



**Guide
For
Advocates
Working With
Immigrant Victims of
Domestic Violence**

Created by the Domestic Violence Coordinating Council

October 2009

This guide is intended to provide information to advocates working with immigrant victims of domestic violence. The information in this guide is not legal advice. For legal advice you are encouraged to consult an attorney.



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Domestic Violence Coordinating Council Agency Overview

The Domestic Violence Coordinating Council (DVCC) is a State of Delaware agency legislatively created in 1993 to improve Delaware's response to domestic violence. The Coordinating Council brings together domestic violence service providers and policy-level officials to identify and implement improvement in system response through legislation, education, training, and policy development.

In keeping with the mission to reduce the incidence of domestic violence and abuse in all of its forms, the Domestic Violence Coordinating Council's Immigration Subcommittees (Northern and Southern Delaware) developed this Guide to help advocates assist immigrant victims of domestic violence.

For a list of State, Regional & National Resources to help immigrant victims, please go to the DVCC Website (www.dvcc.delaware.gov) and click on Publications (left side of the page), and under brochures, click the link Working with Immigrant Victims/Resource List.

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Dynamics of Domestic Violence In the Immigrant Community

Persons who are abusive in their intimate relationships:

- Use violence as a means of gaining and maintaining power and control over their partners;
- Escalate the severity of the abuse, once the power and control techniques begin to lose effectiveness;
- Manipulate their partners' desire for family unity and preservation to justify their abusive behavior;
- Use "cultural norms" as a tool of oppression.

Without culturally sensitive intervention, an immigrant victim of domestic violence may feel that they have no choice but to stay in an abusive relationship.

Domestic violence is not caused by, but may be intensified by:

- Use of alcohol and drugs
- Stress
- Immigration status
- Loss of employment
- And, mental illness

Domestic violence is a pattern of abusive behavior used to gain control over another person that can include threats, emotional, sexual or economic abuse, intimidation, deprivation, social isolation or repeated battering and assault.

Dynamics (cont'd)

Immigrant victims may experience the following power and control techniques by the abuser:

- **Isolation:**
Keeping their partner from family and friends, or to learn to speak English.
- **Threats:**
Threatens to report their partner to Immigration and Customs Enforcement (ICE) in order to get them deported, or may threaten to withdraw the petition to legalize their immigration status.
- **Intimidation:**
Hiding or destroying important papers (passport, identification card, Green Card, birth certificates, health insurance card, etc.) or, may destroy sentimental personal property.
- **Citizenship or Residency Privilege:**
Failing to file papers to legalize immigration status, or withdraw papers that have been filed.
- **Economic Abuse:**
Threatens to report the person they are abusing to ICE if she/he is working “under the table.” The victim may be kept from obtaining job training or schooling. This is another form of isolation.
- **Emotional Abuse:**
Say demeaning and degrading comments about their partner to others and damage the victim’s self-esteem.
- **Using Children:**
Threatens to take children away from the United States, file for custody, report children to ICE, or threaten to hurt them.

Dynamics (cont'd)

Immigrant victims face many barriers to seeking and receiving assistance. The barriers are cultural, economic, practical as well as legal.

Immigrant Victims:

- May be more likely to live in seclusion - far from family and friends, not speak English, work or drive a car;
- May have come from cultures that accept domestic violence, and may believe that the United States' legal system does not apply to them;
- May be ostracized by her family or community if she reveals the violence;
- May not be able to use the help that is available because the service is not offered in their language and interpreters are not available;
- May find that services in their community are not culturally appropriate;
- May fear the criminal justice system and its representatives;
- May rely on male family members to interact with the public, and
- May fear their children will be taken from them by the "State," and/or the person abusing them will be deported if they report the abuse because the person abusing them is their only source of income.

Helping Immigrant Victims of Domestic Violence

ALWAYS consult an Immigration Attorney if the person you are helping is not sure of their immigration status.

- Work in partnership to develop an action plan that makes “cultural sense” from the individual’s perspective. It is best to become aware of the cultural and community strengths and support systems available to the person you are helping, and she/he must determine the solutions that work best for her/him.
- Whenever possible, provide **neutral** interpreters and counselors who understand the victim’s culture and customs of their native lands.
- Suggest that victims keep documents in a safe place. Documents may include but are not limited to:
 1. Documentation of immigration status for them, their children and, if possible, for the person abusing them;
 2. Passport/Visa;
 3. Medical/vaccination records;
 4. Work authorization card, paycheck stubs;
 5. Marriage license and/or divorce decree from the victim’s home country;
 6. Photographs;
 7. Social Security Cards;
 8. Food Stamp Cards;
 9. Birth Certificates, School Records, and Custody Orders.

Victims may request assistance from law enforcement for a police escort in order to retrieve personal items. It is important that you assist them with language interpretation to facilitate this service.

Helping Immigrant Victims - Children

If the person you are helping reports that their partner is threatening to take their children away or to take them to his/her home county, you should:

- Recommend that they apply for custody in Family Court. A custody order can include prohibiting their partner from removing children from the State. If their children are U.S. citizens, a copy of the order should be sent to the partner's home country embassy, and a copy should be sent to the U.S. Department of State to prevent the issuance of passports and visas for the children.
- Recommend that a copy of the custody order be given to their child's school, and the school should be instructed not to release their child to anyone but them.
- Suggest that the person you are helping have recent photos, passports and birth certificates for their children and to keep a list of addresses/phone numbers of their partner's friends and relatives in their home country.

Organizations that can help immigrant victims file for custody in conjunction with a Protection from Abuse Petition (see pages 9 & 10).

Statewide

Legal Helplink: 1-800-773-0606

Community Legal Aid Society

Kent: 674-8500

Sussex: 856-0038

Protection From Abuse Orders

A victim of abuse can ask for protection through a Protection from Abuse (PFA) civil petition. Abuse is defined as any threatening or harmful conduct including serious emotional harm.

An order of Protection from Abuse is issued by a Family Court Judicial Officer ordering someone (Respondent) to stop abusing another person (Petitioner), or the order can be granted by consent. Relief may include ordering the Respondent to stay away from the Petitioner, payment of rent/mortgage, utilities, food, health insurance, transportation assistance, exclusive use of vehicle (maintaining insurance and registration), awarding temporary custody and providing conditions of visitation, surrendering of firearms, counseling and any other relief that might help prevent future violence.

In addition, the Court can order the Respondent to give the Petitioner important documents, such as: **Passport/Visa, medical/vaccination records, work authorization card, copies of receipt notices from immigration, marriage license and/or divorce decree from the Petitioner's home country, affidavit of support, photographs, social security cards, birth certificates, food stamp and medical cards, custody orders, school records, etc.** **The Petitioner should list the documents that they want in the PFA Petition.**

Spouses, ex-spouses, family members, persons living together as a couple, with or without a child/children, or persons living separate and apart with a child/children in common, or persons (includes same sex) in a current or former substantive dating relationship may file for an Order of Protection from Abuse. The Division of Child Protective Services and Adult Protective Services may file on behalf of a child or an adult. Parents/guardians may also file on behalf of an adolescent in an abusive dating relationship.

Protection from Abuse

Organizations that can help immigrant victims file for protection in Family Court:

New Castle County:

Legal Helplink: 478-8850

Domestic Violence Advocacy Center: 255-0420

Kent/Sussex County:

Community Legal Aid Society, Kent: 674-8500

Sussex County: 856-0038

Domestic Violence Advocacy Center, Kent: 672-1075

Sussex: 856-5843

Refer to the DVCC Website for a list of other State agencies/ organizations that can assist immigrant victims with the PFA process: www.dvcc.delaware.gov.

For more information on the Protection from Abuse process in Family Court, go to the State of Delaware webpage at:

<http://delaware.gov>

- At the top of the page, click **Courts**
- On the left, click **Family Courts**
- On the right, click **Protection From Abuse**

Domestic violence can also be addressed through the Criminal Justice System. After an arrest, the State will prosecute the person charged. Possible crimes may include assault, violation of a protection order, murder, rape, kidnapping, false imprisonment, stalking and many others. Family Court has misdemeanor criminal jurisdiction over persons that meet the definition of family. If a victim is not married to the person who abused them, does not live with that person, and there are no children in common, the misdemeanor charges will be heard in the Court of Common Pleas. All Felony charges are heard in Superior Court.

Rights and Services for Immigrant Victims

Although a victim's immigration status may present certain challenges, victims do have rights:

1. They do not need to be a citizen or have papers to file a petition for a protection order;
2. They have the right to keep their immigration status private if they reach out for shelter and/or advocacy services;
3. Injured immigrant victims may seek emergency treatment at the nearest medical facility;
4. As a crime victim, they are not required to report their immigration status to law enforcement.

When providing an outreach service to the community, it is very important to mention the services available to all victims, especially to immigrants who may believe they do not have rights.

Current Immigration status may affect a victim's eligibility for government assistance and benefits.

Immigrant victims of domestic violence can receive many services. Here is an example:

- Shelters and other services for victims of domestic violence;
- Protection orders from the Court;
- Child custody and support;
- Police assistance;
- Medical emergency assistance;
- Public benefits for their U.S. citizen children;
- Victim's Compensation Assistance Program may assist with paying medical/dental bills, counseling, relocating costs, funeral expenses and other services depending on the incident and cooperation from the victim.

Immigration Status Protections

There are three (3) types of immigration status protections for victims of abuse:

The Violence Against Women Act (VAWA) provides the possibility of immigration status to a victim who is married to an American citizen or permanent resident spouse who abuses them, regardless if the victim is in the U.S. with documents or without documents. Victims may be male or female.

It is important that a person petitioning for a VAWA Self-Petition work with an attorney or immigration counselor/advocate that is familiar with the VAWA Self-Petitioning process.

The following is an example of documents a lawyer or immigration counselor can use to prove that a survivor of domestic violence meets the VAWA requirements to petition for permanent residency:

- **Proof of battery and/or extreme cruelty;**
- **Proof of identity and current status;**
- **Proof of spouse's status;**
- **Proof of the marriage;**
- **Current residence;**
- **Proof of having lived with spouse for a period of time (doesn't matter if in the States or elsewhere);**
- **Proof of termination of previous marriages.**

The "U" Visa allows an injured victim of domestic abuse, rape, sexual assault, abduction and many other serious crimes to request a U Visa if the crime is reported to authorities and the survivor is being, or has been, helpful with the investigation and prosecution of the criminal activity. Victims may be male or female.

Immigration Status Protections

It is important that a person petitioning for a “U” Visa work with an attorney or immigration counselor/advocate familiar with “U” Visas.

A “U” Visa Certification Form must be submitted to the Department of Homeland Security (DHS) and signed by a law enforcement officer, prosecutor, judicial officer or another investigating authority verifying that the “U” Visa applicant is being or has been helpful in the investigation or prosecution of the crime for which they were a victim. If prosecution does not occur – the “U” Visa may still be applied for and held.

After three years with an approved “U” Visa, she/he can request lawful permanent residency. This Visa is helpful to victims who are being abused or have been abused by someone who is not a U.S. citizen or legal permanent resident, and who themselves are not documented in this country.

A “T” Visa is available to victims of trafficking. This visa allows the victim to remain in the U.S. to assist authorities in the investigation and prosecution of trafficking cases.

It is important that a person petitioning for a “T” Visa work with an attorney or immigration counselor/advocate familiar with “T” Visas.

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