreters to assist police officers in criminal investigations in which the victims and/or witnesses do not speak English as their primary language. First, the police department should identify the major language minority populations in the community. For each community identified, the police should hire a core of interpreters who speak the languages needed who can be on call to meet police department needs<sup>167</sup> To recruit interpreters, the police should contact local

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166. VOLPP, *supra* note 47, at 9.

167. LESLYE E. ORLOFF & RACHEL LITTLE, SOMEWHERE TO TURN: MAKING DOMESTIC VIOLENCE SERVICES ACCESSIBLE TO BATTERED IMMIGRANT WOMEN 62 (1999) ("the Asian Women's Shelter hires interpreters through its Multilingual domestic violence training. They are then placed in an on-call pool and are paid by the hour to translate as language needs arise"). This model should be replicated and used by police departments. Access Model (MLAM). Through MLAM, bilingual participants are recruited and receive intensive training.

colleges and universities, the local American Red Cross, and organizations such as immigrant rights groups, churches, social services agencies and other community groups who work with immigrant populations. Staff at these organizations may be interested in serving as paid interpreters and may be able to refer the police department to other qualified interpreters they can hire. All interpreters who will be working with the police should receive specialized training on domestic violence, working with crime victims, and other investigative issues on which police recruits receive training. This training will help familiarize the interpreters with the language and terminology used in police work, and will raise their sensitivity and awareness of difficult issues like domestic violence.

Until bilingual officers and a core of local interpreters can be hired, the police department should set up a contract with the AT&T language line to provide translation services as needed on the scene of any crime twenty four hours a day.<sup>168</sup> AT&T language line services can be contracted on an as needed basis. The language line can be particularly useful in cases in which the crime victim speaks a language that is not spoken by many others in the community. In domestic violence cases it is not at all unusual to find an immigrant victim married to a U.S. citizen, lawful permanent resident or other immigrant living in the United States on a work visa. These victims may speak no English and have no person with whom they can communicate other than their abusers. These cases are often most prevalent when immigrant women are married to U.S. citizens living in rural communities, to members or former members of the U.S. military living either in and around military installations or at other locations in the U.S. or to foreign born university professors, students or staff

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168. A T & T provides a service in which customers can call their language line 24 hours a day and can access the services of trained qualified interpreters in over 140 languages. To access this service, police departments and other organizations must set up a contract for services with A T & T by calling 800-821-9040 or 800-966-8808. Charges are incurred as services are used. The National Domestic Violence Hotline uses the A T & T language line to assist hotline callers who do not speak English. The Hotline also makes this service available to advocates and attorneys working with battered immigrants who need a way to communicate directly with a victim for the purpose of determining whether the person she has brought with her is really a person who can safely translate for her. This service helps avoid dangerous situations in which the abuser, the children, or his family member is the person translating for the victim. Police departments could use their contract with the A T & T language line in the same way.

living in or near universities.<sup>169</sup> In these instances, victims are often isolated from anyone other than their abusers who speaks their language or knows their cultural traditions.

4. Sensitive handling of the fear some immigrant battered women may have of prosecuting the batterer because it may bring his deportation

We found no relationship between the immigration status of the abuser and the willingness of the victim to call the police. Advocates for battered immigrant women should not discourage battered immigrant women from calling the police for help because of the fear that the call may instigate the abuser's deportation.<sup>170</sup> A better approach is to teach battered women's advocates, victims advocates in prosecutors offices, and prosecutors how to work with battered immigrants in order to ascertain whether the criminal prosecution following the arrest will enhance or undermine the individual battered immigrant victim's safety. By addressing the victims' needs, concerns and safety, prosecutors may be more successful in securing an immigrant victim's cooperation in the abuser's prosecution.<sup>171</sup> In cases where it becomes clear that prosecuting the abuser will likely put the immigrant victim and/or her family in danger, particularly when

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169. More than half of new immigrants are women. Joan Fitzpatrick, *The Gender Dimension of U.S. Immigration Policy*, 9 YALE J.L. & FEMINISM 23, 24 (1997); Pierrette Hondagneu-Sotelo, *Introduction: Gender and Contemporary U.S. Immigration*, 42 AMER. BEHAV. SCIENTIST 565, 565 (1999); Orloff, *supra* note 83, at 597. Many come to the United States as immigrating family members. Katharine M. Donato, *Understanding U.S. Immigration: Why Some Countries Send Women and others Send Men*, in SEEKING COMMON GROUND: MULTIDISCIPLINARY STUDIES OF IMMIGRANT WOMEN IN THE UNITED STATES 159, 164-66 (Donna Gabaccia ed., 1992). Particular protection for abused spouses and children of U.S. military members was included VAWA 2000. See THE VIOLENCE AGAINST WOMEN ACT OF 2000 SECTION BY SECTION SUMMARY, *supra* note 80 (stating that VAWA 2000 amended VAWA 1994 to offer protection to abused spouses of members of the uniformed services and U.S. government employees even when abuse occurs abroad.)

170. Since non-U.S. born abusers often come to the United States with expectations that the police will act in the same repressive manner that police acted in their home country, appropriate police intervention in domestic violence cases could possibly be more effective in deterring future abuse than in cases of U.S. born abusers. Thus, if there is an arrest and the abuser is not ultimately prosecuted there may be a preventative affect from the fact of the arrest in the case of an immigrant abuser that may be stronger than in cases of citizen abusers. More research is needed on this issue.

171. COOK COUNTY STATE'S ATTORNEY OFFICE, COOK COUNTY STATE'S ATTORNEY OFFICE DOMESTIC VIOLENCE DIVISION (TAC) INFORMATIONAL BOOKLET 47 (1998).

the abuser is being prosecuted for a first criminal offense, the prosecutor should explore options for creative criminal justice approaches that do not necessarily result in dismissal of the case that may hold the abuser accountable without making him immediately deportable.<sup>172</sup> Different women will have completely different needs that must be met if the abuser is deported.<sup>173</sup> By looking at the problem from many levels, advocates can help battered immigrant women make the best choices about whether or not to pursue a domestic violence conviction for their abusers. If they do cooperate in a prosecution advocates can help them work with prosecutors to advocate for a criminal justice result that will be safest for that immigrant victim.

Asking a battered immigrant woman a few questions about her fears with regard to her abuser's deportation may aid the victim in deciding what her best option may be. According to a study conducted by the United States Department of Justice, 19% of the time when women chose not to call the police, it was out of fear of reprisal from the abuser.<sup>174</sup> Advocates should first help the battered immigrant do a lethality assessment and safety planning in order to determine the victim's risk of lethality.<sup>175</sup> Advocates should work to educate the prosecutor about the abuser's history of violence and stalking, his ability to travel to the victim's home country and find her family there, the prevalence of his threats of reporting her to immigration authorities, and the possibility that she may be deported to the same country as the abuser if she cannot qualify for immigration relief under VAWA, the U visa or some other immigration option.<sup>176</sup> With this information the victim may be better able to decide what is safest for herself and her family.

This information will also help the prosecutor to better understand the dangers that prosecuting the abuser may pose and provide the prosecutor and the victim advocate the information they need to craft a criminal justice intervention that will hold the abuser accountable for his actions without triggering his deportation. This approach can be particularly useful for offenders for whom this domestic violence offense is their first involvement

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172. Benson, *supra* note 84.

173. Erez, *supra* note 74.

174. *Id.* at 262; RENNISON, *supra* note 13, at 7.

175. *Assessing Dangerousness: Violence by Sexual Offenders, Batters, and Child Abusers*, in PREDICTION OF HOMICIDE OF AND BY BATTERED WOMEN 97-99 (Jacquelyn C. Campbell ed., 1995).

176. Orloff, *supra* note 34, at 209.

in the criminal justice system and who are willing to participate in batterers' treatment programs. Non-citizen abusers who receive creative prosecution remedies who then go on to re-offend should be prosecuted in the usual manner of domestic violence prosecutions and their convictions for the second offense will be a domestic violence conviction and a deportable offense.

A previous article by these authors found that fears of the victim's deportation and fear that there may be immigration consequences of seeking formal justice and social services system help were deeply seated and very real and were the first or second most intimidating factor that kept battered immigrants from seeking services.<sup>177</sup> It is important that all advocates and prosecutors working with immigrant victims help each battered immigrant determine whether or not she qualifies for VAWA or U visa immigration relief. An immigration attorney or battered women's advocate with experience helping battered immigrants file VAWA self-petitions should be consulted.<sup>178</sup> The victim must also be informed that testifying against her abuser cannot lead to her deportation.<sup>179</sup>

In all cases the battered immigrant should be encouraged to obtain a protection order. For battered immigrants who determine that it would be too dangerous for them to proceed with a criminal prosecution, the protection order can offer them much needed protection without risking the abuser's deportation.<sup>180</sup> The protection order can help her attain legal custody of her children and copies of important documents necessary to file her own immigration case.<sup>181</sup>

If the victim's reason for not reporting the abuse is fear that she will be unable to survive economically, she should assess her earning capacity, her eligibility for immigration benefits that will

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177. Dutton, *supra* note 2.

178. For referrals to attorneys and advocates in your locality with experience working with battered immigrants call the Immigrant Women Program of NOW Legal Defense and Education Fund, (202) 326-0040, [iwp@nowldef.org](mailto:iwp@nowldef.org), or the National Immigration Project of the National Lawyer's Guild, (617) 227-9727 ext 2, [gail@nationalimmigrationproject.org](mailto:gail@nationalimmigrationproject.org).

179. Orloff, *supra* note 34, at 210.

180. While issuance of a protection order against a non-citizen will not have immigration consequences for the abuser, if the abuser violates the protection order it is a deportable offense. INA § 237(a)(2)(E)(ii), 8 U.S.C. § 1227(a)(2)(E)(ii) (2000). If the abuser violates the protection order she will have to do the same safety planning analysis to decide if and how she wishes to enforce the order in light of the immigration consequences for the abuser.

181. Orloff, *supra* note 34, at 206.

grant her access to legal work authorization, and whether she or her children are or can become eligible for public benefits. Battered immigrant women often fear their abuser's deportation because it will prevent them from receiving child support. However in many of these cases, the abuser has only promised to help financially but has never actually contributed any economic support or contributed significantly to paying for the children's needs.<sup>182</sup>

By examining fears of abuser retaliation and concerns about deportation and economic needs, the woman will then be able to decide if she can safely cooperate in her abuser's prosecution and how to best support herself if the abuser is deported. Very often this process of safety planning and assessment of legal immigration and economic options helps build a battered immigrant's self esteem and helps her understand that she can access resources through which she can become self-sustaining. This process has led battered immigrant victims to choose<sup>183</sup> to cooperate in the prosecution of their abusers, even if that prosecution may lead to the abuser's deportation.<sup>184</sup>

Finally, police officers should receive ongoing training on proper intervention in domestic violence cases. The training should include training on mandatory arrest laws and pro-arrest policies and must also include training on the importance of and

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182. *Id.* at 210.

183. It is very important for prosecutors to understand when working with immigrant victims who choose to cooperate in criminal prosecutions of their abusers that prosecutors must not subpoena victim witnesses. This approach is very intimidating for immigrant victims who have been told over and over again by their abusers that if they tell any government officials about the violence the victim will be deported. The subpoena is a mandate by a government official to show up at a particular time and place, and to the immigrant victim, it appears that her abuser's threats have come true and she in fact is being subpoenaed to be turned over to ICE. Prosecutors who use subpoenas for immigrant victims or any other domestic violence victim need to understand that the subpoena itself undermines the victim's self-esteem and will likely affect the quality of her testimony. The subpoena also increases the danger to her because she believes it is carrying out her abuser's threats and it may cause her to reunite with him as the only way she believes to avoid deportation. The better approach is to use safety planning with immigrant victims to encourage them to choose to cooperate in the abuser's prosecution. If the victim decides that prosecution that leads to a conviction and triggers the abuser's deportation is too dangerous for herself and her family members in her country of origin, then prosecutors should work with the victim to craft creative criminal justice remedies that can hold the abuser accountable and offer the victim enhanced protection in the United States. These creative remedies do not require dismissal of the criminal cases. For suggested creative remedies see Benson, *supra* note 84.

184. COOK COUNTY INFORMATIONAL BOOKLET, *supra* note 171.



steps that need to be taken to determine which party is the predominate perpetrator of abuse in the relationship.<sup>185</sup> Police officers have historically been uncomfortable in cases of domestic violence; to counter this, the Violence Against Women Act supported local police departments in developing pro-arrest and mandatory arrest policies to help ensure that police act in domestic violence cases as they would in other cases involving crimes of violence. There has, however, been a backlash to these laws and policies by individual police officers who do not want to play a larger role in domestic violence cases because they still consider domestic violence a private issue between intimate partners. When these officers are called for help by a domestic violence victim, instead of fully investigating the case and arresting her abuser, these officers will arrest both the victim and her abuser, or may wrongly arrest only the victim. These officers do not take the time they are required to by mandatory and pro arrest policies to do the crime scene investigation needed to make an arrest only of the predominate perpetrator in the relationship and not of the victim who may have scratched her abuser in self defense when he came at her with a knife.

The impact of police practices that lead to the arrest of domestic violence victims is particularly severe when the domestic violence victim is a non-citizen. Language barriers can impede proper investigation of the crime scene and abusers of immigrant victims often are fluent in English or have greater ability to communicate in English with law enforcement officials. When the police officers only communicate with the person at the scene who speaks English, as our research found they did in one-third of the cases, immigrant victims are more likely to be arrested either alone or together with their abusers. Arrests of non-citizen victims by police officers can undermine the immigrant victim's access to immigration relief under the Violence Against Women Act's immigration provisions, as domestic violence convictions are deportable offenses.<sup>186</sup> For this reason, it is particularly important for immigrant victims that police officers receive adequate training on determining the predominate perpetrator and

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185. Excellent police training materials are available from the Duluth Domestic Abuse Intervention Project 218-722-2781. DULUTH DOMESTIC ABUSE INTERVENTION PROJECT AND THE LAW ENFORCEMENT RESOURCE CENTER, DOMESTIC VIOLENCE: THE LAW ENFORCEMENT RESPONSE (2001).

186. See generally, Benson, *supra* note 84.

on use of trained interpreters by police responding to calls from non-English speaking victims.

## V. CONCLUSION

The results of the survey among Latina immigrant battered women provide important information for advocates, attorneys, and law enforcement officials about battered immigrant women. Despite the fact that they must overcome significant challenges to do so, many battered immigrant women are willing to call the police for help to curb domestic violence. One of the most significant factors affecting a battered immigrant woman's willingness to call police is her own immigration status and her fear of deportation if she contacts law enforcement officials. Those who had stable immigration status called the police more often than those who did not. Despite this finding, the surveyed group of Latina women still called the police less often, regardless of their immigration status, than the general population of battered women.

In addition to the immigration status, the women's willingness to call the police was influenced by the type, level, and frequency of violence they experienced. Women who experienced more severe forms of abuse, who endured injuries, and who experienced more frequent incidents of violence were more willing to call the police for help. If a battered immigrant women's children witnessed the violence, she was significantly more likely to call the police for help. Finally, a key finding in the survey was that, without regard to the severity of the violence, no battered immigrants called the police for help unless they had previously spoken to someone else about the domestic violence. The persons immigrant women chose to talk to about the abuse were almost always other women. This finding underscores the importance of community education and outreach to women in immigrant communities and the importance of developing collaborations between immigrant women's groups, community based organizations serving immigrant women, and law enforcement.

The research also examined the treatment battered immigrant women received when they did call the police for help. Although the battered immigrant women surveyed placed calls to the police for help, one third of the police who arrived on the scene did not talk to the battered women. Although 59.6% of the immigrant victims who called the police for help had visible injuries when they called, and 51.1% report that other crime

scene evidence was also present when the police arrived, in only 28% of the cases did the police make an arrest. One overwhelming cause of arrest, however, was the violation of protection orders by the perpetrator. For this and other reasons, it is extremely important that battered immigrants be helped to obtain civil protection orders.

These findings have clear public policy and training implications. There is a grave need for police departments and victim advocacy programs to increase their bilingual staff and to identify and train interpreters so that immigrant victims can communicate effectively with law enforcement officials. It is extremely important for advocates, attorneys, and law enforcement personnel to increase their knowledge about the avenues for legal immigration status currently open to battered immigrants and other immigrant crime victims.

Police officers should actively participate in providing information and referrals to immigrant victims and in providing certifications and documentation that will assist immigrant victims in obtaining legal immigration status. These efforts will both enhance safety to victims and further law enforcement efforts to hold perpetrators of crimes against immigrant victims accountable. Law enforcement officers need to be informed that they should not be inquiring into the immigration status of crime victims and that they have no legal obligation to enforce immigration laws. Choosing to report crime victims to immigration authorities rather than arrest and prosecute abusers will deter immigrant victims from calling the police for help out of fear of their own deportation. Finally, advocates, attorneys, and police officers should encourage immigrant women and organizations serving women in immigrant communities to join coordinated community domestic violence response teams to help ensure that all immigrant victims can have equal access to important justice system protections designed to aid battered women.