I.  PREFACE

Minnesota Advocates is releasing this report as part of its celebration of Human Rights Day, December 10, 2004, the 56th anniversary of the Universal Declaration of Human Rights. Through its membership in the United Nations and ratification of subsequent treaties, the United States committed itself to protecting certain fundamental rights of persons within its jurisdiction. These rights include the right to life and security of person, the right to equal protection of the laws and the right to a remedy for the violation of rights. In the last year and a half, Minnesota Advocates has investigated governmental efforts to promote and protect these rights in their response to battered immigrant women in the Minneapolis/St. Paul metropolitan area.

With this report, Minnesota Advocates highlights many of the innovative programs and legislative initiatives that advance the safety of battered refugee and immigrant women in our community and the prosecution of their abusers. The report finds that battered refugee and immigrant women in the Twin Cities area nevertheless face serious obstacles in accessing protection from domestic violence and government services, and in pursuing accountability for their abusers. These obstacles include the following:

1. language barriers and inadequate access to interpretation services;
2. barriers from within immigrant communities that impede government effectiveness;
3. fear of government institutions and immigration authorities;
4. inadequate funding of necessary services and programs;
5. delays in the provision of services;
6. ineffective screening of individuals seeking assistance;
7. poor documentation of domestic violence crimes and injuries;
8. inadequate record-keeping;
9. inadequate coordination of services across government systems; and
10. limited access to culturally-specific programming.

Minnesota Advocates’ findings are derived from over 150 interviews, primarily in Hennepin and Ramsey Counties, with judges, lawyers, prosecutors, public defenders, advocates, probation officers, immigration officials, medical service providers, interpreters, child protection employees and others regarding their interaction with refugee and immigrant women who have been battered.

This report includes an analysis of governments’ compliance with their obligation to protect the human rights, safety and security of refugee and immigrant women who are victims of violence. Minnesota Advocates looks forward to working together with community leaders to address the issues identified in the report and to improve our community’s response to battered immigrant women.

Robin Phillips  
Executive Director

Cheryl Thomas  
Women’s Program Director
II. EXECUTIVE SUMMARY

Violence against women is the greatest human rights scandal of our times ... Violence against women is not confined to any particular political or economic system, but is prevalent in every society in the world and cuts across boundaries of wealth, race and culture. The power structures within society which perpetuate violence against women are deep-rooted and intransigent. The experience or threat of violence inhibits women everywhere from fully exercising and enjoying their human rights.¹

Of all the forms of violence against women, domestic violence² is one of the most insidious and widespread throughout the world. Nearly one-third of American women (31 percent) report having been physically or sexually abused by a husband or boyfriend at some point in their lives.³ The Council of Europe reports that domestic violence is the major cause of death and disability for women aged 16 to 44 and accounts for more death and ill-health than cancer or traffic accidents.⁴ In 1999, the Russian government estimated that each year 14,000 women are killed by their partners or relatives.⁵ The World Health Organization has reported that around the world 10-70 per cent of women are physically assaulted by their male partners.⁶

A 2002 survey demonstrated that domestic violence victims in Minnesota accounted for 26 percent of all violent crime victims.⁷ The survey also showed that 81 percent of victims of domestic violence in Minnesota did not report one or more incidents of violence to law enforcement.⁸ The former Chief Judge of Hennepin County District Court, the largest county in Minnesota, recently stated, “Domestic violence may well be the number one issue of public safety in this state. In the last five years 132 women and 68 children under the age of 13 died because of domestic violence.”⁹ A police official from St. Paul recently stated, “Domestic violence is the most frequently committed violent crime in St. Paul and by a long shot the resources are not commensurate with the frequency or nature of the problem.”¹⁰

² For the purposes of this report, Minnesota Advocates used the following definition of domestic violence expressed by the United Nations: “Domestic violence is the use of force or threats of force by a husband or boyfriend for the purpose of coercing and intimidating a woman into submission. This violence can take the form of pushing, hitting, choking, slapping, kicking, burning, or stabbing.” U.N. Ctr. For Social Development and Humanitarian Affairs, Strategies for Confronting Domestic Violence: A Resource Manual at 7, U.N. Doc. ST/CSDHA/20 (1993). This definition reflects data indicating that women are the primary victims of domestic violence.
⁸ Id. at 8.
⁹ Public letter from Kevin Burke, former Chief Judge, Hennepin County District Court (February 6, 2004).
Domestic violence violates a woman’s fundamental human rights, including her right to life, safety and security, her right to be free from discrimination on the basis of sex, race or national origin, her right to due process of law and her right to a remedy for harms against her. International human rights law – principles of which are reflected in the United States Constitution, civil rights law, criminal law and civil law-- mandates that governments protect individuals from violence and provide them with effective assistance and remedies when these rights are violated.

With this report, Minnesota Advocates for Human Rights (hereinafter Minnesota Advocates) examines the government response to violence against refugee and immigrant women by their intimate partners in the Minneapolis/St. Paul metropolitan area through the prism of human rights.\(^\text{11}\) This report examines federal, state and local governments’ responses to this violence. While all women are at risk of violence, refugee and immigrant women are particularly vulnerable to abuse\(^\text{12}\) and less likely to access and receive government protection and services due to language barriers, fear of deportation and legal systems, community pressures, funding cuts for needed services and other obstacles that exist in the law or in the implementation of the law. As one expert in legal advocacy for refugee and immigrant women explained:

Language, culture and immigration status exacerbate the level of violence, block victims from access to information about legal remedies, and complicate their efforts to obtain the relief they need to end the violence. Culture, religion, socio-economic, and immigration status do not determine whether domestic violence will occur, but rather influence what barriers a battered immigrant women must confront, what relief she will need to obtain from the legal system or other sources, what should be included in her safety plan, what threats the abuser will use against her, and what excuses the abuser will use in an attempt to justify his violence.\(^\text{13}\)

Minnesota has a thirty-year legacy of efforts to end domestic violence. With the introduction of the nation’s first shelter for battered women in St. Paul, Minnesota in 1972 and one of the first domestic violence laws in the United States in 1979, Minnesota became a leader in advocating for the safety of domestic violence victims and accountability for their abusers. As new waves of immigrants arrive in the Twin Cities every year, it is imperative that government and community leaders review their response to domestic violence in refugee and immigrant communities and ensure that victim safety and offender accountability are made a priority.

\(^11\) The Minneapolis/St. Paul metropolitan area comprises seven counties in the state of Minnesota: Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.
\(^12\) For an introduction to the forms of abuse often experienced by battered immigrant women, see the Immigrant and Refugee Power and Control Wheel attached as Appendix C to this report.
A. Refugee and Immigrant Women in Minnesota: Diverse Experiences

This report addresses barriers to victim safety and perpetrator accountability in refugee and immigrant communities. Minnesota Advocates presents its findings in large part without highlighting the ethnicity or national origin of the individuals involved. While this report presents some generalizations about the experiences of refugee and immigrant women in Minnesota, Minnesota Advocates acknowledges that the experiences of refugee and immigrant women in the Minneapolis/St. Paul metropolitan area are diverse. It is important to note that the barriers discussed in this report do not reflect the experience of all immigrant survivors of domestic violence.

In this report, the term “immigrants” includes all individuals who desire to become permanent residents of the United States. This group includes, for example, individuals who are granted visas because they are family members of a Legal Permanent Resident of the United States or a United States citizen, qualify for certain employment-based immigration visas, or are selected through the “Diversity Visa Lottery” program to receive visas. This group also includes individuals who have been granted refugee or asylum status and may adjust their immigration status to legal permanent residency in the United States after a period of time. Refugees are individuals who have been persecuted in their home country or have a credible fear of persecution on the basis of race, religion, nationality, political opinion, or membership in a particular social group. Of the immigrants who arrived in Minnesota during the 1980s and 1990s, about 40% are refugees. They include Hmong or East African refugees who arrived in the United States from refugee camps in Thailand or Kenya. Other immigrants who fear persecution in their home country come to the United States and apply for asylum (up to one year after they arrive in the United States). It is important to note that in interviews for this report, few government agencies or service providers could identify the women they served according to these definitions. Generally, interviewees described situations of women who had recently arrived to live in Minnesota from other countries and/or whose proficiency in English is limited.

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14 Under the Immigration and Nationality Act (INA), non-citizens present in the United States are classified as either “immigrants” or “nonimmigrants.” Non-immigrants are “persons who seek admission for a limited period of time and usually for a limited purpose.” Non-immigrants have a visa that sets forth the time period during which they may be present in the United States, and the conditions under which they may be present (i.e., whether they are allowed to work, whether they must be enrolled in an educational program). Such temporary visas are generally designated according to the statutory section that governs the admission of that particular group of non-immigrants (i.e., H-1, H-2, etc.). “Undocumented” refers to non-citizens who entered the United States without the authorization of the U.S. government or whose legal immigration documents have expired since they entered. David Weissbrodt, Immigration Law and Procedure 109 (1998).

15 There are many other ways in which individuals can immigrate to the United States (i.e., through the amnesty in the 1980s, or more specific statutory provisions such as the Cuban Adjustment Act) that grant legal status and allow individuals to adjust to permanent residency after a time. See Lauren Gilbert, Family Violence and the Immigration and Nationality Act, 98-3 Immigration Briefings 4 (1998).

16 Immigration and Nationality Act (INA) § 101 (a) (42) (1952).

17 Minnesota State Demographic Center, Media Release: Number of Immigrants in State Increasing; 40 Percent are Refugees (January 22, 2001).

18 Id. at 208.
Minnesota’s refugee and immigrant populations have increased in recent years, with people coming primarily from Latin America, Thailand, Cambodia, Vietnam, Laos, Russia, Somalia and Ethiopia.\(^{19}\) The number of refugees in Minnesota rose in the 1970s and 1980s due in part to the end of the Vietnam war and upheavals in the Soviet Union. In the 1990s, more African refugees came to Minnesota, including a large number from Somalia.\(^{20}\) Most of the refugees left their home countries because of war and dangerous situations. They chose to move to the United States to reunite with family members and to take advantage of employment opportunities.\(^{21}\) Very recently, a significant number of Hmong refugees arrived in Minnesota as part of a resettlement program that began in 1975. In September 2004, over 1,400 Hmong refugees arrived in Minnesota.\(^{22}\)

Although immigrant women have arrived in the United States from a variety of different places and circumstances, researchers have begun to provide some generalizations about the experience of immigrant women and its effect on gender roles in the immigrant family. Immigration to the United States can bring profound change to the lives of immigrant women and their families.

Adjustment to a new culture is particularly complicated for women. They are often viewed as the keepers of tradition and charged with passing this tradition on to the next generation. For many, the jobs or roles they held in their home countries are not transferable to the United States. Women are often not as educated as the men in their communities and may not be literate. Many job-training programs do not provide courses for limited English proficient (LEP) individuals. When they are available, they often do not incorporate discussion of cultural differences, and are not compatible with the schedule of someone in charge of small children.

It may take an immigrant woman many years to overcome these barriers to economic success, years marked by long hours in low-paying jobs. For many women, these jobs are necessary for their families to survive economically, yet the independence and status they gain as breadwinners may create tension with their husbands and extended families. One scholar noted that, “immigrant women’s enhanced social status...often goes hand in hand with immigrant men’s loss of public and domestic status. In the United States, immigrant men may for the first time in their lives occupy subordinate positions in class, racial, and citizenship hierarchies.”\(^{23}\) The husband’s disappointment may lead to anger if he feels that his position as family leader is being

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challenged.²⁴ His wife’s adaptation may be viewed negatively as becoming “Americanized” by his family or the community. Any gains she may achieve as a wage earner may be accompanied by guilt, criticism and other stress.²⁵

Many immigrant women bear the primary responsibility for raising their children and maintaining their homes. As one scholar writes, “The dilemma confronting many immigrant women, it would seem, is to defend and hold together the family while attempting to reform the norms and practices that subordinate the women.”²⁶

Male dominance in families may not only survive the move to a new country but may even be reinforced when men, threatened by the new roles they see their wives assuming, seek to enforce old customs of inequality in the name of tradition. An advocate described one family in the Minneapolis/St. Paul area that experienced domestic violence following immigration to Minnesota. The father of the family was significantly older than his wife. He could not accept the fact that his wife was becoming more open to American culture, demonstrated in the manner in which she dressed their daughter. He subsequently became abusive towards her.²⁷

American institutions may act to reinforce the male-dominance experienced by refugee women in their countries of origin. Resettlement agencies often give information to just one person from the family unit, which is likely to be the man. Women do not always receive information about customs and laws in the United States directly. As a result, immigrant women do not necessarily know about the services, resources and legal remedies available to them. When only the man has crucial knowledge about such things as citizenship, work permits and education, there is no guarantee he will transfer this knowledge to his wife.²⁸ Without knowledge of the language or customs of their new country, isolated in their homes with no access to funds or familiarity with public transportation, immigrant women may be at the mercy of their abusive partners. The traumatic experiences of refugee women in their home countries may have made them more vulnerable to exploitation and less likely to feel that they can change their circumstances.

Advocates in Minnesota and around the country are working to address the barriers faced by immigrant survivors of domestic violence in establishing safe homes for themselves and their families. On the state level, there are a number of non-profit organizations that advocate for the rights of immigrant women, including the Minnesota Coalition for Battered Women, the Battered Women’s Justice Project, the Battered Women’s Legal Advocacy Project, Asian Women United of Minnesota and Casa de Esperanza.²⁹ On the national level, the National Network to End

²⁶ Id. at 33.
²⁷ Interview dated October 8, 2003.
²⁹ Contact the Minnesota Coalition for Battered Women at www.mcbw.org/. Contact the Battered Women’s Justice Project at http://www.bwjp.org/. Contact the Battered Women’s Legal Advocacy Project at www.bwlap.org. Contact
Violence Against Women, composed of representatives from the Immigrant Women Program of Legal Momentum (formerly the NOW Legal Defense Fund), the Family Violence Prevention Fund; and the National Immigration Project of the National Lawyers Guild, have conducted the most significant advocacy on these issues. In addition, universities in the United States have conducted research concerning domestic violence experienced by women of certain ethnicities in a variety of locations, e.g. research on the experience of Hispanic women in the Southeastern United States or immigrant South Asian women residing in the United States.

B. Project Goals and Methodology

Since 1998, Minnesota Advocates has been a member of the Immigrant and Refugee Battered Women’s Task Force (the Task Force) based in the Minneapolis/St. Paul area. This report was undertaken in response to an urgent need expressed by this community group. The Task Force consists of representatives of service agencies, shelters, immigrant groups, government agencies and others who have regular contact with or serve refugee and immigrant women. The Task Force is concerned about the obstacles refugee and immigrant women face when they seek safety from violent partners. In light of its concerns, the Task Force asked Minnesota Advocates to document these obstacles in an effort to improve the community’s response to this violence.

The purpose of the project is (1) to evaluate the government’s compliance with its obligations under international human rights law to protect refugee and immigrant women from domestic violence, (2) to articulate program and policy recommendations to improve the safety of refugee and immigrant women and to promote accountability for violent offenders, and (3) to use the findings of this report to educate the community about the obstacles refugee and immigrant women face in establishing safe homes for themselves and their children and in prosecuting their abusers for their criminal conduct.

While there are no definitive statistics on the incidence of domestic violence in refugee and immigrant communities in Minnesota, two studies have found that the problem is extensive.

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32 The Task Force is a grassroots network of battered women’s advocates and service providers who work cooperatively to improve their skills and increase the awareness of advocates and service providers about the special needs of battered women who are refugees or immigrants. The Task Force’s mission is to facilitate networking, to exchange information and to influence policy development. The Task Force is not affiliated with any one organization and its membership is open to all interested advocates and service providers.

33 Alvi, Shahid, Ph.D., Schwartz, Martin D., Ph.D., DeKeseredy, Walter, Ph.D., and Bachaus, Jacqueline, Victimization and Attitudes Towards Wife Abuse of Impoverished Minority Women 9 (unpublished manuscript
These findings are consistent with the rates of domestic violence in Minnesota generally as discussed above.

Minnesota Advocates did not undertake statistical research for this project. Rather, the organization used the human rights fact-finding and reporting methodology that it has used in fourteen other reports on violence against women in other countries.34 Minnesota Advocates has published reports on violence against women in Albania, Armenia, Bulgaria, Haiti, Macedonia, Moldova, Nepal, Poland, Romania, Ukraine and Uzbekistan. This methodology involved the following research strategies:

1. Review of research on violence against refugee and immigrant women in Minnesota and around the country.
2. Review of relevant laws, policies and health education materials.
3. Interviews with advocates for battered refugee and immigrant women.
4. Focus groups with legal, medical and service professionals (both public and private) who work with battered refugee and immigrant women.
5. Interviews with legal and medical professionals, government administrators, immigration officials, service providers, and interpretation and translation service providers.
6. Interviews with survivors of domestic violence identified by advocates as individuals who wanted to tell their story.

Minnesota Advocates focused its interviews on institutions and individuals in the Minneapolis/St. Paul metropolitan area. Thus the state and local government agencies referred to in the report are primarily those of the City of Minneapolis, the City of St. Paul, Hennepin County, Ramsey County and the State of Minnesota. Minnesota Advocates conducted over 150 interviews in connection with this project. In developing findings, Minnesota Advocates identified specific barriers in the legal system as well as trends and themes that emerged from these interviews. It is important to note that not all the findings may be equally applicable to all the government institutions in each jurisdiction listed above. Although the scope of this report extends only to the counties of the Minneapolis/St. Paul metropolitan area, Minnesota Advocates believes that the barriers it has identified in this report are likely to exist for battered immigrant women throughout the state of Minnesota. Additional research about the experiences of battered immigrant women in Greater Minnesota is warranted.

The project’s Steering Committee, composed of community members and domestic violence advocates, provided guidance for this project including review and feedback on the report. In collaboration with local advocates and government agencies Minnesota Advocates will use the findings of this report to raise awareness of the needs and problems facing refugee and immigrant victims of violence in the Minneapolis/St. Paul metropolitan area.

34 See the full text of this methodology attached as Appendix A to this report.
C. Findings of this Documentation Project

Minnesota Advocates identified five major obstacles that prevent an effective government response to violence against immigrant women in the Minneapolis/St. Paul metropolitan area. They are: 1) language barriers, 2) fear of deportation and legal systems; 3) obstacles in the law and the implementation of the law; 4) cultural barriers and community pressures; and 5) funding issues. These obstacles are trapping many women and their children in violent relationships and preventing or deterring them from effectively accessing systems and services designed to ensure their safety and security. In addition, these obstacles work to diminish the effectiveness of government agencies in providing services to immigrant women. Addressing these obstacles will both improve the government’s response to domestic violence against immigrant women and make it likely that more battered immigrant women will access the resources and legal remedies available to them.

This section of the report summarizes the findings of the research and interviews in these five areas. The following sections of this report more specifically outline the project’s findings as they pertain to particular government institutions or those that receive significant funding from the government.

1. Language Barriers and Interpretation Services

Language barriers are the most significant obstacles facing immigrant women who seek protection from the government and access to community services.

Federal law requires that government agencies receiving federal funds provide interpretation for the LEP individuals they serve.\textsuperscript{35} Minnesota law also requires state government agencies and

\[\text{35} \text{ Under Title VI of the Civil Rights Act, recipients of federal funding are required to take reasonable steps to ensure language accessibility of their services. 42 U.S.C. § 2000(d); 28 C.F.R. §42.104 (1964). Under Executive Order 13,166, recipients of federal funds such as state courts must take “reasonable steps to ensure meaningful access to their programs and activities” by limited English proficient (LEP) individuals in order that such programs and activities do “not discriminate on the basis of national origin in violation of Title VI.” Exec. Order No. 13,166 65 Fed. Reg. 159 (Aug. 16, 2000). Federal guidance to federal fund recipients concerning compliance with the requirements of Title VI is provided by each agency that distributes the funds, e.g., the Department of Justice and the Department of Health and Human Services.}

The Department of Justice provides that the “reasonable steps” that are necessary will be based on:

(1) The number or proportion of LEP persons eligible to be served or likely to be encountered by the program or grantee; (2) the frequency with which LEP individuals come in contact with the program; (3) the nature and importance of the program, activity, or service provided by the program to people’s lives; and (4) the resources available to the grantee/recipient and costs.

\[67 \text{ Fed. Reg. 19237, 19240 (April 18, 2002). This guidance specifically discourages the use of family members, friends or neighbors as interpreters. Noting that there may be some instances in which a “limited-English proficient” (“LEP”) person would want to have a friend or family member as an interpreter, the guidance emphasizes that family interpreters may often be inappropriate:}

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other services to be language accessible. State agencies that serve a substantial number of non-English speaking people are required to employ bilingual people or interpreters “to ensure provision of information and services in the language spoken by a substantial number of non-English speaking people” and to translate materials explaining agency services. Many Minnesota agencies at the state and county level have developed plans for ensuring the language accessibility of their services in accordance with federal and state law, which plans are usually entitled “Limited English Proficiency Plans.” Minnesota state law also requires that interpretation services be provided for LEP individuals in both civil and criminal court proceedings.

An example of such a case is when police officers respond to a domestic violence call. In such a case, use of family members or neighbors to interpret for the alleged victim, perpetrator, or witnesses may raise serious issues of competency, confidentiality, and conflicts of interest and is thus inappropriate.

Id. at 19242-19243. In Appendix A, the guidance notes that for law enforcement, “[r]eliance on children is especially discouraged unless there is an extreme emergency and no preferable interpreters are available.” Id. at 19327, 1947. Appendix A also notes that “[e]mergency service lines for the public, or 911 lines, operated by agencies that receive federal financial assistance must be accessible to persons who are LEP.” 67 Fed. Reg. 19327, 19248.

Department of Health and Human Services Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons, 65 Fed.Reg. 52762 (August 8, 2003) provides that the “reasonable steps” that are necessary will be based on those set out in the Department of Justice guidance above. Unlike the similar guidance promulgated by the Department of Justice, the DHHS adds the following exception: after conducting the four-factor test above, “a recipient may conclude that different language measures are sufficient for the different types of programs or activities in which it engages, or, in fact, that in certain circumstances, recipient-provided language services are not necessary.” 67 Fed. Reg. 19327 (June 18, 2002). The DHHS guidance also does not as strongly discourage the use of family members, friends or neighbors as interpreters as does the DOJ guidance. 65 Fed. Reg. 52762 (August 8, 2003). The DHHS guidance notes that a “limited-English proficient” (“LEP”) person may “feel more comfortable when a trusted family member/friend acts as an interpreter” and that in “some” (rather than “many”) circumstances family members (especially children) or friends may not be “competent to provide quality and accurate interpretation.” 65 Fed.Reg. 52762 (August 8, 2003). The DHHS guidance, however, does require that “extra caution” be exercised when an LEP person chooses a minor as the interpreter. 65 FR 52762 (August 8, 2003).

Title VI does not apply to federal government or agencies, because these entities do not “receive” federal funding. Executive Order 13166 encourages agencies to comply with Title VI. Executive Order 13166 provides that “each Federal agency shall examine the services it provides and develop and implement a system by which LEP persons can meaningfully access those services consistent with, and without unduly burdening, the fundamental mission of the agency. Each Federal agency shall also work to ensure that recipients of Federal financial assistance...provide meaningful access to their LEP applicants and beneficiaries.”


31 For example, Hennepin County Fourth Judicial District Court and the Health and Human Services Departments have each produced a Limited English Proficiency Plan. Minnesota Advocates has learned that certain cities in the metropolitan area are developing similar plans.

32 In civil state court trials, the presiding judicial officer must appoint an interpreter when a person who has “difficulty speaking or comprehending the English language” is a litigant or witness. Minn. Stat. § 546.42-546.44. An accused in a criminal proceeding who has “difficulty speaking or comprehending the English language” is specifically provided with the right to a “qualified” interpreter. Id. at § 611.30-611.34. Section 480.182 provides that the state courts will assume the cost of court-related interpreters. Id. at § 480.182. Sections 611.33 (criminal) and 546.44 (civil) govern the qualification of interpreters. Id. at § 611.33, § 546.44. Both provide that no person may be
Minnesota Advocates found that language barriers give abusers significant opportunities for abuse and control affecting women’s access to government services and protection. Many women join a husband or partner who has been in Minnesota for months or years, or is an U.S. citizen. These men may use their superior knowledge of the language and society not only as a form of power but also as a tool to isolate women from the community and the services that might be available to them there.

Interviews revealed frequent instances where immigrant women were denied the opportunity to learn English. An advocate described an immigrant woman who lived in a western suburb with her husband. He would not allow her to work or to leave the house. Her mother visited and encouraged her to get out of the house to take classes and make friends. The husband learned about the mother’s involvement and moved the woman and the children back to their country of origin.\(^{39}\)

In the context of the justice system, Minnesota Advocates found that language barriers and inadequate interpretation services hamper immigrant women’s interaction with police, prosecutors, legal advocates, courts and probation officers. These problems are particularly acute at the scene of an assault where police arrive to a situation of violence, tension and fear. This is often a woman’s first contact with any government agency. In the most extreme cases, she not only does not get the protection she needs, she is arrested and detained without access to an interpreter because of biased interpretation or lack of interpretation. If convicted, she could be deported or lose eligibility for immigration relief available under the Violence Against Women Act.

Interviews revealed that if the victim does not speak English police may use children, neighbors or even the abuser himself to interpret at the scene of a reported assault. Inadequate or biased interpretation compromises the accuracy of the police report, an important part of the justice process. Without a full and accurate police report, prosecutors and courts cannot adequately prosecute offenders.

Language barriers and inadequate interpretation services also impede a victim’s ability to communicate with prosecutors, judges and probation, significantly limiting the prosecutors’ ability to prepare a case for trial. Judges cannot effectively assess the risk a defendant presents to victims or make effective decisions about sentencing. Probation officers cannot communicate important information to victims. Where treatment services are not provided in a defendant’s language, probation is ineffective in rehabilitating offenders who have been convicted of domestic assault.

Inadequate interpretation services also inhibit a woman’s ability to obtain a civil Order for Protection (OFP). Minnesota Advocates’ findings demonstrate that language barriers interfere appointed as an interpreter unless he or she “is readily able to communicate with the handicapped person, translate the proceedings for the handicapped person, and accurately repeat and translate the statements of the handicapped person to the officials before whom the proceeding is taking place. Id.

\(^{39}\) Interview dated July 16, 2003.
with the process when a woman is petitioning for an OFP, during the hearing and when the judge issues the order.

Minnesota Advocates' found problems with interpretation throughout the court system, including a shortage of qualified interpreters, interpreter misconduct, and the lack of an effective complaint mechanism and disciplinary procedures. Efforts are being undertaken by court administrators responsible for interpretation in the justice system to remedy some of these problems.\(^{40}\)

The ability of Child Protection Services (CPS) to evaluate fairly and effectively the safety and well-being of the children of immigrant women is also hampered by inadequate interpretation services. Minnesota Advocates' findings show that, too frequently, interpretation services are not accessed when officials intervene in a family situation. Documents critical to the proceedings are not translated. As a result, CPS workers do not receive complete information about a family's situation, jeopardizing immigrant women's rights to custody of their children.

Language barriers, inadequate interpretation services and the failure to access interpretation services or translation services for important documents all negatively affect battered immigrant women as they seek services such as medical care, government financial assistance and shelter. It is important to note that Minnesota has not yet established standards or a certification process for interpreting in medical institutions. Minnesota Advocates found that interpretation in medical institutions is often inadequate in part because of funding cuts that have reduced the number of available interpreters. As a result, immigrant women find it difficult to access medical services. Language barriers make it difficult for medical professionals to determine whether an immigrant patient is a victim of domestic assault, to document domestic violence injuries and to provide victims of domestic violence with referrals to appropriate resources. Inadequate interpretation services have also created a significant barrier to women's ability to access government assistance. Notices of services provided by financial assistance offices, including a brochure concerning the availability of a Family Violence Waiver, are often provided only in English. Shelters often do not provide adequate interpretation services for residents. As a result, battered immigrant women may feel uncomfortable, leave the shelter or find themselves unable to voice questions or concerns to shelter staff.

2. Fear of Removal and Legal Systems

General fear of removal (deportation)\(^{41}\) and legal authorities frequently prevents immigrant women from seeking protection or services from any government institution. These fears intensify the isolation experienced by many battered immigrant women. As one immigration attorney explained about her clients, "They don't call the police, they don't go to the doctor, they don't seek help."\(^{42}\) Many other interviewees expressed the same opinion. One advocate

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\(^{40}\) See discussion at the State and Local Justice Systems section entitled, "Court Interpretation."

\(^{41}\) Prior to 1996, removal proceedings were referred to as exclusion proceedings or deportation proceedings depending on the circumstances of an alien's detection or apprehension. Now all proceedings to remove an alien from the United States are referred to as removal proceedings. See INA § 240.

\(^{42}\) Interview dated June 10, 2003.
explained that few immigrants attempt to access any government institution at all. More likely, she explained, they enter the system involuntarily when someone else calls to report the violence.43 Battered immigrant women sometimes come into contact with government authorities when medical and educational institutions provide victims with information about services and legal remedies, or report abuse to government authorities when mandated by law.44

As discussed above, fears about removal (deportation) and legal authorities often impede an effective government response to violence. Concerns about post-September 11 legislative initiatives, and in particular, proposed legislation that would amend the federal immigration laws, aggravate these fears.45 The United States House of Representatives recently considered a bill that would allow for expedited removal of aliens who are present in the United States without authorization. Such removal, without judicial supervision, could threaten battered immigrant women and their families with removal before they have an opportunity to avail themselves of immigration relief for which they may be eligible.46

Minnesota Advocates' research indicates that the fear of removal (deportation) has a powerful silencing effect on some victims of violence. One advocate reported that a battered immigrant woman provided the following explanation: "The worst day with [my abuser] is still better than my life in [my home country]."47 Removal is a concern particularly for undocumented women, but women who are here with lawful status may only have conditional residency, or they may have been deceived about their status or rights by their abuser. Interviews revealed that many immigrant women do not report violence to anyone including family, friends or neighbors for fear that someone will call the police. In addition, battered immigrant women who have obtained OFPs are often reluctant to report their abuser's violation of the order because such a violation is a deportable offense. Battered immigrant women may also fear the effects on family members if they contact authorities. An immigrant woman whose husband physically assaulted and threatened her with death for many years described an incident in which her brother was staying with her on the evening of a severe assault by her husband. Her brother came to her aid and attacked the husband. The brother was arrested and ultimately removed from the United States.48

44 For more information about domestic violence case identification in medical institutions, please see the section of this report entitled, "Medical Services." The scope of this project does cover the important role educational institutions play in domestic violence case identification and access to government services. Additional research is warranted in this area.
45 For example, Congress recently considered but did not pass legislation that would have required local law enforcement officers to enforce United States immigration laws. Clear Law Enforcement for Criminal Alien Removal Act of 2003, H.R. 2671. In addition, the Bush Administration considered passing regulations in connection with the 2003 Medicare Modernization Act that could have required medical professionals to inquire about patients' immigration status and keep copies of patients' immigration documents. See Hospital Regulation Would Threaten Battered Immigrant Women, Experts Warn, Family Violence Prevention Fund's News Flash (September 2, 2004), available at http://endabuse.org/newsflash.
If a battered woman’s partner has legal documentation, he may tell her that if she calls the police, they will separate her from her children and send them to a deportation center with no notice. An abuser may threaten that he will keep the children and have his partner deported. These types of threats, along with economic concerns, keep many immigrant women captive in abusive relationships.

Even in cases where women possess documentation equal to their husbands, complex forms in an unfamiliar language combined with inadequate information when entering the United States can result in confusion, fear and thus vulnerability to whatever an abuser may tell his partner. In addition, legal permanent resident women (green card holders) can be removed (deported) if they are convicted of abusing their partners, even if they are not the primary aggressor.

Many immigrants arrive in the United States owing a great deal of money to those who helped them cross the border. One battered woman reported that it took her two years to pay off the debt. She took two food service jobs, did not go anywhere, and paid the debt bit by bit. “Now I am free,” she said. “We don’t owe any more. Now I can think about myself.” This undocumented woman explained that if she had had a social security number or a form of identification, her husband could not have had such control over her. Some immigrants come to the United States relying on a promise that they will be married when they arrive. If a citizen husband does not marry an immigrant fiancé within three months of her arrival, she falls out of status and could be deported.

A police officer described the situation of a recent refugee:

> There was a Somali lady a year ago who was new to this country. She knew a little English. She was living with her boyfriend and she said he was never abusive in their country. He came here first and then she did after one year. He started drinking and smoking, and started pushing her. He wouldn’t let her leave the house and she had no phone. Because of her lack of language skills, she couldn’t get a job. He began to constantly hit and assault her. The neighbors called the police. She tried to get out but he would sweet-talk her back, saying no one would help her. He said that if she left him, he would call immigration because he was the sponsor. She told us, ‘I don’t need your help anymore...’

Even if both parties have appropriate documentation, they still often have a legitimate fear of removal (deportation). Interviews revealed that it is common knowledge in immigrant communities that those convicted of domestic violence offenses or violations of OFPs are subject to removal. Removal of the abuser can have significant consequences for the victim. She may

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50 Interview dated October 14, 2003.
51 Interview dated December 18, 2003.
54 INA § 237 (a)(2)(E) (codified at 8 U.S.C. 1227). Also see the State and Local Justice Systems section entitled, “Prosecution.”
not want to be separated from her husband, or his removal may mean the loss of her only source of financial support, particularly if she is not authorized to work legally and is prohibited from receiving public benefits. She may also not wish to give up all hope of reuniting with her husband or feel guilt for having him removed.\textsuperscript{55}

A victim’s fear of removal (deportation) may be particularly acute with the increased enforcement of federal immigration laws in response to the September 11 terrorist attacks. As one author noted about the current climate in the justice system:

\begin{quote}
Law enforcement is increasingly a seamless web, in which authorities may move without hindrance between a traffic stop and deportation or a hospital visit and prison, or the airport and a maximum-security cell. This unrestricted integration of law-enforcement operations is terrifying to contemplate, let alone to experience.\textsuperscript{56}
\end{quote}

\textbf{Minneapolis and St. Paul Ordinances on Police Reporting to Immigration Authorities}

Both Minneapolis and St. Paul have recently passed ordinances that directly address the growing fear that prevents immigrants and refugees from reporting crimes to law enforcement officials. The ordinances reflect the recognition that the primary responsibility of local police is enforcement of Minnesota law, not federal immigration law and policy. Many in the justice system report that these ordinances, essentially “don’t ask, don’t tell” policies, are positive developments. If implemented, they may alleviate immigrant women’s fear of calling the police when domestic violence occurs.

One advocate explained that since September 11, 2001 there has been increasing fear in immigrant communities of making contact with the “system.” There is a sense that immigration authorities are much more aggressive now, that they “jump right in” and “respond really quickly.”\textsuperscript{57} An employee of a Somali community organization whose work focuses on youth described a pervasive fear of police based on incidents of harassment since September 11, 2001. The employee reported that the community has confronted police officers and government


\textsuperscript{57} Interview dated August 7, 2003. In Minnesota, for example, recent post-September 11 changes in the law have made it easier to identify immigrants who may be undocumented. Pursuant to the Driver’s License Proof of Identity and Residency Standard, January 22, 2003, MN House of Representatives H.F. 1, immigration status can be reflected in the expiration date of a driver’s license. See Minnesota Rules Part 7410.0410 Proof of Residency, Subparagraph 6 Lawful Short Term Admission Status.
officials about the incidents and that elders and police have held several meetings on the issue. Unfortunately, circumstances have not changed significantly.\textsuperscript{58} Government employees explained that immigration authorities initiate regular contact with the jails.\textsuperscript{59} One attorney reported that one county jail initiates calls to immigration authorities when immigrants arrive at the jail.\textsuperscript{60} This contact contributes to immigrants’ overall fear of government institutions.

Police and prosecutors reported that they do not have policies requiring or encouraging reporting to immigration authorities, however, there is a great deal of misinformation about police reporting within immigrant communities. Some law enforcement agencies are conducting needed outreach to immigrant communities. One officer, in discussing the goals of such outreach efforts, explained, “You need to get the message out into the community that you don’t do immigration stuff. Second, explain that if you don’t speak English, we will still listen. And three, you need to create the expectation, help people to understand what they can expect from us.”\textsuperscript{61} Despite these positive developments, one interviewee reported that a police officer facilitated the reporting of her status to the immigration authorities by providing her abusive partner with contact information for the immigration authorities.\textsuperscript{62}

Fear of removal (deportation) also deters many battered immigrant women from accessing public assistance in the form of OFPs, medical assistance or financial assistance. Interviewees reported that many immigrant women avoid seeking OFPs and medical care in cases of domestic violence, in part due to fear that they or their families will be reported to the criminal justice or the immigration authorities. This fear is justified to some degree. Immigration law provides that a violation of an OFP is a deportable offense.\textsuperscript{63} Minnesota law requires medical professionals to report to law enforcement injuries that involve firearms and situations of child endangerment.\textsuperscript{64} Interviewees report that financial assistance workers are required to ask for a Social Security number and sometimes immigration status to determine eligibility for certain benefits. They are not required to report anyone to the immigration authorities unless the worker “knows” that the person is in violation of the immigration law, i.e., is shown a copy of a deportation order.\textsuperscript{65} Many medical professionals and government workers reported that they do not otherwise inquire about immigration status or report cases to law enforcement. One interviewee explained that

\textsuperscript{58} Interview dated July 28, 2003. Interviewee described how police will begin questioning male youth when a large number of them gather near a playground across the street. Interviewee also described how male teenagers are picked up by police off the streets and dropped off far from home. Finally she described an incident where two Somali students were interrogated and arrested after police entered their classroom at a local community college. A wallet had been reported missing. Ultimately the students were released, but they were intimidated and humiliated. In the end, the school and the police made an apology to the students.

\textsuperscript{59} Interviews dated September 21, 2004 and September 30, 2004.

\textsuperscript{60} Interview dated September 13, 2003.

\textsuperscript{61} Interview dated March 1, 2004.

\textsuperscript{62} Interviews dated December 3, 2003.

\textsuperscript{63} INA § 237 (a)(2)(E) (ii).

\textsuperscript{64} Minn.Stat. §§ 626.52, subd. 2, and 626.556 (2004); Interviews dated June 19, 2003 and July 7, 2003.

\textsuperscript{65} Interview dated August 14, 2004.
employees report individuals to immigration authorities only in the cases of serious criminal acts. 66

A more general fear and distrust of legal systems and institutions apart from deportation issues may also prevent immigrant women from contacting government agencies of any kind. This fear or distrust may originate from a woman’s experience in her home country or it may be based on perceptions or actual experience of law enforcement’s treatment of communities of color in this country. Fear of discriminatory and even violent treatment of people of color by law enforcement in the United States may also affect immigrant women’s willingness to seek help from the legal system in the event of domestic violence. 67 This fear and distrust of legal systems is compounded by limitations on the availability of legal representation that might assist immigrant women in navigating the legal system. Legal aid offices are often restricted in their ability to provide services to undocumented women. 68 In addition, some immigrant women may not meet the income requirements to receive free legal representation but may also not be able to afford to pay for legal representation. Finally, Minnesota Advocates found that cuts in the budget of the state public defenders, if not remedied in the next legislative session, could have a profound effect on the availability of legal representation for immigrant mothers in the child protection system.

For refugees, the trauma of past persecution at the hands of authorities in their home country may still be very present in their minds. Refugees were granted their immigration status precisely because of this persecution. For example, immigrants who were persecuted because of their religion in their home country, e.g. Pentecostals and Baptist Russian immigrants, are sometimes very suspicious of social services and any other form of assistance. 69

Some women may come from countries where the government and law enforcement are oppressive or corrupt. Police brutality may be common in a woman’s home country. A publication by a Latina agency explains that Latinos distrust government institutions due to the corrupt and often brutal injustices they suffered in their home countries. 70 Somalia has had no functioning government for over a decade. As one advocate who works with immigrant women said, “Immigrant women will try everything else before contacting the legal system.” 71 Another advocate explained:

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66 Interview dated August 8, 2003.
68 Under Section 504(a)(18) of the Omnibus Consolidated Rescissions and Appropriations Act of 1996, legal aid organizations that are funded by the federal Legal Services Corporation (“LSC”) are prohibited from representing most undocumented individuals, regardless of whether the funds used are LSC or non-LSC funds. Congress modified this prohibition to allow LSC-funded legal aid offices to provided limited legal assistance to abused immigrant spouses and children, as long as this assistance is provided with non-LSC funds, 45 C.F.R. §1626.4. This exception, however, only provides relief to spouses and children. See generally, Brennan Center, The Restriction Barring Legal Services Corporation-Funded Lawyers from Assisting Aliens, available at http://www.brennancenter.org/resources/resources_act_aliens_factsheet.html.
69 Interview dated August 6, 2004.
The whole process, court officials, sheriffs in uniforms, is very scary to many women. Their history is about abuse by political systems at home. These systems are very corrupt and seeing all the uniformed officials almost makes them go into flashback and makes them less trusting of this system.\(^72\)

It is also possible that the legal system in a victim’s home country may devalue the testimony of women, as in some countries where the testimony of one man is equal to that of two women. In Somalia, a country that is a major source of immigrants to Minnesota, women have lost many legal rights in recent years.\(^73\) According to Amnesty International, as of 2003, 54 countries still have laws that actively discriminate against women and 79 countries have no law against domestic violence.\(^74\)

Some women may not realize that laws in Minnesota may be different from those in their home country. An immigrant woman explained that she never called the police or sought an OFP (a civil remedy) because she didn’t know the police could help her. She lived in Minnesota for a year before she learned the police could help her.\(^75\) When women’s experiences with the justice system in their own countries have been unfair and discriminatory, they may be less likely to seek redress from the system here or less likely to cooperate with that system.

Immigrant women may fear eviction from their home if they call the police to report abuse. Advocates reported that evictions of domestic violence victims from their rented apartments or homes are common.\(^76\) Although laws exist to prevent retaliation against a tenant who is exercising her rights, housing policies that declare ‘zero tolerance’ for domestic violence (resulting in the eviction of domestic violence victims because of a domestic violence incident at her home) are not specifically prohibited in Minnesota.\(^77\)


\(^74\) As Amnesty International reports, “Impunity encoded in the law is the exception, although it features in a number of countries emerging from conflict. More common are laws that are inadequate, police forces that are uninterested, criminal justice systems that are remote, expensive and biased against women, and communities that still do not take violence against women seriously...Laws against violence against women – especially domestic violence – frequently emphasize family reunification or maintenance over protecting victims. In some countries laws allow so called ‘honor-crimes’ or allow a defense of honor to mitigate criminal penalties, putting the right of the family to defend its honor ahead of the rights of individuals in the family.” Amnesty International, *supra* note 1, 86-87.

\(^75\) Interview dated December 18, 2003.


\(^77\) Advocacy groups have challenged policies instituted by landlords which require eviction of tenants who are victims of domestic violence. Family Violence Prevention Fund, *Lawsuit Challenges Housing Policies That Discriminate Against Battered Women,* (July 27, 2001).
Finally, interviewees reported that a battered immigrant woman may fear that accessing criminal or civil remedies through the courts will motivate her partner to kidnap her children and return to his home country. One immigrant woman described how her abuser attempted to kidnap her child. Another immigrant woman reported that she believes if she agrees to visitation in divorce documents, she is fearful that her husband will try to kidnap their child.

3. Obstacles in the Law and the Implementation of the Law

During the course of this project, Minnesota Advocates identified many laws and policies that serve as obstacles to immigrant women’s access to government services or immigration relief. In addition, there are a number of procedural or policy factors that contribute to the government’s failure to provide adequate resources to prevent or address domestic violence suffered by immigrant women, including the following:

- delays in the provision of services;
- ineffective screening of individuals seeking assistance;
- poor documentation of domestic violence crimes and injuries and inadequate record-keeping;
- failure to adequately coordinate services across government systems; and
- inadequate access to culturally-specific programming.

These obstacles are presented in detail according to government system in sections IV through IX below.

Legal provisions often create obstacles by inappropriately restricting eligibility for government assistance or creating unnecessary hardship. For example, following passage of the Violence Against Women Act (VAWA) in 1994, federal immigration law provides needed immigration relief to domestic violence victims. However eligibility for such relief is restricted to victims who are or were married to an abusive legal permanent resident or citizen spouse. By allowing these women to apply for immigration relief without the support of their spouses (self-petition), the federal government has prevented some abusive spouses from using immigration status as a weapon against their partners. Eligibility for this relief, however, does not reach certain categories of immigrants. For example, women who arrived in the United States on fiancée visas, but who are not yet married, may not apply for immigration relief under VAWA. Women who were married in religious ceremonies often have difficulty proving they are married in their application for benefits. In addition, immigrant women who qualify for relief under VAWA often remain isolated in their homes and financially unstable because they are restricted from applying for employment authorization until their application has been approved. The approval

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78 Conference Notes dated April 1, 2003 and June 20, 2003.


of VAWA applications is taking up to a year which may result in a longer period of isolation and hardship for battered immigrant women.

Legal provisions have also acted as barriers to medical care and documentation of injuries at medical institutions in the metropolitan area. Under Federal and State law, eligibility for general medical assistance has been eliminated altogether for undocumented immigrants. As a result, undocumented battered immigrant women must seek medical care at emergency rooms where domestic violence case identification may be impossible and documentation of injuries is more difficult. In addition, some battered immigrant women do not receive the consistency of care that facilitates disclosure of domestic violence and preserves documentation of a pattern of injuries. Such disclosure and documentation may be essential for an immigrant woman to obtain immigration relief or criminal prosecution. Finally, Minnesota law does not provide coverage of interpretation in medical services that are ancillary to doctor or patient services. This means that some battered immigrant women will not receive interpreter assistance to obtain medical appointments or prescriptions for medicine.

Federal law also restricts some battered immigrant women’s eligibility for a domestic violence waiver of “deeming rules” the state must apply when evaluating applications for public assistance. The state must take into account the income of a battered immigrant woman’s sponsor, usually her abuser. The waiver of such deeming is available only to individuals who are not living with their abuser. This rule acts as a barrier for battered immigrant women for whom leaving their abusers is not safe.

Minnesota Advocates identified delays in the provision of government services that affect the safety of battered immigrant women and their ability to pursue offender accountability. For example, delays in the police response to calls to the scene of a domestic assault or a violation of an OFP and the failure to pursue offenders who leave the scene place battered immigrant women at risk of continued violence. Delays in the provision of court interpretation services often result in the delay of OFP hearings and other civil court hearings. These delays may impact a woman’s safety and may make her reluctant to follow through with a civil or criminal law remedy that may improve her safety. Delays in the adjudication of immigration relief under VAWA also result in battered immigrant women experiencing long periods of isolation and dependence on their abusers.

Ineffective screening of individuals seeking government services also creates barriers for battered immigrant women seeking government services or assistance. For example, government financial workers are not effectively screening immigrants who apply for benefits for the purposes of recognizing eligibility for (1) the Family Violence Waiver, which waives time limits on receipt of financial assistance from the government; and (2) benefits for which self-petitioners under the VAWA qualify upon receipt of a “prima facie notice” from immigration authorities. In addition, medical institutions are frequently not conducting adequate screening for domestic violence for a number of reasons, including confidentiality concerns or the lack of cultural sensitivity on the part of some medical staff.
Minnesota Advocates found that the lack of government documentation of domestic violence crimes and medical institution documentation of injuries have made it difficult for many battered immigrant women to access the benefits of criminal, civil and immigration processes. Police reporting at the scene of domestic violence involving immigrants is frequently inadequate, in large part because of a failure to access interpretation services. These inadequate reports limit both prosecutors’ ability to successfully pursue cases and the courts’ effectiveness in assessing the risk to immigrant victims of violence. Likewise, medical professionals, especially those in emergency rooms, have acknowledged that they struggle to adequately document and keep records of injuries that may be related to domestic violence.

A lack of coordination among government agencies and courts often serves to make government systems un navigable for a battered immigrant woman and sometimes jeopardizes her safety or custody of her children. For example, the criminal justice system frequently does not coordinate adequately with civil courts adjudicating OFP hearings or with CPS and juvenile courts. One possible result is that the criminal justice system detains a parent without her knowledge of ongoing processes involving adjudication of custody of her children.

Finally, many government agencies and government-funded service providers have not provided battered immigrant women or members of their families with programming that is culturally-specific. For example, there are no shelters in the metropolitan area that provide culturally sensitive services for Muslim women (in particular, East African women). In addition, there are not enough culturally-specific programs for immigrant probationers or for immigrant parents in the child protection system. Battered immigrant women are more likely to attend programs that provide services in their native language and that take into account their own cultural and immigrant experiences. When these programs are available, the government does not always cover the cost, making them inaccessible to many immigrant women.

4. Cultural Barriers and Community Pressures

Immigrant women’s access to community services and law enforcement is frequently hampered by forces within their own communities. One advocate explained that accessing the system can be like “declaring war against your community and belief system.” Cultural barriers and community pressures may also have a profound effect upon the effectiveness of government agencies’ response to immigrant victims of violence after they access the system.

Consistent with studies from many cultures on the causes of domestic violence, Minnesota Advocates’ research revealed a common belief in some immigrant communities that it is a man’s right to beat his wife. Describing her community, one advocate said, “Men are the decision

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makers and a strong woman is trouble. It is okay to get slapped. If you complain, your in-laws
tell their son, ‘You have a bad wife, put her in her place.’”83 Another advocate explained, “The
community does not see it as a safety issue for her, they see it that she is bad.”84 The woman is
usually lectured and told that the violence is training for her role in life, or that she has caused
the violence and she must change her behavior. Another advocate explained, “there are never
any actual consequences” for the abuser.85 “All the burden is on the women but none is on him.
She has to change but not him.”86 If the family and/or clan perceive that there is no reason for
the violence, they might lecture the man and threaten to take away his wife or children if he does
not stop.87 One advocate recounted a conversation with a woman who had been abused by her
husband. The woman told the advocate that it was “better to be a battered wife than no wife at
all.”88

In some immigrant communities polygamy is common – a situation which often compromises
women’s rights and makes them more vulnerable to violence.89 One woman, who survived her
husband’s attempt to kill her, explained that she thought she had made him angry by questioning
his desire to take a second wife.90 Arranged marriages are also common for girls at a very young
age, often making them vulnerable to abuse and violence.91

The traditional respect and deference to elders that is prevalent in many cultures may, in some
circumstances, create a dangerous situation for immigrant women who are victims of violence.92
For example, interviewees described how elder victims may advise younger women not to
confront their abusive husbands or boyfriends. These elders may justify a man’s behavior, i.e.,
drinking or having a mistress, by saying that it is “just what men do.”93

A battered woman recounted a conversation she had had with an elder in her community. The
erder told her a story about a woman who had gone to a wise man to seek advice. The wise man

84 Interview dated August 20, 2003.
86 Interview dated October 27, 2003.
88 Interview dated September 18, 2003.
89 Interviews dated July 30, 2003 and September 12, 2003; see also Foo, Lora Jo, Asian American Women: Issues,
Concerns and Responsive Human and Civil Rights Advocacy 121 Ford Foundation (2002); Somali Immigrants in
91 Foo, supra note 89.
92 A publication by the Casa de Esperanza, a shelter for Latinas, explains that respect for elders and authority is an
important value in Latino culture. It also explains that Latino families often have distinct gender roles, with the
Latino father as the authority figure and chief provider and the mother as a nurturing figure in charge of the family’s
well being. The publication also emphasizes the Latino value of interdependence. “Mainstream culture often views
life in an individualistic way, making decisions in the best interest of the individual. In contrast, our reality is
communal. We tend to make decisions after first weighing the impact on the entire family (both nuclear and
extended), the community, and other support systems in the community. Mainstream culture may interpret our
interdependence as unhealthy dependence or codependence. On the contrary, it is the supportive, strengthening
reality that defines us.” Casa de Esperanza, supra note 70, 12-13.
said, “I will give you advice, but you have to do what I tell you. First you have to bring me a lion’s eyelash.” So the woman went to the jungle to find a lion. The first time she threw meat from a distance, and then got closer and closer, until she was able to take an eyelash. She took the eyelash to the wise man, who told her, “If you can do this to a lion, you can do the same thing to your husband.” According to this woman, the message to her was clear—she should be “patient, submissive and responsible.” It was her responsibility to change her husband. Just as she could change the animal, she could change him.  

Interviews revealed that frequently, immigrant women are not aware of their right to be free from violence. They have accepted domestic violence as a way of life. One advocate described, “This was a foreign concept in my support group for young girls. ...They accept violence because their mom[s], cousin[s], get hit.” One woman said, “[I]t took me two years to find out what abuse means. I was doing what my mother did for my dad...I can’t say, ‘Where have you been?’ because he was the man...He gave me black eyes and I never called the police.”

Interviewees reported that if women do object to violence and seek help, there may be significant community pressure to seek recourse or resolution of the domestic violence situation within the clan or community-based justice system. As one battered woman explained, “[a]s soon as you call the police, you are ostracized.” Accessing help outside the community is frequently viewed as harming the reputation of the family. If a woman calls the police, one advocate explained, people may say that she has become “Americanized” and is betraying her whole community. Advocates described the situation for women in one community. If a woman’s husband goes to jail, his family will put pressure on her family. They might disown her, and then she would be denied a traditional burial. Though there is great pressure to seek recourse within the community, women face a difficult dilemma because informing the community of the violence may cause them great shame.

Community pressure may also take the form of interpreter misconduct or family member interference with domestic violence screening in medical settings. For example, Minnesota Advocates found that, in some cases, court interpreters have shamed women seeking OFPs or

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95 A recent Minnesota study on domestic violence in minority communities, which included refugee and immigrant women, found that women who thought that domestic violence was never acceptable reported much less abuse. The study referred to norms of the Southeast Asian communities that may make women more vulnerable to abuse – traditions of suffering and perseverance, accepting one’s fate and not seeing divorce or separation as a solution to abuse. The study concluded that “The main finding from this study seems to be that those women who adhere less to these traditional norms are less likely to suffer from physical, psychological and economic abuse.” Alvi, supra note 33.
96 Interview dated June 25, 2003. A Somali advocate reported that she believes 90 percent of Somali relationships are abusive and that Somali men pressure and control women regardless of their age, education level or job. Although her agency is a general women’s advocacy organization, she estimated that 85% of their time is spent working on issues related to domestic violence. Interview dated July 16, 2003.
97 Interview dated December 1, 2003.
98 See discussion in the section entitled “Criminal Courts and Judicial Response.”
100 Interview dated July 24, 2003.
divorce, told the women to go back to their abusers and omitted details of abuse from the interpretation they provided. This conduct can impede a woman’s access to civil remedies that may be crucial to her safety. In medical settings, family members including the abuser himself sometimes interfere or prevent an interpreter from working with a domestic violence victim in connection with a medical screening that includes questions about violence. Interviewees also explained that community justice systems can be dangerous for battered immigrant women because these systems often prioritize preservation of the family or reputation of the clan over the safety of the victim. Interviewees explained that in one community, it is common for the family or clan to intervene to ensure that a couple stays together. Community and family pride are at stake in ensuring that children have two parents. In many communities, battered immigrant women receive significant pressure from their communities not to divorce violent spouses. Individuals who work with immigrant women reported that community or clan leaders frequently contact a woman who has sought the assistance of a mainstream organization and pressure her to recant, arguing that her actions will destroy her family. One judge described her experience with immigrant victims frequently facing pressure from the abuser’s family to request that their cases be dismissed. “[T]hey start saying that she is a liar, that she isn’t credible. They create this wall of them against her. It’s as if the male has a bunch of advocates.”

The pressure put on some women by the elders in their communities can be severe. One woman said that an elder approached her, pulled her aside, and said that her batterer had learned a lot and that “…Now is the point where you can take him back. You will be respected.” This battered immigrant woman described how children are also used to pressure women to recant. Regarding her decision to leave her abusive partner, she said, “I cannot count how many times I am approached by members of the community to change my mind.”

Some community elders appear to be taking steps to prevent criminal and civil justice institutions from responding to women’s requests for assistance. Interviewees reported that the elders in one suburban location asked the police not to respond to domestic violence calls from their community. When the police said that they must respond, the elders requested that the police contact them after they receive a call. The police refused. Advocates also described a situation in which community elders appeared at the courthouse and intimidated a woman who had agreed to testify as a witness in a case.

A police officer recounted a situation in which a woman, who was regularly beaten by her husband, had gone to an advocate to get an OFP and change the locks on her doors. The officer said:

She changed her number, did everything right. But then the elders and the phone calls came. Little by little she became afraid. She stopped answering the door or

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phone when we came by or called. The last time we talked to her she said, “I am fine, the elders are going to move us and he has promised not to hurt me.” They moved away. I haven’t read her name in the news, thank God.\textsuperscript{107}

A lawyer who is a leader in one immigrant community explained that, despite community pressure, it is essential for mainstream institutions, particularly the justice system, not to treat cases involving immigrant women differently from other cases. She explained her fear that violence may be excused in the name of respecting another’s “culture.” The message must be sent that there is no double standard. “[We must] enforce the law and they will be deterred,” she said.\textsuperscript{108}

Despite the prevalence of community pressures to hide violence, many interviewees explained that the laws prohibiting domestic violence are generally valued by immigrant women and that they often have an impact on abusers’ conduct. One advocate expressed her view that the perception that domestic violence is just a normal way to “discipline” a woman may be changing for many immigrants. “When you come here, you start to see that this is not right.”\textsuperscript{109} One advocate explained that here, men hear rumors about how domestic violence is a criminal offense and they do not want to go to jail. Abusive men “hate the ‘American’ system - that a woman is encouraged to be independent and have other resources.”\textsuperscript{110}

5. **Reductions in Funding for Essential Services**

Interviewees agreed that state, county and local budget cuts are greatly impacting the availability and quality of services that are essential for battered immigrant women to establish safe homes for themselves and their families. As one advocate said, “When we bring immigrants and refugees to this country, we expect them to live as Americans. How will this happen without support services?”\textsuperscript{111} Interviewees explained that the budget cuts will have a particular impact on those organizations that provide direct services and population-specific programs. Budget cuts have a disproportionate effect on immigrant communities because they often have greater needs for public assistance, including financial and medical assistance.\textsuperscript{112} “Millions of dollars have been cut this year and there are more cuts planned for the future. In this environment it just can’t be expected that there will be funding for [a specific immigrant group] if there is no program for women in general,” said a state government official.\textsuperscript{113}

Immigrant families will be greatly affected by cuts in programs to provide interpretation services for LEP individuals, in funding for government assistance administration, in the budget for

\textsuperscript{107} Interview dated August 11, 2003.
\textsuperscript{108} Interview dated June 25, 2003.
\textsuperscript{109} Interview dated June 30, 2003; “[W]omen are assuming new roles while men seek to maintain old traditions.”
\textsuperscript{110} Interview dated August 7, 2003.
\textsuperscript{111} Interview dated June 23, 2003.
\textsuperscript{112} Interview dated July 1, 2003.
\textsuperscript{113} Interview dated July 9, 2003.
shelters, in the provision of free legal services and in the funding for interpreters in medical institutions.\textsuperscript{114} A manager in a social service agency described the loss of a large part of the funding for the Office of Multicultural Services (OMS) as a "huge blow" to Hennepin County. She explained that the office helps government agencies "understand the needs of the various populations."\textsuperscript{115} The mission of the OMS is to facilitate access to county services in a safe environment for those with limited English proficiency.\textsuperscript{116} Likewise, the Minnesota Court Interpreter Program funding has been negatively affected by budget cuts. The funding cuts in government counseling offices will also affect victims of domestic violence. In a county employment counseling office, twelve domestic violence specialists were reduced to one specialist who has not had training on VAWA.\textsuperscript{117} Other county domestic violence advocates explained that immigration, interpretation and translation services are the first things to go when there are budget cuts. One representative of a government agency serving immigrant women explained that women use their services only if there are advocates from their particular community on staff. This representative expressed deep concern that staff cutbacks will jeopardize the safety of immigrant women.\textsuperscript{118}

Advocates expressed serious concern about the method for allocating funding for crime victim services in Minnesota that was put into effect in 2003. Under this system, money for crime victim services (excluding shelter and VAWA money) is currently divided among ten judicial districts based on a formula that takes into account the following factors: each district's respective population and geographic size (weighted the highest at 3), Part 1 and Part 2 of reported crime from the Uniform Crime Report for 2000-2002 (weighted at 2), size of the communities of color living within the district (weighted at 1), and the amount of corporate and foundation funding historically provided in regions of the state (weighted at 1).\textsuperscript{119} Districts are to organize community meetings in which attending organizations will determine how these funds are to be allocated for the following five years.\textsuperscript{120} In 2003, one government official explained that "[i]t is the hope of the office that while there may not be enough funding for population-specific agencies, that these agencies will collaborate with other agencies to maximize service."\textsuperscript{121} Advocates fear that the smaller groups that serve immigrant victims of domestic violence will be disproportionately affected by this system.\textsuperscript{122}

The state has also reduced funding for crime victim services over the last few years. Since fiscal year 2000, almost 46% of crime victim services funding (including services for battered women)}

\textsuperscript{114} Interview dated July 15, 2003.
\textsuperscript{115} Interview dated August 21, 2003.
\textsuperscript{116} Interview dated August 8, 2003.
\textsuperscript{117} Interview dated October 16, 2003.
\textsuperscript{118} Interview dated October 7, 2003.
\textsuperscript{119} Office of Justice Programs, Crime Victim Services Funding Distribution Planning Process (Fiscal Year 2005), available at the website of the Department of Public Safety at http://www.dps.state.mn.us/OJP/MCCVS/Funding/Commentary%20Funding%20plan%20Spec%20Ed%202.pdf.
\textsuperscript{120} Interview dated July 9, 2003.
\textsuperscript{121} Interview dated July 9, 2003.
\textsuperscript{122} Interview dated June 23, 2003.
and almost 27% of shelter funding from the state has been cut. These budget cuts compromise the ability of shelters, community advocacy programs and criminal justice intervention programs to provide the interpretation and other culturally appropriate services for immigrant victims of domestic violence.

Funding necessary for the state’s public defender system and other free legal services has been reduced over the last year. The availability of free legal services is essential for many battered women. This is especially true for battered immigrant women who often have difficulty navigating government systems that are completely foreign to them, e.g., the criminal, juvenile and family court systems. The Public Defender system has faced a $7.6 million deficit that threatens to reduce the availability of public defenders for immigrant families in the child protection system. The funding for many of the legal aid offices in the Minneapolis/St. Paul metropolitan area has been reduced. These offices have been forced to establish priorities in the cases they take on, and as a result, battered immigrant women who are not able to afford legal representation may not be able to obtain services at legal aid centers.

Drastic funding cuts in the area of human services have also affected the availability of specialized services for immigrant mothers to assist them in complying with any applicable CPS case plan. The budget for the Department of Human Services in Hennepin County, for example, was cut by $50 million in 2003. These cuts have had an effect on the availability of community-specific programming, such as parenting classes for immigrant parents in the child protection system. In addition, the budget cuts have negatively affected the number of staff and site visits, the budget for interpretation and translation services, and the ability to hire bilingual staff, all of which affect the quality of services CPS provides to battered immigrant mothers. Funding cuts have also reduced access to supervised visitation at a visitation center, which is essential for a battered mother to safely transfer her children to an abusive partner for visitation.

Budget cuts in the emergency medicine departments and clinics throughout the Minneapolis/St. Paul metropolitan area have resulted in a reduction in the availability of interpreters. The availability of interpretation at these medical facilities is essential for appropriate treatment of battered immigrant women who often seek medical assistance in emergency rooms, in part because they are not eligible for any other medical assistance under federal law.

123 See Minnesota Coalition for Battered Women, History of State General Funds Allocated for Crime Victims, on file with Minnesota Advocates for Human Rights (citing statistics and figures from the Office of Justice Programs, Minnesota Department of Public Safety). See also Dan Gunderson, Crime Victim Advocates Unhappy About Funding Cuts, Minnesota Public Radio (December 1, 2003) (citing community advocates’ concerns about the 2003 reduction in funding for crime victim services in the amount of $733,000).
124 Minnesota Public Radio, Pawlenty agrees to fix city aid glitch, defender budget (July 22, 2004).
127 Interview dated June 19, 2003