



Tips on Working with Victims of Abuse in Later Life

Ask About Abuse

Lead into questions about abuse with a statement such as: “Because many of the people I work with are hurt by family members or caregivers, I ask questions about relationships and abuse.”

The questions may include:

- How are things going with your spouse (or adult child or caregiver)?
- Are you getting out with your friends?
- Are you afraid of your spouse (or other family member or caregiver)?
- Have you ever been hit, kicked, or hurt in anyway by a family member? Does anyone threaten you or force you to do things you do not want to do?
- Have you ever been forced to do sexual acts you did not wish to do? Is this going on now?

IF YES, ask for more information and ask questions such as “how are you staying safe?”

IF NO, if a family member ever does hurt you or you know someone who is being hurt, there are people who can help. Feel free to contact me for information if you ever need it.

Red Flags (Things to listen and watch for)

From a potential victim

- Has repeated “accidental” injuries
- Appears isolated
- Says or hints at being afraid
- Considers or attempts suicide
- Has history of substance (including prescription drug) abuse

National Clearinghouse on Abuse in Later Life (NCALL)

A Project of Wisconsin Coalition Against Domestic Violence
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- Presents as a “difficult” patient or client
- Has vague, chronic complaints
- Is unable to follow through on treatment plans or medical care. May miss appointments.
- Exhibits severe depression

From a potential abuser:

- Is verbally abusive to staff in public or is charming and friendly to service providers
- Says things like “he’s difficult,” “she’s stubborn,” “he’s so stupid,” or “she’s clumsy”
- Attempts to convince others that the person is incompetent, stupid, or crazy
- Is “overly attentive” to the person
- Controls the person’s activities
- Refuses to allow interview or exam to take place without being present
- Talks about the person as if he or she is not a person

Interventions: Do No Harm

DO everything possible to give a victim a sense of hope by:

- Believing the account of the abuse
- Sharing that abuse can happen to anyone and the victim is not alone
- Affirming that the victim is not to blame for the abuse
- Planning for safety or finding someone who can
- Offering options and giving information about resources or finding someone who can
- Allowing the victim to make decisions about next steps (returning power to the victim)
- Keeping information shared by the victim confidential
- Documenting the abuse with photographs, body maps, and victim statements

DO NOT do anything that further isolates, blames, or discourages victims, such as:

- Telling the victim what to do (e.g., “you should leave immediately”)
- Judging a victim who returns to an abusive relationship
- Threatening to or ending services if a victim does not do what you want

- Breaking confidentiality by sharing information with the abuser or other family members
- Blaming the victim for the abuse (“if only you had tried harder or done this, the abuse might not have happened”)
- Reporting abuse to the authorities without permission from the victim (unless mandated by law). If you are a mandated reporter, tell the victim what you are doing and why. Help the victim with safety planning or find someone who can.
- Documenting opinions (“he’s drunk and obnoxious” or “she’s hysterical and overreacting”). These statements are opinions and may not be accurate. However, they can be used against a victim in court.
- DO NOT collude with the abuser and give him/her more power and control by:
 - Accepting excuses from the abuser and supporting the violence (“I can understand how much pressure you are under. These things happen.”)
 - Blaming drugs/alcohol, stress, anger, or mental illness for the abuse. Abusers must be held accountable for their actions before they will change their behavior.
 - Minimizing the potential danger to the victim or yourself if you offer help. Arrange for appropriate security for the victim and your staff when working with a potentially lethal batterer (e.g., has made homicidal/suicidal threats or plans, owns weapons, is fixated on victim).

Work Collaboratively

- To learn more about potential interventions, contact local domestic abuse and/or sexual assault, victim/witness, or adult protective services/elder abuse agencies.
- With the victim’s permission, refer to appropriate agencies for assistance.
- Use experts in a variety of fields as case consultants on difficult cases. Bring challenging cases to a multi disciplinary teams for review. Ensure client confidentiality.



Safety Planning Steps for Older Survivors of Abuse

Generally safety plans include:

- **PREVENTION STRATEGIES:** Preventing future incidents of abuse (e.g., going to shelter or moving to another residence, securing windows and doors, obtaining a restraining/protective order, hiding/disarming weapons, changing schedules and routes to avoid being found). Name changes or change in social security number to prevent the abusive individual from tracking down survivor. Making documents confidential (i.e. bills, utilities, car registration, taxes, bank accounts) This can be done by either using an alias, using a PO Box or an alternative address, setting up passwords that would enable only the survivor to access bills or documents and/or requesting that taxes and court records be placed in a confidential file. Survivors may want to notify local police about the abusive individual, that way if something happens police already have description, level of danger and history.
- **PROTECTION STRATEGIES:** Discussing methods survivors can use to protect themselves during an abusive or violent incident. This could include having an escape route, or having survivor seek shelter in a room where a door can be locked, with a working phone available or where weapons are not present. Survivor may want to have a key hidden to assure access to the car to escape threat of or actual violent incident, including clothes and documents packed for a quick getaway. Some survivors may find self-protection classes useful.
- **NOTIFICATION STRATEGIES:** Developing methods for seeking help in a crisis situation (e.g., cell phones, emergency numbers readily available, life lines, security systems, towel in the window, code words with friends/family/neighbors).
- **REFERRAL/SERVICES:** Recognizing and utilizing services that can offer assistance (e.g., domestic violence, sexual assault, adult protective services, criminal justice, aging and disability network, faith and community organizations, etc.).
- **EMOTIONAL SUPPORT:** Considering methods of emotional support and ways to become less isolated (e.g., music, exercise, yoga, reading positive or spiritual materials, hobbies, art, friends, support groups, and other community activities).

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Recognize that the survivor may want to continue to have contact with the abusive individual, or may be in the process of leaving or returning to a relationship with this person, or may have left and ended the relationship. In each of these situations, the five components of safety planning listed above are crucial.

Issues to Consider

Some older survivors will want to remain with the abuser or leave temporarily but return later. Other older survivors may want to end the relationship. One of the most dangerous times for some older survivors is when they begin to make changes to become independent of the abusive individual, such as moving to a new residence or beginning the process of healing and rebuilding their life. In any case, providing information about how to plan for safety or how to leave in a crisis can be crucial. The following issues are some of the topics to discuss.

Where Will The Survivor Live?

- Can the person remain in their home safely?
- Is there an emergency shelter in the community?
- Are friends or family an option?
- What about church groups or other organizations?
- Where does the person want to live after the immediate crisis?
- Can the abusive individual be removed from the home?

Money

- Can the person get money for the short term?
- Does the survivor have access to money, ATM cards or bank accounts?
- Are there programs to help persons in their situation – such as TANF, job placement, Social Security, Medicaid, Medicare, SSI etc.?
- Does the abusive individual have their name on the victim's bank accounts or other financial and legal documents?

Health

- What health related items (e.g., medications, glasses, walker, hearing aids etc.) will the survivor need to live independently?
- Who is the victim's primary health care provider? Have the survivor consider talking with a health care provider about the abuse to get help with health issues and possible documentation. In most states, health care providers are mandatory reporters, so discuss with the survivor if they are comfortable with reporting.

- Is the victim or the abusive individual in need of a caretaker? Is respite care available through social services?

Who Else Is Affected By The Abuse?

- Who can help with children, grandchildren or other persons living with the survivor?
- Can a friend or family member care for pets or livestock if the person can't take them along? (If no, contact your local domestic violence programs. There may be a "safe haven for pets" program in your community.)

Legal

- Has the abusive individual been arrested? If yes, what support does the survivor need?
- Does the abusive individual have an active Power of Attorney or Guardianship in place with the victim?
- Does the survivor want a protective or restraining order? You can contact your local domestic abuse program or APS for help with restraining/protective orders.
- Are there immigration issues? You can contact a local domestic abuse program or the Bureau of Citizenship and Immigration Services for more information.
- Does survivor have any past or current legal issues? Often times the illegal activity is actually the fault of the abusive individual and may be used to control the victim into doing what the abusive individual wants.
- Are there custody or visitation issues? Grandparent rights issues? Are there any current custody arrangements? If so, make sure survivor was not forced to sign legal papers and that survivor is okay with current arrangements. Consider safety of survivor and children when planning visitation or custody arrangements.

SAFETY PLANNING STEPS

- Be sure to speak to the victim alone - not in the presence or earshot of the abuser.
- Ask about the situation and current safety.
- Listen to the fear experienced and voiced by the victim.
- Ask what changes the victim would like to see to improve safety and quality of life.
- Reinforce the victim's strength and resilience. Offer kudos on current strategies.
- Learn about the victim's existing natural support system and possible allies, friends and family who may be able to offer support and assistance.
- Listen - a victim who feels heard is more likely to trust and continue to work with you.
- Plan specific steps with a victim to enhance safety or to get away if the older adult is fearful or in danger by reviewing safety planning tips and safety planning checklist documents. (Tools of various lengths have been created that can be used while discussing safety planning with the victim. See www.ncall.us) Ensure that tools in your office are in various formats such as audio and large print so they are accessible. Have a list of interpreters ready to work with Deaf and non-English speaking victims.

- Offer options, support and resources without judgment.
- Remind the victim that safety comes first – before belongings, pets and other plans.
- Follow-up with the victim to see if the plan is working and update the plan as needed. A safety plan is not a finished document, but a work in progress that will have to be revisited regularly as circumstances change.

Abuse in Later Life Wheel



In 2006, NCALL adapted the Power and Control Wheel, developed by the Domestic Abuse Intervention Project, Duluth, MN.
Resource updated, April 2011.

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Tactics Used by Abusers

During 2005, NCALL staff asked facilitators of older abused women's support groups to have participants review the Duluth Domestic Abuse Intervention Project's Power and Control Wheel. Over 50 survivors from eight states responded. NCALL created this Abuse in Later Life Wheel from their input.

In addition to the tactics on the wheel, many offenders justify or minimize the abuse and deny that they are abusive. Perpetrators of abuse in later life may make comments like "she's just too difficult to care for" or "he abused me as a child" to blame the victim, or try to minimize the abuse by stating the victim bruises easily or injuries are the incidental result of providing care. The list below provides additional examples of some of the behaviors victims might experience under each tactic included on the wheel.

Physical Abuse

- Hits, chokes, burns, pinches, throws things
- Restrains elder to chair or bed

Sexual Abuse

- Sexually harms during care giving
- Forces sex acts
- Forces elder to watch pornography

Psychological Abuse

- Engages in crazy-making behavior
- Publicly humiliates

Emotional Abuse

- Yells, insults, calls names
- Degrades, blames

Targets Vulnerabilities and Neglects

- Takes or denies access to items needed for daily living
- Refuses transportation
- Denies food, heat, care, or medication
- Does not follow medical recommendations
- Refuses to dress or dresses inappropriately

Denies Access to Spiritual & Traditional Events

- Refuses transportation or access
- Destroys spiritual or traditional items of importance

Ridicules Personal and Cultural Values

- Disrespectful of cultural practices
- Ignores values when making decisions

Uses Family Members

- Misleads family members regarding condition of elder
- Excludes or denies access to family

Isolates

- Controls what elder does, who they see and what they do
- Denies access to phone or mail

Uses Privilege

- Speaks for elder at financial and medical appointments
- Makes all major decisions

Financial Exploits

- Steals money, titles, or possessions
- Abuses a power of attorney or guardianship

Threatens

- Threatens to leave or commit suicide
- Threatens to institutionalize
- Abuses or kills pet or prized livestock
- Displays or threatens with weapons

Assisting Immigrant Victims of Domestic Violence



ADVOCATE'S GUIDE



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Introduction

This guide for advocates and volunteers focuses on the needs of newly-arrived battered immigrant women whose immigration status is unsettled. It explores:

- how to more effectively respond to battered immigrant women;
- how immigration status is used as a weapon in domestic violence cases; and,
- the options open to immigrant victims, the documents they may need, and when a referral to an immigration attorney should be made.

KEY DEFINITIONS AND CONCEPTS

Key Definitions and Concepts

BCIS: Bureau of Citizenship and Immigration Services in the U.S. Department of Homeland Security (DHS). BCIS handles all immigration service and adjudication functions formerly performed by INS, including decisions on immigrant visa petitions, VAWA petitions, and other applications such as T and U visas, asylum and refugee applications.

BICE: Bureau of Immigration and Customs Enforcement is also under DHS. BICE focuses on the movement of goods and people and includes the enforcement and investigative functions previously undertaken by INS, such as immigration inspection and border patrol. It also includes the enforcement and investigative functions of the Customs Service.

United States Citizen: A U.S. Citizen is someone who is either born in the U.S., born abroad to a U.S. Citizen, naturalized as a U.S. Citizen, or automatically becomes a U.S. Citizen when a parent or both parents become naturalized.

Lawful Permanent Resident: An immigrant who has established a permanent right to live and work in the U.S. and to travel outside the country, also referred to as "LPR" status or "greencard" holder. LPR status lasts throughout life and the greencard holder is eligible to apply for U.S. Citizenship after they have held this status for 3 to 5 years. A Lawful Permanent Resident can be deported if convicted of certain crimes.

Undocumented Persons: An immigrant who has entered the U.S. without detection and without any documen-

tation, or an immigrant who has entered the U.S. with fraudulent documents or with appropriate documentation that has expired. These individuals are sometimes referred to as "illegal aliens."

Non-Immigrant Visas: A document that enables an individual to come to the U.S. for a temporary period and for a specific purpose, including the following visas: tourist, student, business visitor and diplomat.

Deportation: An action undertaken to remove an immigrant from the U.S., also known as "Removal." Deportation usually involves a hearing before an immigration judge, also known as a "Removal Proceeding." Once deported, an individual may not return to the U.S. for five years. However, an individual can decide to leave the U.S. voluntarily, without a hearing. This is considered a "voluntary deportation" and does not have the same five-year ban on returning.

Immigrant Women: This very diverse group includes women who have lived in the United States for as little as a day to many years. Immigrant women can be poor, wealthy, white, women of color, heterosexuals, lesbians or bisexuals. They may have entered the U.S. with appropriate documentation or could have entered with fraudulent documentation or no documentation at all. They may be legal permanent residents, conditional residents, here on visas, or undocumented.

PREPARE

Prepare to Work with Immigrant Victims

The issues of safety, poverty, housing and custody are difficult enough for domestic violence victims, but when working with battered immigrant women these issues are often complicated by language, culture and immigration status. To provide services effectively, organizations need to identify and develop partnerships with communities and organizations that can inform and address these issues.

1 Cultural Issues

To begin the work of initiating partnerships advocates should:

- Identify which population groups in their community are not being served.
- Locate agencies and organizations in the community that serve these population groups, and identify willing and committed individuals within these agencies with whom to collaborate.
- Find immigrant organizations in the area that battered immigrant women may contact. Research has found that the creation of ongoing working relationships between organizations with expertise in working with immigrants and domestic violence service providers is the key to successful interventions for immigrant victims.
 - They can help advocates better understand the immigrant victim's experience and challenges. They have the expertise on the services and resources available in their communities, cultural and religious differences and language issues.
 - They can assist in identifying interpreters and providing peer support for immigrant victims.
 - These groups are critical in providing support and combating feelings of isolation.

Programs that seek to serve immigrant victims without the input of immigrant and ethnic community agencies fall short of providing culturally competent assistance. Working with these organizations will help advocates establish a culturally appropriate environment. Having information in various languages, making accommodations for women who may not read or write, decorating with articles of various cultures are all steps that can help. Shelters have gone further by providing food familiar to immigrant women and developing policies that address the potential for racial tension between residents.

2 Language Issues

The absence of language accessibility is a major issue for immigrant victims. Organizations without multilingual staff should, as a first step, develop a referral list of interpreters. Again, this is best done in partnership with immigrant and community agencies. All interpreters identified should be trained on domestic violence issues and dynamics.

For advocates having difficulty locating an interpreter, there are some general guidelines to understand:

- Although it may feel as though there is no other choice, do not use the battered immigrant woman's children as interpreters. This places children in an unduly burdensome situation and may add to their risk as well as compound the impact of the domestic violence on them.
- Do not assume that the people who accompany victims are safe interpreters. Find out who they are, assess whether they pose any safety risk to the client, assess their relationship with the abuser and determine if they are charging any fee to the client.
- Assess volunteers from the community. Find out whether they have any connection to the abuser.
- Make sure the battered immigrant woman is comfortable with the interpreter. In some cases, immigrant victims will not want anyone from their community being involved. In those situations, volunteers from the community may not be a good option.
- Do not assume that because someone knows the language and the culture that he or she is not biased or is a good interpreter. Advocates should stay engaged and trust their instincts. If something does not feel right, look into it.

- In cases where no person who speaks a given language is available in your community, or the victim is not comfortable with those who do:
 - You may want to establish an arrangement with other organizations outside your area that have access to those languages and can assist you over the phone. Some organizations across the country have successfully established these types of agreements; for example, a program in Miami will call a program in Los Angeles to access an interpreter for various Asian languages; or,
 - You may want to establish a contract with a telephone language line service. However, be mindful that these interpreters are often not familiar with domestic violence.

3 Locate an Immigration Attorney.

While advocates need to understand how the immigration laws can assist their clients, the immigration system, laws and regulations are complex and change frequently. Advocates should identify which attorneys in their area are knowledgeable about domestic violence and immigration issues and reach out to them. Finding good attorneys with this expertise is not easy; the first step may be to contact local legal aid services. Many immigrant battered women and abused immigrant children are eligible for legal representation from programs that provide both free and low cost legal services. Legal services funded by the DOJ Legal Assistance for Victims grants, state government and private or faith-based funders can help all battered immigrants without restriction. Programs funded under the Legal Services Corporation Act (LSC) can also help many battered immigrants. Private attorneys may also be an option and some law firms take cases on a pro bono or sliding scale basis.

For assistance, advocates should contact the National Network to End Violence Against Immigrant Women at www.immigrantwomennetwork.org. They maintain a list of attorneys throughout the country who can assist immigrant victims. They are also aware of the various restrictions that lawyers working for Legal Services experience and can provide advocates with useful information.

4 Establish Relationships with Law Enforcement and Prosecutors.

Law enforcement officers and prosecutors come into contact with immigrant victims in the course of their work. They too face many of the same challenges around cultural and language issues. Once advocates are organized to provide services to immigrant battered women, they should establish relationships with local law enforcement agencies and prosecutors to inform them of these services so that victims are referred appropriately. Working with community and immigrant service programs, advocates may want to provide training for law enforcement and prosecutors in their community to help them understand some of the unique dynamics of working with immigrant victims. For example, it is important for law enforcement officers to know that asking about immigration status is not necessary in their role of assisting the victim, and could negatively impact the victim's willingness to participate in their investigation.



ASSIST Assisting Battered Immigrant Women

Once advocates have developed partnerships with community and immigrant organizations, identified interpreters, addressed cultural issues, identified immigration attorneys and forged relationships with law enforcement officers and prosecutors, they are prepared to effectively address the unique needs of battered immigrant women.

When working with a battered immigrant woman, the advocate should:

- Determine whether the woman is safe
- Inquire as to the language in which she is most comfortable discussing her case
- Access an interpreter
- Determine if she wants police involvement
- Make a safety plan
- Determine whether she needs medical attention
- Assist her to access these needs or services

In working with immigrant victims, advocates need to understand the challenges immigrants face and learn what options are available to address their needs.

1 Identify Immigration Status.

Immigrant victims may be reluctant to discuss immigration status because they fear deportation for themselves, their children or their batterer. If she is deported, she may lose custody of her children, may not be allowed to enter the country to see her children, may return to poverty, famine or political persecution and may no longer be able to financially assist her family in her home country. She may be deported to a country whose laws do not protect her from domestic violence. Friends and family members may ostracize her because she got a divorce or sought a protection order against her abuser.

Many battered immigrant women who have legal immigration status do not understand that their batterer cannot take that status away. Advocates should know that if an immigrant woman becomes a naturalized citizen she cannot be deported. Immigrants who are lawful permanent residents or have valid visas cannot be deported unless they entered the United States on fraudulent documents, violated conditions of their visas or have been convicted of certain crimes.

Some victims may immediately reveal their immigration status. However, if they do not and an advocate believes it is important to know their status to better protect the victim, then the advocate may want to carefully discuss the issue, following these steps:

- Inform her whether you can keep the information she gives you confidential.
- Reassure the immigrant victim that you need to know her status so that you can best help her, as her status may contribute to her safety or assist you in determining if she needs an immediate legal referral.
- Reassure her that your services will not be denied, whatever her immigration status might be.
- Give her the option of not telling you if she is uncomfortable.
- Be sensitive in your approach. You may want to ask, “Do you know your immigration status?” or “Do you have any fear of being deported?”

Remember, a woman isn't always aware of her correct immigration status. The batterer may have lied about it. BICE or BCIS should **not** be called to verify her status.

2 Explain Her Options.

Explain to victims that services available to both documented and undocumented crime victims include:

- Emergency medical care
- Police assistance
- Criminal prosecution of perpetrators
- Community-based services necessary to protect life and safety
- Crime victim services
- Domestic violence services

- VOCA funds
- Emergency shelter
- Protection orders
- Child custody and support
- Public benefits for their U.S. citizen children

Awareness of the relevant immigration laws and how they might apply to an immigrant victim's case is critical to an advocate's ability to inform a woman of her options and in determining when to refer her to an attorney. The passage of the Violence Against Women Act (VAWA) in 1994 and its successors greatly expanded access to legal immigration relief and other services for immigrant victims of domestic violence and other crimes. The legal immigration options include:

VAWA Self-Petitioning

- Applies to battered immigrant women who are married to U.S. citizens or lawful permanent residents.
- Allows immigrant victims of domestic violence to file their own petitions for lawful permanent residency without the cooperation of their abuser.
- Allows immigrant women to file petitions for themselves and their children if the children are abused.
- Victims must show the following:
 - Victim of domestic violence
 - Relationship with U.S. citizen or lawful permanent resident
 - Where they reside and where the abuse takes place
 - Good faith marriage
 - Good moral character

It is not necessary for a U.S. citizen or lawful permanent resident spouse or parent to have filed any paperwork previously. Immigrant parents of an abused child can also file for themselves and their children.



Battered Spouse Waivers

- Available for immigrant victims who have conditional residency (a conditional temporary 2-year green card).
- Conditional residency was obtained through a case filed by her abusive citizen or legal resident spouse or parent.
- In this case, a battered spouse can petition to have the conditions removed and have her conditional residency changed to permanent residency without her abuser's knowledge or participation in the process.

Cancellation of Removal/Suspension of Deportation Under VAWA

- Covers battered spouses or children of U.S. citizens or lawful permanent residents who are in deportation or removal proceedings.
- Allows battered immigrants and the immigrant parents of an abused child to close their deportation/removal proceedings and gain lawful permanent residency without participation of the abuser.

U Visa

- Intended for immigrant victims of crime who have suffered physical or mental injury stemming from criminal activity.
- If granted, the immigrant victim receives a legal immigration visa and work authorization which may lead to lawful permanent residency.

- Covers victims of a wide range of crimes including victims of domestic violence currently not covered under the VAWA provisions and also victims of incest, sexual assault, rape, female genital mutilation and a number of other crimes.
- To be eligible, immigrant victim must:
 - Have information about the crime.
 - Be willing to cooperate with the investigation or prosecution.
 - Have suffered physical or psychological trauma.

T Visa

- Applies to victims who have been trafficked into the U.S. for labor or commercial sex purposes. Victims must be willing to cooperate with the investigation or prosecution of the crime.
- If granted, the immigrant victim will receive a legal immigration visa, access to public benefits and work authorization, which may lead to lawful permanent residency.

3 Refer Her to an Attorney.

If the advocate believes that the immigrant victim may be eligible for one of the remedies outlined above, a referral should be made to an immigration attorney. Clients should see an attorney immediately if they are served with divorce or annulment papers, if they have conditional status or if they are planning to travel outside the U.S. These situations may significantly impact a client's ability to access some of the immigration remedies available to them.

In most cases, advocates should refer and accompany victims to an immigration attorney. However, the lawyer may need to request that you do not participate in the interview in order to protect the confidentiality of any information shared. The advocate can also support the client in preparing for the meeting; it can be a grueling experience to talk about the abuse. For some immigrant victims, this may be one of the only times that she will tell her story. Finally, advocates can also assist immigrant victims in gathering important documents that may be helpful for their immigration application.

FOR FURTHER ASSISTANCE

For Further Assistance

For technical assistance on working with battered immigrant women and immigrant victims of crime, sexual assault and trafficking or for referrals in your community to programs with this expertise, contact the National Network to End Violence Against Immigrant Women:

<http://www.immigrantwomennetwork.org>

Addendum A - U Visa

VAWA 2000 created additional relief for immigrant victims of crime. One of the important innovations to come out of VAWA 2000 was the creation of the U visa. The U visa is a crime victim visa, given to immigrant victims of certain types of crime. The crimes covered under the U visa include:

Rape	Abduction
Torture	Unlawful criminal restraint
Trafficking	False imprisonment
Incest	Blackmail
Domestic violence	Extortion
Sexual assault	Manslaughter
Abusive sexual conduct	Witness tampering
Prostitution	Obstruction of justice
Sexual exploitation	Perjury
Female genital cutting	Attempt, conspiracy or
Being held hostage, peonage	solicitation to commit any of the above crimes
Involuntary servitude	Any similar activity in violation of federal,
Slave trade	state or local law
Kidnapping	

The U visa provides help for domestic violence victims without regard to the immigration or citizenship status of the abuser and even if the abuser is not the victim's spouse or parent. The U visa was designed to provide relief to undocumented immigrants who are victims of crime. An immigrant victim must have suffered substantial physical or emotional abuse stemming from criminal activity; must possess information about the criminal activity; criminal activity must have occurred in the U.S. or otherwise violate U.S. law; and the immigrant victim must have certification from police, prosecutor or other government official that victim has been, is being, or is likely to be helpful to the investigation or prosecution of criminal activity.

Some examples of immigrant victims who could qualify for a U visa are:

- Abused intimate partners that are not married to U.S. citizens or lawful permanent residents
- Victims of rape or sexual assault
- Nannies who are abused by their employees
- Those held hostage by a spouse, family member or an employer

How can you help an immigrant victim who may be a potential U visa applicant?

- Connect with local law enforcement and local prosecutors and immigration or legal service lawyers with expertise in VAWA relief.
- Become trained on the various forms of immigration relief under VAWA and educate others on the relief available under VAWA.
- Assist immigrant victims in advocating with local law enforcement and local prosecutors to obtain certifications.
- Assist immigrant victims in gathering important documents that may be useful in her immigration application.

Protective Order Process

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Acts of Violence, Force, or Threat/Family Abuse

An act involving violence, force, or threat that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury. Such act includes, but is not limited to, any forceful detention, stalking, criminal sexual assault in violation of Article 7 (§ [18.2-61](#) et seq.) of Chapter 4 of Title 18.2, or any criminal offense that results in bodily injury or places one in reasonable apprehension of death, sexual assault, or bodily injury.

“Family Abuse” means an act of violence, force, or threat, as defined above, committed by a family and/or household member.

Petitioner is or has been, within a reasonable period of time, subjected to an act of violence.

Family/Household exists between parties

No Relationship Required

Family Abuse Protective Order

Jurisdiction: Juvenile and Domestic Relations

Relief Available: prohibiting acts of family abuse or criminal offenses that result in injury to person or property; prohibiting contact by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons; grant petitioner temporary possession of premises and enjoin respondent from terminating necessary utilities or require respondent to provide suitable alternative housing; temporary possession and use of motor vehicle; other relief necessary.

Violation: Class 1 misdemeanor; third or subsequent offense a Class 6 felony; pro-arrest

Protective Order

Jurisdiction: General District Court

Relief Available: prohibiting acts of violence, force or threat or criminal offenses that result in injury to person or property; prohibiting contact by the respondent with the petitioner or family or household members of the petitioner as the court deems necessary for the health or safety of such persons; such other conditions as the court deems necessary to prevent (i) acts of, violence, force, or threat, (ii) criminal offenses that may result in injury to person or property, or (iii) communication or other contact of any kind by the respondent.

Violation: Class 1 misdemeanor; third or subsequent offense a Class 6 felony; pro-arrest

Ensuring Access to Services for Survivors with Limited English Proficiency (LEP)

Ensuring meaningful access to services is critical to protecting the life and safety of Survivors with limited English proficiency (LEP). In response to numerous requests for information on the rights of access to services for LEP individuals, Casa de Esperanza has compiled the following list of answers to frequently asked questions:

Do organizations that receive federal funds have to ensure language access for LEP individuals?

- Recipients of Federal funding must take reasonable steps to ensure “Meaningful Access” to those with Limited English Proficiency (LEP) under Title VI of the Civil Rights Act.
- Title VI of the 1964 Civil Rights Act states the following:
“No person in the United States shall, on the ground of race, color or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.”
Section 601 of Title VI, 42 U.S.C. sec. 2000d
- The U.S. Supreme Court stated that one type of national origin discrimination is discrimination based on a person’s inability to speak, read, write or understand English (*Lau v. Nichols* (1974)).

Who is a Limited English Proficient Individual?

- LEP persons are those individuals who do not speak English as their primary language and have a limited ability to read, write, speak or understand English.
- The Census revealed that more than 24 million persons over the age of five living in the United States spoke a language other than English and did not speak English “very well”. Of those, 11 million did not speak English at all or spoke it poorly. (Source: U.S. Census Bureau, 2006-2008 American Community Survey)

How is this language access provision of Title VI implemented by Federal Agencies?

- President Clinton signed Executive Order 13166 in Aug. 2000: “*Improving Access to Services for Persons with Limited English Proficiency*” to further clarify the obligations of federal agencies and recipients of federal funds to comply with Title VI protections for LEP individuals.
- In 2002, DOJ issued final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons. 67 Fed. Reg. 41, 455 (June 18,2002) (*DOJ* Guidance).
- In 2011, Attorney General Erich Holder issued a Memorandum for the heads of all federal agencies, general counsels and civil rights divisions entitled “Federal Government’s Renewed Commitment to Language Access Obligations Under Executive Order 13166” (See Resource list)

What are the requirements of Executive Order 13166?

- 1) The Executive Order requires Federal agencies to examine the services they provide, identify any need for services to those with limited English proficiency (LEP), and develop and implement a system to provide those services so LEP persons can have meaningful access to them. Agencies must develop an LEP Language Access Implementation Plan which should be evaluated and updated periodically.
- 2) The Executive Order also requires that the Federal agencies work to ensure that **recipients of Federal financial assistance provide meaningful access** to their LEP applicants and beneficiaries.

Who qualifies as a recipient of federal financial assistance?

- Federal financial assistance includes grants, training, use of equipment, donations of surplus property, and other assistance. Subrecipients are also covered, when federal funds are passed on from one recipient to another. Recipients of federal funds range from state and local agencies, to nonprofits and other organizations.
- Title VI covers a recipient's entire program or activity. This means all parts of a recipient's operations are covered. This is true even if only one part of the recipient receives the federal assistance.
 - The following example is provided in the FAQ at LEP.gov: "Example: DOJ provides assistance to a state department of corrections to improve a particular prison facility. All of the operations of the entire state department of corrections--not just the particular prison--are covered."

What are recipients of federal funds and federal agencies required to do to meet LEP requirements?

Recipients and federal agencies are required to take *reasonable steps* to ensure **meaningful access** to their programs and activities by LEP persons.

The starting point is an individualized assessment that balances the following four factors:

- 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 or agency, and costs.

See LEP Policy Guidance issued by different federal agencies:

http://www.lep.gov/guidance/guidance_index.html

If a non-profit organization has limited resources available is it exempt from this language access requirement?

See the published remarks of the Assistant Attorney General at a meeting of the Federal Interagency Working Group on Limited English Proficiency 4/20/09:

"I want to point out 2 key areas of guidance...that applies across all agencies and recipients: First, as time goes on, the bar of reasonableness is being raised. The need to show progress in providing all LEP persons with meaningful access increases over time... The second cross-cutting point is that, even in tough economic times, assertions of lack of resources will not provide carte blanche for failure to provide language access. Language access is essential and is not to be treated as a "frill" when determining what to cut in a budget..."

http://www.lep.gov/Kingremarks4_20_09.pdf, p. 8.

What if there are multiple languages spoken in the community we serve?

As stated in the federal guidance "It is important to distinguish between establishing a system for communicating with LEP individuals who speak frequently-encountered languages (e.g. hiring bilingual staff members) versus enabling access to a telephonic interpretation service for LEP individuals who speak less commonly-encountered languages." (See "Common Language Access Questions, Technical Assistance and Guidance" from the Civil Rights Division of DOJ in the Resource list)

What if my state or local jurisdiction has an "English-only" law?

- Despite a state's or local jurisdiction's official English-only law, Title VI and the Title VI regulations apply. Recipients continue to have a legal obligation under federal law to provide meaningful access for LEP persons.
- State and local laws may provide additional obligations to serve LEP individuals, but cannot compel recipients of federal financial assistance to violate Title VI.

What elements are important to ensure the quality of Language Access:

- Accuracy and effective communication are critical in domestic violence situations.
- Do not rely on friends and family members to interpret for the LEP victim in important and sensitive interactions.
- It is very important to avoid using children as interpreters, especially in domestic violence cases.
- Being bilingual is not enough for someone to be able to interpret; interpreters should be trained, neutral, and abide by confidentiality and ethical standards.
- Important to ensure that vital documents are translated into the non-English language of each regularly encountered LEP group.
- The best practice for organizations that receive federal funds is to develop a language access plan.

What are the Elements of an Effective LEP Language Access Plan?

- Updated demographic profile of the community
- Process for identifying LEP persons who need language assistance when they first come into contact with the organization
- Identifying ways in which quality language assistance will be provided (for both oral and written information)
- Training staff and volunteers; hiring bilingual personnel
- Outreach and Education accessible to LEP individuals
- Monitoring and updating the LEP Language Access Plan regularly

If a housing program serves some LEP individuals through a bilingual staff person but her caseload is full, can the organization turn away additional LEP individuals if other available staff are not bilingual?

- The HUD regulations on LEP access make it clear that a recipient of Federal funds cannot deny access to an individual based solely on the fact that they have Limited English Proficiency. (See HUD Final Guidance to Federal Financial Assistance Recipients Regarding Title VI Prohibition Against National Origin Discrimination Affecting Limited English Proficient Persons (72 FR 2732, issued January 22, 2007)).
- HUD regulations state: "When bilingual staff cannot meet all the language service obligations of the recipient, the recipient would turn to other options" (72 FR 2742). In the HUD guidance it further states: "[R]efusing to serve LEP persons or not adequately serving or delaying services to LEP persons would violate Title VI" (72 FR 2751).

If the survivor seeking services does not have legal immigration status, does she still have a right to meaningful language access under Title VI?

Regulations state that "Title VI LEP obligations apply to every beneficiary who meets the program requirements, regardless of the beneficiary's citizenship status" (72 FR 2751).

Do Courts have to provide interpreters?

- The DOJ Guidance and subsequent technical assistance letters from the Civil Rights Division explain that court systems receiving federal financial assistance, either directly or indirectly, must provide meaningful access to LEP persons in order to comply with Title VI, the Safe Streets Act, and their implementing regulations.
- The DOJ Guidance states: ... *[W]hen oral language services are necessary, recipients [of any federal funds] should generally offer competent interpreter services free of cost to the LEP person.*
- For DOJ recipient programs and activities, this is particularly true in a courtroom, administrative hearing, pre- and post-trial proceedings, situations in which health, safety, or access to important benefits and services are at stake, or when credibility and accuracy are important to protect an individual's rights and access to important services (67 FR 41455, 41462).

- DOJ's Guidance goes on to note: *...At a minimum, every effort should be taken to ensure competent interpretation for LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present.* (67 FR 41455, 41471)
 - See DOJ Language Access Guidance letter to State Courts in resource list below

How to file a Complaint:

- The Civil Rights Division of DOJ has an office of Federal Coordination and Compliance that handles complaints. Investigations may result in the issuance of formal findings of compliance or non-compliance. If voluntary compliance cannot be achieved where non-compliance is found, the Section refers the case to the appropriate Division Section for litigation or, in cooperation with the appropriate funding component within the Department, seeks to terminate the federal financial assistance through an administrative hearing.
- See Resource list for link to complaint forms

List of Resources:

- Official government website of the Federal Interagency Working Group on Limited English Proficiency: www.LEP.gov
- Common Language Access Questions, Technical Assistance and Guidance for Federally Conducted and Federally Assisted Programs- by DOJ (Aug. 2011) http://www.lep.gov/resources/081511_Language_Access_CAQ_TA_Guidance.pdf
- Language Access Assessment and Planning Tool for Federally Conducted and Federally Assisted Programs (May, 2011): http://www.lep.gov/resources/2011_Language_Access_Assessment_and_Planning_Tool.pdf
- Brochure with brief overview of FedL LEP requirements for recipients of federal funds: <http://www.lep.gov/resources/lepbrochure.pdf>
- Attorney General Memorandum: Federal Government's Renewed Commitment to Language Access Obligations Under Executive Order 13166 (Feb. 2011) http://www.justice.gov/crt/lep/AG_021711_EO_13166_Memo_to_Agencies_with_Supplement.pdf
- Language Access Guidance Letter to State Courts from DOJ, Civil Rights Division– Aug. 17, 2010 http://www.lep.gov/final_courts_ltr_081610.pdf
- DOJ LEP Guidance <http://www.justice.gov/crt/cor/lep/DOJFinLEPFRJun182002.php>
- Tips and Tools Specific to Domestic Violence Service Providers and Specialists (DOJ, Civil Rights Division): http://www.lep.gov/resources/tips_and_tools-9-21-04.htm#38
- Model Protocol on Services for LEP Immigrant and Refugee Victims of Domestic Violence (Washington State Coalition Against Domestic Violence) http://www.wscadv.org/docs/protocol_LEP_victims.pdf
- Executive Order 13166 <http://www.justice.gov/crt/cor/Pubs/eolep.pdf>
- Resource Guide for Advocates and Attorneys on Interpretation Services for Domestic Violence Victims (API Institute on Domestic Violence) <http://www.apiidv.org/files/Interpretation.Resource.Guide-APIIDV-7.2010.pdf>
- Commonly Asked Questions and Answers Regarding Exec. Order 13166 – DOJ website <http://www.justice.gov/crt/about/cor/Pubs/lepqa.php>
- Complaint Form for DOJ Civil Rights Division, Federal Coordination and Compliance Section: <http://www.justice.gov/crt/about/cor/complaint.php>.
- Complaint form for HHS Office of Civil Rights: <http://www.hhs.gov/ocr/civilrights/complaints/complaintformpackage.pdf>
- "I Speak" Language Identification Cards available for free download at: <http://www.justice.gov/crt/lep/resources/ISpeakCards2004.pdf>
- Language Access in State Courts (Brennan Center for Justice, NYU Law School): http://www.brennancenter.org/content/resource/language_access_in_state_courts

For more information, contact Rosie Hidalgo, Director of Public Policy for Casa de Esperanza at rhidalgo@casadeesperanza.org

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General Information on Foreign Language Interpreters and Spanish Language Interpreter Certification in Virginia's Courts

This document is a compilation of general information pertaining to the use of foreign language interpreters in Virginia courts, including information on interpreter reimbursement and an overview of the Judicial Council of Virginia's voluntary Spanish language interpreter certification program. The use of certified interpreters is encouraged when available.

Note: Many publications explaining the operation of Virginia's courts are also published in Spanish.

Please contact Judicial Planning Department, Office of the Executive Secretary, Supreme Court of Virginia at 804/786-6455 (TDD) with questions, comments, or suggestions.

Section 1: Statutes

§ 19.2-164. Interpreters for non-English-speaking persons. -- In any criminal case in which a non-English-speaking person is the accused, an interpreter for the non-English-speaking person shall be appointed. In any criminal case in which a non-English-speaking person is a victim or witness, an interpreter shall be appointed by the judge of the court in which the case is to be heard unless the court finds that the person does not require the services of a court-appointed interpreter. An English-speaking person fluent in the language of the country of the accused, a victim or a witness shall be appointed by the judge of the court in which the case is to be heard, unless such person obtains an interpreter of his own choosing who is approved by the court as being competent. The compensation of an interpreter appointed by the court pursuant to this section shall be fixed by the court in accordance with guidelines set by the Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the expense of trial. Such fee shall not be assessed as part of the costs. Whenever a person communicates through an interpreter to any person under such circumstances that the communication would be privileged, and such person could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in both circuit courts and district courts. (Code 1950, § 19.1-246.1; 1966, c. 240; 1974, c. 110; 1975, c. 495; 1978, c. 601; 1982, c. 444; 1985, c. 396; 1995, c. 546; 1996, c. 402.)

§ 8.01-384.1:1. Interpreters for non-English-speaking persons in civil cases. --

A. In any trial, hearing or other proceeding before a judge in a civil case in which a non-English-speaking person is a party or witness, an interpreter for the non-English-

speaking person may be appointed by the court. A qualified English-speaking person fluent in the language of the non-English-speaking person may be appointed by the judge of the court in which the case is to be heard unless the non-English-speaking person shall obtain a qualified interpreter of his own choosing who is approved by the court as being competent.

B. To the extent of available appropriations, the compensation of such interpreter shall be fixed by the court in accordance with guidelines set by the Judicial Council of Virginia and shall be paid from the general fund of the state treasury as part of the expense of trial. The amount allowed by the court to the interpreter may, in the discretion of the court, be assessed against either party as a part of the cost of the case and, if collected, the same shall be paid to the Commonwealth.

C. Whenever a person communicates through an interpreter to any person under such circumstances that the communications would be privileged, and such persons could not be compelled to testify as to the communications, this privilege shall also apply to the interpreter. The provisions of this section shall apply in circuit and district courts. (1996, c. 559)

Section 2: The Use of Foreign Language Interpreters in Court

The appointment of a court interpreter is a discretionary duty of a judge. The judge decides who is to receive the services of an interpreter and whether an interpreter is qualified. When a non-English-speaking person appears before the court, the appointment of a *qualified* court interpreter is critical to ensure the individual's ability to effectively participate in his/her own trial. The selection of an unqualified court interpreter will have a profound effect on the rights of everyone involved in either a civil or criminal case. Several important issues should be recognized when courts use foreign language interpreters:

- A bilingual individual is not necessarily qualified to serve as an interpreter in court. Court interpreting requires additional, specific knowledge, a high skill level, and a sophisticated vocabulary.
- The appointment of a bilingual attorney does not necessarily solve a language problem in the courtroom. An attorney should *not* both represent a client and interpret in the courtroom at the same time.
- There are important differences between a translator and an interpreter. A translator translates a written document in one language into a written document in another language. Translation requires different skills than those used by an interpreter.
- If the court cannot effectively communicate with a potential interpreter *in English*, that individual should not be considered for appointment as a court interpreter.

Section 3: The Role of a Foreign Language Interpreter in Court

A court interpreter is a "language conduit" whose participation allows an individual who does not speak or understand English to participate meaningfully in a judicial proceeding. The interpreter has a two-fold duty: (1) to ensure that the proceedings in English reflect precisely what was said to and by a non-English-speaking person; and (2) to place the non-English-speaking person on an equal footing with those who understand English.

An interpreter conveys the meaning of a word or a group of words from a source language (e.g., Spanish) into the target language (e.g., English). Colloquial expressions, obscene or crude language, slang and cultured or scholarly language *must* be conveyed in accordance with the usage of the speaker. A court interpreter's job is *not* to tone down, expound upon, improve or edit any statements; the interpreter *must* maintain the same register (level of language spoken) and style of the speaker.

There are three different modes of court interpretation:

1. *Simultaneous interpretation.* The interpreter speaks contemporaneously with the speaker. This mode of interpreting is often used when the court interpreter is seated at counsel table interpreting for a non-English-speaking party.
2. *Consecutive interpretation.* The interpreter listens and speaks in a sequential manner after the speaker has completed a thought. The speaker may pause at regular intervals to facilitate the conveyance of his/her statements through the interpreter.
3. *Sight Translation.* The interpreter reads and translates a written document orally in court.

The court interpreter should take an oath in open court before every proceeding to faithfully, accurately, and impartially interpret the proceedings using his/her best skill and judgment. Judges and/or clerks of court may request interpreters review the Judicial Council of Virginia's *Code of Professional Responsibility for Interpreters Serving in Virginia Courts* and request they agree to its provisions in order to be eligible for appointment by the court. This code imposes ethical responsibilities on the interpreter's conduct (see Section 8). All certified Spanish language interpreters have signed an agreement to adhere to the *Code's* provisions as a requirement of certification.

Section 12: Contacts for Additional Information or Questions

For questions on any of the information contained in this document or to request information on the voluntary certification program for Spanish language interpreters, contact the Judicial Planning Department, Office of the Executive Secretary, Supreme Court of Virginia at 804/786-6455.

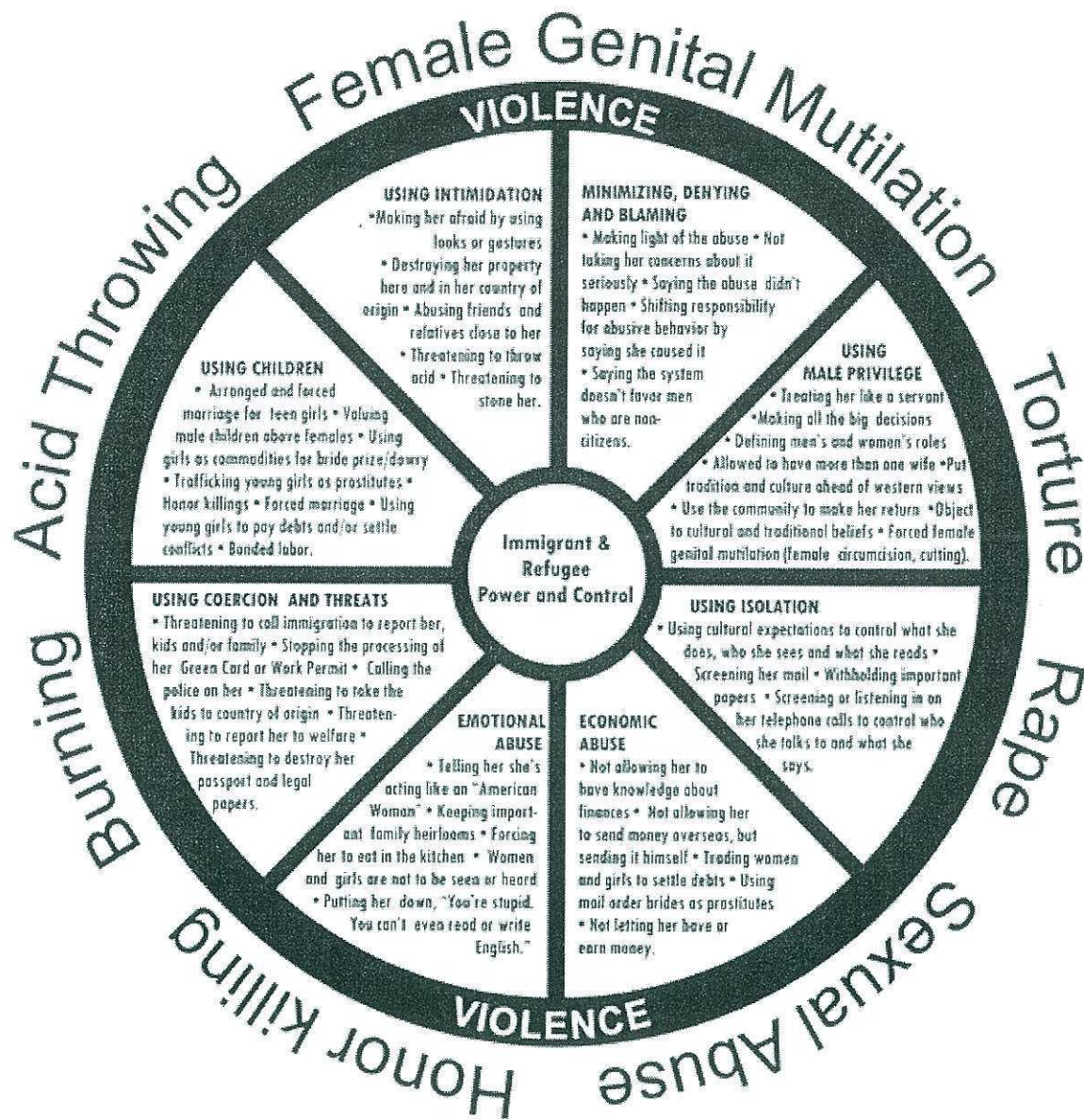
For questions on reimbursement for interpreter services rendered, contact the Fiscal Department (Accounts Payable Section), Office of the Executive Secretary, Supreme Court of Virginia at 804/786-6455.

Information on the Consortium for State Court Interpreter Certification administered by the National Center for State Courts is available from their website at http://www.ncsconline.org/d_research/courtinterp.html. This site includes listings of:

- contact persons and schedules for court interpreter certification programs (including the federal program);
- publications and resource materials for court interpreters;
- qualifications and self-assessment questions for people interested in court interpreting;
- study guide references for people interested in court interpreting;
- frequently-asked questions and answers about court interpreting; and
- links to related websites, such as interpreter programs in other states, the federal court interpreter certification program, educational programs, and professional associations.

This complete document can be obtained at:
<http://www.courts.state.va.us/interpreters/usage.htm>

Immigrant & Refugee Power & Control Wheel

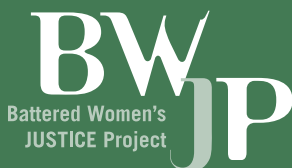


Special thanks to Domestic Abuse Project, Minneapolis, MN and the attendees of the Immigrant & Refugee Women Support Group at Pilot City for their dialog and input into the Immigrant & Refugee Power & Control Wheel. Acknowledgement is given to the Domestic Abuse Intervention Project in Duluth, Minnesota for the design adaptation of the Power & Control Wheel.

Assisting Immigrant Victims of Domestic Violence



LAW ENFORCEMENT GUIDE



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Introduction

Approximately 26.2 million immigrants live in the U.S.; therefore almost 18% of the population are immigrants or children of at least one immigrant parent. Of the immigrants residing here, over 85% have legal documentation. Today, immigrants are settling across the U.S. in both urban and rural communities.

State and local law enforcement face challenges communicating with and effectively serving these communities. Additionally, state and federal laws have altered the role of law enforcement with immigrants, placing officers in conflicting roles of enforcing immigration laws and protecting immigrant crime victims. This guide is intended to help law enforcement personnel balance these roles.

By providing a brief overview of the issues law enforcement should consider when working with immigrant communities, and in particular immigrant victims of crime, this guide will:

- Explore various immigration laws and terms that officers need to know.
- Examine the challenges immigrant crime victims face navigating the justice system.
- Identify how officers can protect and assist immigrant crime victims while managing their enforcement role.

KEY DEFINITIONS AND CONCEPTS

Key Definitions and Concepts

BCIS: Bureau of Citizenship and Immigration Services in the U.S. Department of Homeland Security (DHS). BCIS handles all immigration service and adjudication functions formerly performed by INS, including decisions on immigrant visa petitions, VAWA petitions, and other applications such as T and U visas, asylum and refugee applications.

BICE: Bureau of Immigration and Customs Enforcement is also under DHS. BICE focuses on the movement of goods and people and includes the enforcement and investigative functions previously undertaken by INS, such as immigration inspection and border patrol. It also includes the enforcement and investigative functions of the Customs Service.

United States Citizen: A U.S. Citizen is someone who is either born in the U.S., born abroad to a U.S. Citizen, naturalized as a U.S. Citizen, or automatically becomes a U.S. Citizen when a parent or both parents become naturalized.

Lawful Permanent Resident: An immigrant who has established a permanent right to live and work in the U.S. and to travel outside the country; also referred to as "LPR" status or "greencard" holder. LPR status lasts throughout life and the greencard holder is eligible to apply for U.S. Citizenship after they have held this

status for 3 to 5 years. A Lawful Permanent Resident can be deported if convicted of certain crimes.

Undocumented Persons: An immigrant who has entered the U.S. without detection and without any documentation, or an immigrant who has entered the U.S. with fraudulent documents or with appropriate documentation that has expired. These individuals are sometimes referred to as "illegal aliens."

Non-Immigrant Visas: A document that enables an individual to come to the U.S. for a temporary period and for a specific purpose, including the following visas: tourist, student, business visitor and diplomat.

Deportation: An action undertaken to remove an immigrant from the U.S., also known as "Removal." Deportation usually involves a hearing before an immigration judge, also known as a "Removal Proceeding." Once deported, an individual may not return to the U.S. for five years. However, an individual can decide to leave the U.S. voluntarily, without a hearing. This is considered a "voluntary deportation" and does not have the same five-year ban on returning.

CHALLENGES

Justice System Challenges for Immigrant Crime Victims



Due to their lack of access to culturally responsive services, immigrant victims of domestic violence are at greater risk of longer exposure to and greater impact from domestic violence.

Immigrant victims of domestic violence, sexual assault and other crimes face a number of challenges in accessing and navigating the criminal justice system, including:

- Fear of deportation
- Language barriers
- Misinformation about the police and the U.S. legal system
- Fear of ostracism by their ethnic, religious or cultural community

Additional challenges for domestic violence victims include:

- Need for economic survival
- Fear of losing custody of children

Many documented as well as undocumented immigrant crime victims lack information about the U.S. legal and social service systems and fear that any interaction with these systems will lead to their deportation. This fear is often heightened in domestic violence situations by abusers who may use a victim's immigration status as part

of the abuse. Examples of immigration-related abuse include:

- Threats that the police will report the victim to BICE if she calls for help
- Threats or attempts to have the victim deported
- Interference with the victim's efforts to obtain legal status, such as:
 - Threats to and acts to withdraw the victim's immigration papers
 - Calls to the immigration authorities to turn the victim in or to have the victim's immigration case denied

PREPARE

Prepare to Assist Immigrant Crime Victims and Witnesses



1 Understand Your Department's Policy with Regard to Sharing Information About Immigration Status with BICE.

Federal law does not require law enforcement officers to ask about the immigration status of crime victims, with the exception of a limited number of police officers in Florida and Alabama who are under contract with the U.S. Attorney General to act as immigration officers. Based on departmental policy, officers may voluntarily communicate or cooperate with BICE regarding enforcement of immigration laws, but when officers ask immigration status questions of crime victims, they risk losing the trust and cooperation of the individual witnesses and potentially the assistance of the immigrant communities they serve.

2 Know the Services Available for Immigrant Crime Victims and Build Relationships with Community-Based Service Providers.

To effectively serve immigrant communities, state and local law enforcement need the ability to affirmatively address key barriers that prevent immigrant crime victims from accessing the justice system and victim services: fear of immigration consequences, language barriers and lack of knowledge about available services. Officers can do this by taking the following steps:

- Securing appropriate language services to ensure communication.
- Communicate that they are there to provide assistance and not to deport the victim.

- Explain that victims have the right to access the justice system and victim services.
- Refer victims to programs that can assist with services.

Law enforcement officers should understand and explain to victims that services available to both documented and undocumented crime victims include:

- Emergency medical care
- Police assistance
- Criminal prosecution of perpetrators
- Community-based services necessary to protect life and safety
- Crime victim services
- Domestic violence services
- VOCA funds
- Emergency shelter
- Protection orders
- Child custody and support
- Public benefits for their U.S. citizen children

By familiarizing themselves with culturally accessible community and immigrant service organizations that provide these services, officers can best refer victims and witnesses to the appropriate programs.

3 Understand the Possible Remedies in Immigration Law.

Battered Spouse Waiver

For: battered immigrants who have conditional permanent residency (conditional green card terminates 2 years after issuance).

Remedy: battered spouse can petition to have conditions removed and obtain lawful permanent residence (green card) without the abusive spouse's knowledge or participation.

VAWA Self-Petitions

For: battered immigrants abused by their U.S. citizen or lawful permanent resident (LPR) spouse or parent.

Remedy: battered immigrant can file her own petition and obtain lawful permanent residency (green card) without knowledge or participation of abuser.

Cancellation of Removal/Suspension of Deportation Under VAWA

For: battered spouses or children of U.S. citizens or LPRs who are in deportation or removal proceedings when abusers threaten to or actually do call immigration officials to attempt to have the battered immigrant deported.

Remedy: battered immigrant can have her deportation/removal proceedings closed and gain lawful permanent residency (green card) without the participation of abuser.

U Visa

For: immigrant victims of crime who have suffered substantial physical or mental injury stemming from criminal activity who fear deportation if they cooperate in charging their abusers with crimes.

Remedy: immigrant victims of crime who participate in the investigation or prosecution of criminal activity may receive a visa and work authorization and may eventually obtain lawful permanent residency (green card). U Visa applicants need law enforcement certification. **A sample U Visa certification form can be found on the back cover.**

T Visa

For: victims of severe forms of trafficking in persons.

Remedy: trafficking victims who cooperate with law enforcement may receive a T visa and work authorization and may eventually obtain lawful permanent residency (green card).

Gender-based Asylum

For: immigrant women fleeing domestic violence, rape, sexual violence, "honor killings," trafficking for prostitution, female genital cutting or forced marriage in their home countries.

Remedy: immigrant women with a well-founded fear of persecution in their home countries based on their political opinion or membership in a gender-based social group may qualify for asylum or refugee status and may eventually obtain lawful permanent residency (green card).

Addendum A - U Visa VAWA 2000 created additional relief for immigrant victims of crime. One of the important innovations to come out of VAWA 2000 was the creation of the U visa. The U visa is a crime victim visa, given to immigrant victims of certain types of crime. The crimes covered under the U visa include:

Rape	Being held hostage, peonage	Witness tampering
Torture	Involuntary servitude	Obstruction of justice
Trafficking	Slave trade	Perjury
Incest	Kidnapping	Attempt, conspiracy or solicitation to commit any of the above crimes
Domestic violence	Abduction	Any similar activity in violation of federal, state or local law
Sexual assault	Unlawful criminal restraint	
Abusive sexual conduct	False imprisonment	
Prostitution	Blackmail	
Sexual exploitation	Extortion	
Female genital cutting	Manslaughter	

RESPOND

Respond Appropriately

1 Understand the Impact of Arrests and Criminal Convictions on Immigration Status and Avoid Improper Arrests of Battered Immigrant Victims.

Immigrant victims and witnesses applying for relief under VAWA (VAWA self-petition and VAWA cancellation of removal) must demonstrate good moral character—an arrest or criminal conviction could negatively affect an immigration case. Criminal convictions can also cause lawful permanent residents to lose their green cards or be denied naturalization. Therefore, it is especially important to determine if an immigrant victim acted in self-defense during an incident in order to avoid an improper arrest that could harm her immigration case.

Identifying the primary aggressor in a domestic violence case is always important. When only one of the parties speaks English, be sure to use a neutral interpreter to conduct a thorough interview with both parties and all

witnesses. Do not assume that the person at the scene who volunteers to translate is a safe interpreter to use; s/he may be a party to the abuse. If no impartial interpreter is available, use a language telephone line to obtain an interpreter. Never use children as translators.

2 Explain Services Available to Immigrant Crime Victims and Make Referrals.

Inform victims who may be immigrants that you do not report immigrants to BICE and that all victims have access to the justice system, can get a protection order, shelter and social services assistance regardless of immigration status. Explain that the victim has options to address the violence in her life and may have remedies available to her under immigration laws. Refer victims to community-based organizations with expertise in serving immigrants.

3 Avoid Asking About Immigration Status of Crime Victims or Witnesses.

Crime victims and witnesses are entitled to receive police protection and criminal justice services regardless of their immigration status. Asking the immigration status of crime victims and witnesses may inadvertently intimidate them and is likely to make victims and witnesses afraid to seek help or report the crime in the future.



4 Document Your Response to the Scene Carefully.

To access immigration remedies immigrant victims will need to show battery or extreme cruelty. The best proof is often the police report. The more effectively the incident is documented, the easier it is for the prosecutor to proceed with the case and for the immigrant victim to pursue the immigration relief available. If requested, provide copies of the report.

5 Encourage and Assist Immigrant Victims to Obtain Necessary Documents.

Because a victim's immigration status is often used against her by the abuser, it is important that the victim obtain whatever documentation she can, including the following:

- Children's birth certificates
- Immigration papers filed for the victim or their children
- Identification cards, passports, children's passports
- Marriage license
- Tax returns, utility bills, bank statements
- Family photos
- Love letters

Often the abusive partner or perpetrator holds these documents. Assisting victims to collect these safely is critical for the victims' ability to access services and obtain whatever immigration relief is available to them and their children. Therefore, officers should encourage and assist victims to obtain these documents.

FOR FURTHER ASSISTANCE **For Further Assistance**

For technical assistance on working with battered immigrant women and immigrant victims of crime, sexual assault and trafficking or for referrals in your community to programs with this expertise, contact the National Network to End Violence Against Immigrant Women:

<http://www.immigrantwomennetwork.org>

U VISA CERTIFICATION FORM

I, _____, hereby affirm the following:
(NAME)

1 I am a: (CHECK ONE)

- Federal official
- State official
- Local official (municipal, district, county)
- INS officer* (see 2B below)

Specifically, I am a: (CHECK ONE)

- Law Enforcement Officer
- Prosecutor
- Judge
- Other Investigating Authority

JOB TITLE

NAME OF EMPLOYER

STREET ADDRESS/LOCATION

CITY, STATE & ZIP CODE

TELEPHONE

2A I am responsible or the agency for which I work is responsible for investigating (or overseeing the investigation of) criminal activity involving or similar to violations of (some or all of) the following types of offenses under Federal, State or local criminal laws: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; or attempt, conspiracy or solicitation to commit any of these crimes OR

2B I am an INS officer with information not limited to immigration violations related to criminal activity described above or similar criminal activity.

3 The criminal activity at issue in this case may involve (but is not limited to) possible violations of the following criminal laws: (PROVIDE STATUTE OR CODE CITATION(S) AND OFFENSE NAME(S))

and based on my expertise and understanding of these laws, I have determined that these laws fall within the list of offenses set forth in Question #2 or is similar activity violating Federal, State or local criminal law.

4 It is suspected that this criminal activity occurred on or about: (SPECIFY AS MUCH AS POSSIBLE DATE(S) AND LOCATION(S) OF CRIMINAL ACTIVITY)

5 I affirm that _____:
(NAME OF U VISA APPLICANT)**

(CHECK ALL THAT APPLY)

- has been helpful;
- is being helpful;
- is likely to be helpful

in an/the investigation and/or prosecution of this criminal activity.

6 I affirm that _____
(NAME OF U VISA APPLICANT)**

possesses relevant information relating to this criminal activity. This information includes (but is not limited to) the following: (PROVIDE BRIEF DESCRIPTION OF INFORMATION)

** If the U visa applicant is under the age of 16, please certify that the applicant's parent, guardian or "next friend" meets these requirements.

7 I affirm that this criminal activity occurred:

(CHECK ALL THAT APPLY)

- in the United States (including Indian country and military installations);
- in territories and possessions of the United States; OR
- outside the United States, but violated United States' laws.

Certification for applicant's spouse, child or parent

8 This investigation and/or prosecution would be harmed without the assistance of

(NAME OF APPLICANT'S SPOUSE, CHILD OR PARENT)

who is the _____ spouse _____ child _____ parent of the applicant listed above.

SIGNATURE

DATE

Helping a Friend/ Helping Yourself

Intimate Partner Violence & Rural Older Women

Center for Gerontology at Virginia Tech, Blacksburg, VA

IPV Series #6

2010

*I just walked on tiptoes all the time trying to keep everything perfect...
But, there was no perfect for him. Elaine, age 63*

What is Intimate Partner Violence?

Intimate Partner Violence (IPV) is physical, emotional, psychological, or sexual abuse by a husband, boyfriend or other intimate partner. IPV may include harsh or cruel criticism, threats of abandonment, intentional isolation from family and friends, limits on the use of the phone, and denying medical treatment or medications in addition to physical abuse. IPV affects women of all ages regardless of income, education, residence, or social status. Older women often keep IPV hidden from family and friends at the expense of their health, well-being, and quality of life.

Does IPV in later life really happen here in the New River Valley?

Yes. In 2009, 15% of the women seeking emergency shelter at the Women's Resource Center (WRC) and 11% of calls to the WRC 24-hour crisis hotline were from women ages 50+ struggling with IPV. Police and sheriff's departments across the New River Valley (NRV) reported 6% of all response calls that involved female victims ages 50+, were acts of IPV.

Why do older women keep IPV secret and stay with their abusive partners?

There are many reasons. Older women often love or care about the person harming them. Some are ashamed and think they are to blame for the abuse. Others stay to keep their family together because that holds great personal or religious meaning. Some women fear that if they leave, their partner will hurt them, their family members, or their cherished pets or animals. Many older women feel embarrassed that they have found themselves in an abusive relationship and have a difficult time reaching out for help. Leaving an abusive partner may mean moving away from home and a lifetime of memories and treasures, not to mention finances and resources shared with their abuser. Rural women face additional barriers to leaving that include geographic isolation from people who can help and services that can provide help. Transportation to seek help is also a problem. It appears to be an impossible task for many older woman, especially when poor health and disabilities make living independently challenging.

What can I do if I think a friend is a victim of IPV?

Get involved. IPV is not a private family matter; it is a crime. No one deserves to be abused. If you see someone being physically hurt or threatened, call 9-1-1.

If you suspect IPV:

- Let your friend know that you believe her and are concerned for her safety.
- Remind her that this could happen to anyone. It is not her fault.
- Help her to plan for her safety or to find someone who can.
- Offer information on resources such as the Women's Resource Center.
- Offer to help her make a phone call or meet with someone knowledgeable about IPV.
- Allow her to make her own decisions.

Avoid confronting the abuser. Talking to him may make things more dangerous for your friend or for you.

What can I do if I am a victim of IPV?

Help is available. Remember:

- You are not alone. Many women in the NRV are in situations like yours.
- You are not to blame. No one deserves to be abused.

If you are in immediate danger, call 9-1-1. Otherwise, talk to someone you trust, such as a friend, neighbor, family member, doctor, caregiver, social worker, or faith leader. If they are not helpful, don't give up. Talk to someone else. Contact the Women's Resource Center. You can speak with an advocate on the phone without giving your name. They will listen, help you develop a plan for your safety that will meet your individual needs, and offer you a variety of other services that may be useful.

Resource

Women's Resource Center of the New River Valley

A free private, non-profit provider offering:

- Counseling and support groups for victims
- Legal advocacy services
- Emergency shelter
- 24-hour emergency support services with trained crisis intervention staff and volunteers answering all calls. Translators are available via AT&T Language Lines for non-English speaking callers. In addition, a TTY machine is available to assist the hearing impaired at (540) 639-2197.

540 – 639 – 1123

1 – 800 – 788 – 1123 (toll free)

Visit the WRC website at www.wrcnrvalley.org

Intimate Partner Violence and Rural Older Women IPV Resource List

Center for Gerontology at Virginia Tech, Blacksburg, VA

IPV Series #4

2010

Reports

Catalano, S. (2007). *Intimate partner violence in the United States*. Washington, DC: US Department of Justice, Bureau of Justice Statistics. Retrieved from Bureau of Justice Statistics website:

<http://bjs.ojp.usdoj.gov/content/pub/pdf/ipvus.pdf>

Statistics from the National Crime Victimization Surveys on IPV victim and abuser characteristics, injury, circumstances, assistance, and charges filed.

Dunlop, B., Beaulaurier, R. L., Seff, L. R., Newman, F. L., Malik, N., & Fuster, M. (2005). *Domestic violence against older women: Final technical report* (NIJ #2002-WG-BX-0100). Washington, DC: National Institute of Justice. Retrieved from National Criminal Justice Reference Service website:

<http://www.ncjrs.gov/pdffiles1/nij/grants/212349.pdf>

Offers older women's perspectives on domestic violence, with a particular emphasis on barriers to seeking help.

OWL – The Voice of Midlife and Older Women (2009). *Elder Abuse: A women's issue. Mother's day report 2009*. Retrieved from OWL website:

http://www.owl-national.org/Mothers_Day_Reports_files/OWL_MothersDay_Report_09_Final_2.pdf

Highlights issues of domestic violence and elder abuse in the lives of older women and the gaps in federal legislation and policy to protect older victims.

Rennison, C. M. (2001). *Intimate partner violence and age of victim, 1993-99*. Washington, DC: US Department of Justice, Bureau of Justice Statistics. Retrieved from the US Department of Justice website: <http://bjs.ojp.usdoj.gov/content/pub/pdf/ipva99.pdf>

Provides data from the National Crime Victimization Survey on intimate partner violence in late life.

Tjaden, P., & Thoennes, N. (2000). *Full report of the prevalence, incidence, and consequences of violence against women*. Washington, DC: U.S. Department of Justice, National Institute of Justice. Retrieved from the National Criminal Justice Reference Service website:

<http://www.ncjrs.gov/pdffiles1/nij/181867.pdf>

Provides findings from the National Violence against Women Survey.

Wisconsin Coalition against Domestic Violence & Wisconsin Bureau of Aging and Disability Resources (2009). *Elder abuse, neglect, and family violence: A guide for health care professionals*. Retrieved from the Wisconsin Coalition against Domestic Violence website: www.wcadv.org/?go=download&id=1142

Includes information on domestic violence in later life, interventions, and resources for health care providers.

Journal Articles and Book Chapters

- Brandl, B., Herbert, M., Rozwadowski, J., & Spangler, D. (2003). Feeling safe, feeling strong: Support groups for older abused women. *Violence Against Women, 9*, 1490-1503.
Interviews with support group facilitators highlight general principles of working with older abused women in a group setting, the benefits experienced by group participants, characteristics of existing groups, and challenges encountered by program organizers.
- Brandl, B., Dyer, C. B., Heisler, C. J., Otto, J. M., Stiegel, L. A., & Thomas, R. W. (2006). Enhancing victim safety through collaboration. *Care Management Journals, 7*, 64-72.
Discussion on lethality indicators and safety planning for late life domestic violence scenarios.
- Desmarais, S. L., & Reeves, K. A. (2007). Gray, black, and blue: The state of research and intervention for intimate partner abuse among elders. *Behavioral Sciences and the Law, 25*, 377-391.
Focus on research and intervention problems in the area of late life intimate partner abuse. Risk factors, screening instruments, and legal considerations are addressed.
- Fisher, B.S., & Regan, S. L. (2006). The extent and frequency of abuse in the lives of older women and their relationship with health outcomes. *The Gerontologist, 46*, 200-209.
Addresses the extent of different types of abuse, repeated and multiple abuse experiences among women aged 60 and older, and their effects on the women's self-reported health.
- Fisher, B., Zink, T., & Regan, S. (2006). Hidden within the golden years: Intimate partner violence and abuse against older women. In R. W. Summers & A. M. Hoffman (Eds.), *Elder Abuse: A Public Health Perspective* (pp. 97-115). Washington, DC: American Public Health Association.
Discussion on the prevalence and incidence of late life abuse, victim perspectives, resources for victims, and future directions for practitioners.
- Hedtke, K. A., Ruggiero, K. J., Fitzgerald, M. M., Zinzow, H. M., Saunders, B. E., Resnick, H. S., et al. (2008). A longitudinal investigation of interpersonal violence in relation to mental health and substance use. *Journal of Consulting and Clinical Psychology, 76*, 633-647.
Examines mental health status as a contributing factor to exposure to interpersonal violence.
- Koenig, T., Rinfrette, E. S., & Lutz, W. A. (2006). Female caregivers' reflections on ethical decision-making: The intersection of domestic violence and elder care. *Clinical Social Work Journal, 34*, 361-372.
Explores the challenging relationship between caregiving and domestic violence in late life. A model is presented to help practitioners who work with caregivers facing difficult dilemmas stemming from intimate partner violence.
- Leisey, M., Kupstas, P. K., & Cooper, A. (2009). Domestic violence in the second half of life. *Journal of Elder Abuse and Neglect, 21*, 141-155.
Identifies what older women want and need from agencies that provide services to enhance victim safety.

Mezey, N. J., Post, L. P., & Maxwell, C. D. (2002). Redefining intimate partner violence: Women's experiences with physical violence and non-physical abuse by age. *The International Journal of Sociology and Social Policy*, 22, 122-153.

Statistics from the Michigan Violence Against Women Survey used to demonstrate the relationship between age, physical violence, and non-physical abuse within the context of intimate partner violence.

Roberto, K. A., & Teaster, P. B. (2005). Sexual abuse of vulnerable young and old women: A comparative analysis of circumstances and outcomes. *Violence Against Women*, 11, 473-504.

Aggregated Adult Protective Services data used to compare sexual abuse experiences by age and residential settings.

Straka, S. M., & Montminy, L. (2006). Responding to the needs of older women experiencing domestic violence. *Violence Against Women*, 12, 251-267.

Broad review of literature from domestic violence and elder abuse fields with focus on how older women have fallen through the gaps between these systems.

Teaster, P. B., Roberto, K. A., & Dugar, T. (2006). Intimate partner violence of rural aging women. *Family Relations*, 55, 636-648.

Experiences of community professionals and older women who have experienced IPV to better understand victim experiences and community responses unique to a rural area.

Websites

Centers for Disease Control and Prevention – Intimate Partner Violence

Resources include a program activities guide on prevention initiatives, handbooks with intimate partner and sexual violence assessment tools (one general and one for health care settings), risk factors, and prevention strategies:

<http://www.cdc.gov/ViolencePrevention/intimatepartnerviolence/index.html>

Faith Trust Institute

Training and educational resources for faith-based communities to address sexual and domestic violence:

<http://www.faithtrustinstitute.org/resources>

National Clearinghouse on Abuse in Later Life (NCALL)

Nationally recognized leader on program development, policy and technical assistance and training that addresses the nexus between domestic violence, sexual assault and elder abuse: www.ncall.us

National Center on Elder Abuse – Research Briefs and Agendas

Resource topics include abusers, causation theories, cultural considerations, prevalence and incidence, and relationships:

http://www.ncea.aoa.gov/ncearoot/main_site/library/Statistics_Research/Research_Briefs.aspx

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UNDERSERVED VICTIMS

Providing domestic violence services to
LEP individuals

INTRODUCTION

Who are LEP individuals?

- These are persons who do not speak English as their primary language and who are limited in their ability to read, write, speak, or understand English
- According to the Census, 24 million people over the age of 5 in the United States do not speak English “very well.” Of those, **11 million do not speak English at all or speak it poorly.**

ISSUE

- Not being able to communicate easily with mainstream society creates innumerable problems in navigating daily life. When a person who is not fluent in the country's main language becomes the victim of a crime, the issues she faces increase exponentially.
- Bearing in mind that immigrant women and women who speak little or no English are most often one and the same, it is safe to say that the issues of immigrant battered women and those of battered women with limited English proficiency are virtually the same.

- ◉ Immigrant women, and by extension women who are not proficient in English, often suffer higher rates of battering than U.S. citizens. Some reasons for this include:
 - they may come from cultures that accept domestic violence
 - they have less access to legal and social services due to language barriers and lack of knowledge of the system
 - immigrant batterers and their victims may believe that the penalties and protections of the U.S. legal system do not apply to them

- When it comes to reporting crimes of violence, women with LEP again may face additional barriers:
 - fear of deportation
 - fear of ostracism by their ethnic, religious, or cultural community
 - need for economic survival (and greater inability to find work)
 - fear of losing custody of the children, particularly when their father is English-speaking and/or a U.S. citizen

- In addition to the usual challenges abused women face, women with limited English proficiency, like other underserved groups, are exceptionally vulnerable because:
 - they lack quick access to information
 - they may have been or continue to be reliant on an abuser to act as their voice, particularly when dealing with government agencies, authorities, and other official matters
 - they may have been convinced by their abusers that the violence they are experiencing is not illegal or that the police or other authorities will not believe them
 - they may not know that they have the right to an interpreter when dealing with the courts

- Battered women who attempt to flee and who speak little or no English have fewer options available to them:
 - they may not have access to bilingual shelters, financial assistance, or food
 - it is unlikely that they will have the assistance of an interpreter when reporting complaints to the police or a 911 operator
 - acquiring information about their rights and the legal system is difficult and may seem overwhelming

TITLE VI

- When the vital link of communication is lacking, knowledge and access are barred. For this reason, interpreting services are vital in assisting a battered woman with limited English proficiency.
- Organizations that receive federal funds have to take reasonable steps to ensure “meaningful access” to those with Limited English Proficiency under Title VI of the Civil Rights Act.

- ◉ Executive Order 13166 “Improving Access to Services for Persons with Limited English Proficiency” seeks to further clarify the obligations of federal agencies and recipients of federal funds to comply with Title VI protections for LEP individuals. This means that:
 - federal agencies must examine the services they provide,
 - identify any need for services to those with Limited English Proficiency,
 - and develop and implement a system to provide those services so LEP persons can have meaningful access to them

- ◉ For agencies and organizations, this means developing a language access plan. Some elements of this plan are:
 - updating the demographic profile of the community
 - establishing a process for identifying LEP persons who need language assistance when they first contact the organization
 - identifying how to provide quality language assistance (for both oral and written information)
 - training staff and volunteers and hiring bilingual personnel

- making outreach and education efforts accessible to LEP individuals
- monitoring and updating the LEP language access plan on a regular basis
- **Note: “Title VI LEP obligations apply to every beneficiary who meets the program requirements, regardless of the beneficiary’s legal status.”**

- ◉ DOJ Guidance establishes that “...when oral language services are necessary, recipients [of any federal funds] should generally offer competent interpreter services free of cost to the LEP person.”
- ◉ This is true of the following instances:
 - in a courtroom, administrative hearing, pre- and post-trial proceedings,
 - situations in which health, safety, or access to important rights and benefits are at stake, or
 - when credibility and accuracy are important to protect an individual’s rights and access to important services

- The DOJ Guidance also notes that “...at a minimum, every effort should be taken to ensure competent interpretation for LEP individuals during all hearings, trials, and motions during which the LEP individual must and/or may be present.”
- Note: Non-compliance with these regulations may be addressed through a complaint to the Federal Coordination and Compliance office of the Civil Rights Division of the Department of Justice.

LANGUAGE INTERPRETERS

- ◉ Because accuracy and effective communication are critical in domestic violence situations, the following are important considerations:
 - the interpreters who are used should ideally be trained on the issues and dynamics surrounding the issue of violence
 - under no circumstances should the battered woman's children act as her interpreters (this places the children in an unacceptably burdensome situation, and may contribute to their risk of being the subject of the abuser's violence)
 - interpreters should be trained, maintain neutrality, and follow standards or confidentiality and ethics

- ◉ When an interpreter is present, the domestic violence advocate can further assist her client by:
 - not assuming that the person accompanying the woman is a safe interpreter
 - identifying the interpreter and making an assessment with regard to any relationship or connection between the interpreter and the abuser
 - ascertaining whether the interpreter is charging the woman a fee for services
 - Note: these same concerns apply to community volunteer interpreters and they also should be assessed in the same manner.

- In order to receive the best assistance, the woman should feel comfortable with her interpreter. This can include considering facts such as:
 - whether the interpreter has any ties to the battered woman's community
 - whether the woman feels comfortable with a male versus a female interpreter

- A person's bilingual capability alone is not sufficient to deem her a good interpreter. Other factors to consider are:
 - the interpreter's cultural background
 - the interpreter's lack of bias
 - the interpreter's willingness to sign a confidentiality agreement

- Taking into account the enormous importance of an interpreter in assisting a victim of violence with limited English proficiency, the advocate can be the woman's best asset in her role as an impartial observer who has her client's best interests in mind.
- For more information on the use of interpreters in Virginia's courts and the relevant statutes, please refer to the handout.

HOW TO FIND AN INTERPRETER

- ◉ Advocates should use interpreters in their meetings with the client whenever possible, or a language line if an interpreter is not available.
- ◉ The agencies and organizations in the community that serve these population groups can help advocates identify willing and committed individuals within these agencies with whom to collaborate.

◉ In the court setting:

- contact your local court's interpreter services office to request an interpreter
- if there is no person responsible for securing interpreters, check
 - a federal or state certified list
 - a locally accredited list
 - local universities and community-based organizations
- a last resort is to use a commercial telephonic language service

- It is useful for the advocate to be able to explain the court interpreting process to the client. In court, the interpreter will:
 - interpret in the first person and address the court in the third person
 - interpret everything that is said with no additions, omissions, explanations, or personal input
 - request clarification if needed
 - use appropriate tools such as a language dictionary and note-taking materials
 - be as unobtrusive and professional as possible

THE ROLE OF IMMIGRANT ORGANIZATIONS

- Immigrant organizations in the area may be able to assist battered women who do not speak English, regardless of whether they are immigrants or legal U.S. citizens or residents.
- The organizations can be helpful in:
 - identifying the underserved members of the community
 - providing information on community agencies and resources who serve members of a particular group
 - identifying individuals with whom a collaborative relationship can be formed

- Immigrant organizations can also assist with:
 - providing a better understanding of the woman's experiences and challenges based on her cultural and religious differences and language issues
 - identifying interpreters and providing peer support for the victim
 - helping to create a bridge between the client and the advocate to alleviate any isolation the woman may be feeling

- ◉ Cultural competence is crucial in providing a person with limited English proficiency the domestic and/or sexual violence services they need.
- ◉ These organizations can help an advocate establish a culturally appropriate environment which could include:
 - making information about services available in other languages
 - establishing a contract with a telephone language service

- developing policies that address the potential for racial tension
- developing a referral list of interpreters
- providing trainings on domestic and sexual violence

LAW ENFORCEMENT

- ◉ Many of the same issues faced by advocates when trying to help someone who speaks little to no English are also faced by law enforcement.
- ◉ This can be compounded by the victim's unique circumstances, such as:
 - culturally or historically-based mistrust of authority
 - fear of deportation
 - fear that her report will be misinterpreted or misunderstood because of language issues
 - fear that her process to obtain legal status will be compromised

ADVOCACY SERVICES

- ◉ When providing services for a victim with limited English proficiency, the advocate will:
 - determine whether the woman is safe
 - identify the language in which the woman is most comfortable
 - access an interpreter
 - determine whether the victim wants the police involved
 - make a safety plan (remind the client to gather necessary documents such as passports and birth certificates if possible)
 - assess whether medical attention is necessary
 - assist the woman in accessing those services

OTHER ISSUES

- Advocates who assist LEP individuals can also benefit from becoming familiar with the residency application process, the agencies that address immigration issues, and the tools that could assist their clients, such as U Visas, T Visas, and VAWA petitions.

THANK YOU FOR YOUR PARTICIPATION!



COURT INTERPRETATION IN PROTECTION ORDER HEARINGS JUDICIAL BENCHCARD

Judges have a critical role in ensuring access to justice in protection order proceedings. Petitioners with limited English proficiency (LEP) face special challenges when they attempt to use the judicial system. Courts should provide qualified interpreters to assist the parties in protection order proceedings to place non-English speaking and English-speaking parties of equivalent background and education on equal footing before the bench. See *Resources* for additional information.

HOW DO I KNOW IF A PARTY OR WITNESS NEEDS AN INTERPRETER?

- When an attorney or a pro se litigant advises the court that a party or witness has limited English proficiency and requests an interpreter.
- When any party involved in a case does not appear to understand court proceedings in English.
- If you are unsure, ask a few questions to determine the party's level of English understanding.

Sample Questions to Assess Understanding of English

- ❖ Please tell the court your name.
- ❖ Please also tell us how old you are.
- ❖ How did you come to court today?
- ❖ What kind of work do you do?
- ❖ How comfortable are you in proceeding with this matter in English?
- ❖ Would you like the court to provide you with free assistance in understanding this proceeding?

- Determine the language of the party using language ID cards
- *If the party cannot read, or if language ID cards are not available, contact a court interpreter or a commercial telephonic service, if you have access to one, to determine the language of the party requiring services.*

HOW DO I APPOINT AN INTERPRETER?

HOW DO I LOCATE AN INTERPRETER?

- If your local court has an interpreter services office, contact it to request an interpreter.
- If your court does not have someone responsible for securing interpreters, then: (1) Check a Federal or State certified list; (2) Check a locally accredited list; and (3) Call local universities and community-based organizations.
- Under only **very** limited circumstances, use a commercial telephonic interpreter service, if you have access to one.

HOW DO I KNOW IF THE INTERPRETER IS QUALIFIED?

- Interpreting requires **specialized knowledge of:** legal and other specialized terminology, slang, idioms and dialectal variations.
- Interpreting requires **specialized skills, such as:** memory, comprehension, attentiveness, and multi-tasking.
- *Being bilingual does not qualify a person to interpret. Children and relatives should **never** be used to interpret. Judges, attorneys, and court personnel **should not** function as interpreters.*
- If you are unsure, ask a few questions to determine the interpreter's qualifications.
- If you are assured that the interpreter is qualified, administer an oath of interpretation.

Sample Questions to Assess Interpreter Qualifications

- ❖ What training or credentials do you have as an interpreter?
- ❖ Are you certified in the State of _____?
- ❖ Are you familiar with the Code of Professional Responsibility for interpreters? What are its main points?
- ❖ How did you learn English?
- ❖ How did you learn (*non-English language*)?
- ❖ Do you have any potential conflict of interest in this case? (E.g., do you know any of the parties in this case?)

Sample Interpreter's Oath

Do you solemnly swear or affirm that you will interpret accurately, completely and impartially, follow all official guidelines established by this court for legal interpreting or translating, and discharge all of the duties and obligations of legal interpretation and translation?

WHAT SHOULD I EXPECT FROM THE INTERPRETER?

A good interpreter will:

- Interpret in the first person and address the court in the third person, to keep a clear record.
- Interpret everything said in the courtroom, with no additions, omissions, explanations, or personal input.
- Request clarification if a phrase or word is not understood.
- Use appropriate interpreter tools such as a language dictionary and note-taking materials.
- Be as unobtrusive and professional as possible.

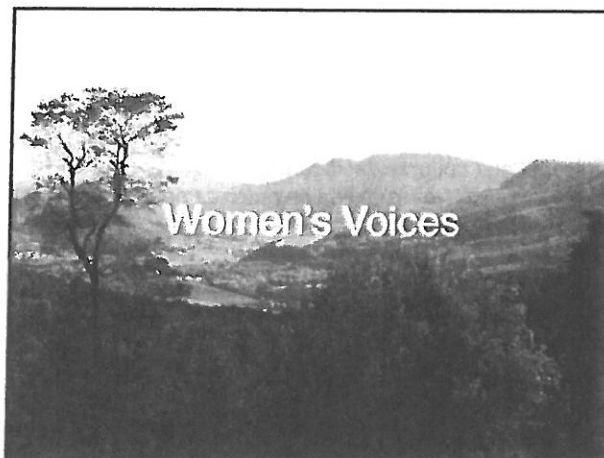
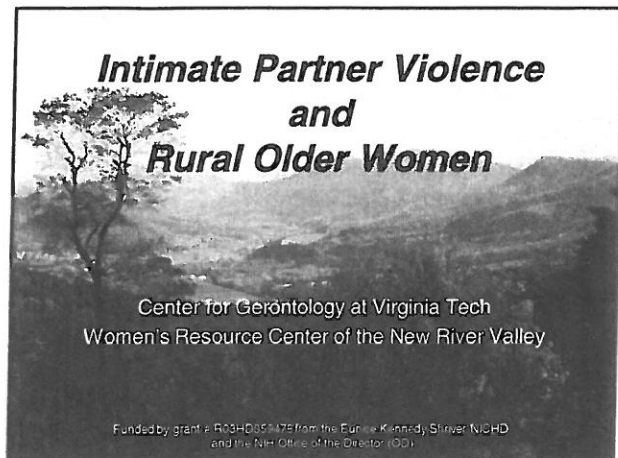
HOW CAN I ASSIST COMMUNICATION IN INTERPRETED PROCEEDINGS?

- Instruct all parties as to the role of the interpreter.
- Allow the interpreter to view the court file to review names, parties and unique vocabulary.
- Allow the interpreter to briefly converse with the non-English speaker to ensure understanding of dialect and pronunciation differences.
- Instruct all participants to speak loudly and clearly.
- Allow only one person to speak at a time.
- Speak directly to the party or witness, not to the interpreter.
- Speak and read slowly and clearly enough for the interpreter to keep up during simultaneous interpretation.
- Speak in logical, meaningful phrases, pausing to allow the interpreter to keep the pace, during consecutive interpretation (witness testimony).
- Do not ask the interpreter to explain or restate anything said by the party and do not allow attorneys to ask that of an interpreter.
- Allow the interpreter to take a break after 30 minutes.

RESOURCES

- U.S. Department of Justice Web Site (<http://www.lep.gov>)
- Model Code of Professional Responsibility for Interpreters in the Judiciary (http://www.ncsconline.org/wc/publications/Res_CtInte_ModelGuidePub.pdf)
- State Court Interpreter Programs (http://www.ncsconline.org/D_Research/CourtInterp.html)
- The National Association of Judiciary Interpreters and Translators (NAJIT) (<http://www.najit.org>)

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I was embarrassed. I'm an advocate for others' rights and sometimes intervene when I see people are being mistreated. Then this happened to me. I kept it secret.

Wanda – age 55

I just walked on tiptoes all the time trying to keep everything perfect... but there was no perfect with him.

Elaine – age 63

IPV in Late Life: A Hidden Problem

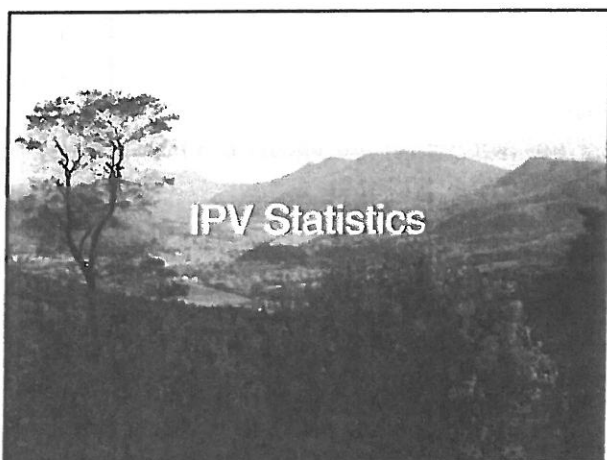
Traditional and cultural ideology often prevents women from seeking help or seeing themselves as victims.

The culture of rural areas may conceal and facilitate IPV.

IPV in Late Life: Impact on Victims

Older women who remain in abusive relationships jeopardize their

- Physical and mental health
- General well-being
- Personal relationships
- Quality of life



IPV in Late Life: United States

National data indicates that

- 69% of IPV is committed by a spouse
- 65% of IPV acts included simple assault
- 41% of victims report IPV to the police

- 33% of perpetrators ages 50+ used alcohol and drugs prior to abusing their partners

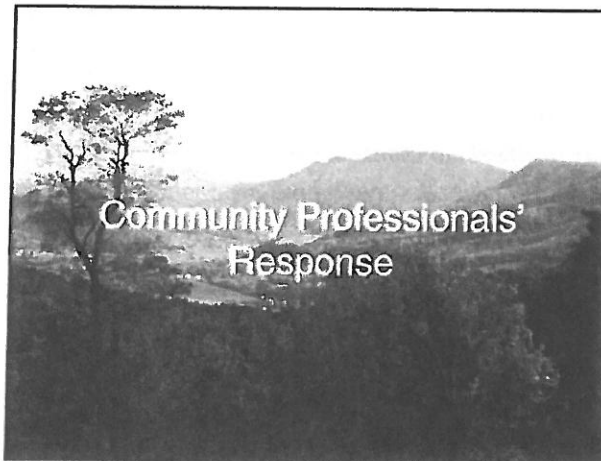
IPV in Late Life: New River Valley

1999 – 2007

- OCME – 1 homicide victim age 50+

2009

- Police IBRs (6 depts. in NRV)
 - 6% of responses to female victims aged 50+
- WRC Emergency shelter
 - 15% of occupants aged 50+
- WRC Crisis hotline
 - 11% of calls from women aged 50+

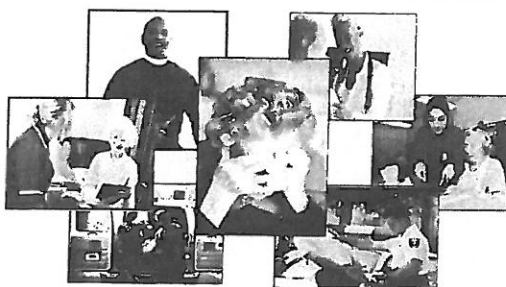


Professionals Likely to Come in Contact with Older Victims of IPV



Professional Awareness

Professional awareness of IPV is limited



Unlike the protocols in place for [a] medical condition, there is no standardization as to how we proceed when we see signs of abuse. We don't know how to respond.
~ Emergency Medical Technician

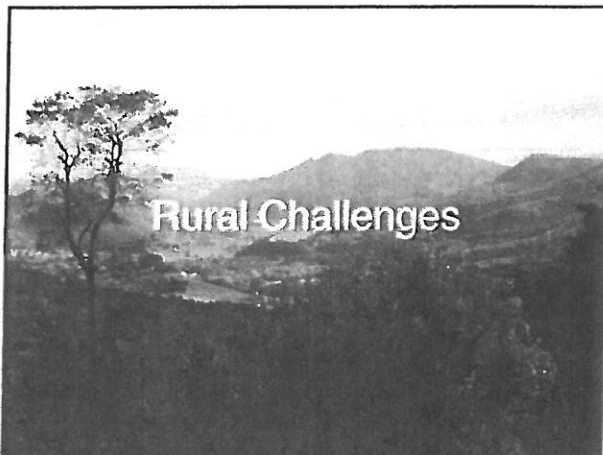
Enhancing Professional Response to IPV

Provide trainings on

- IPV in late life
- Screening protocols & tools
- Referral services in community

Support

- Outreach activities targeting older women
- Establishing professional response protocols
- Communications and collaborations among professionals
- Normalizing client conversations about IPV



Is IPV a Rural Problem?

- IPV is no more prevalent or problematic in rural areas than urban areas.
- Issues are similar to urban counterparts, but require different community response strategies.
- The structure and culture of rural areas may conceal and facilitate IPV.

Needs of Rural Older Women: Emergency Shelter

- Located in the community, close to familiar places
- ADA accessible
- Private and quiet

Needs of Rural Older Women: Emergency Care for Animals

Abusers often control their victims by threatening to harm or kill the victim's animals.

- Need emergency livestock and domesticated animal placement
- Need shelters that can accept pets or domesticated animals

Needs of Rural Older Women: Transportation

- Transportation to leave and seek help
- Transportation that is discreet and offers flexibility in service times

Needs of Rural Older Women: Flexible Service Delivery

- Privacy
- Ideal Locations

Initiating Conversation

Normalize conversations about IPV with clients by:

- Talking in a private location
- Initiating conversation with a general opening statement:

Because so many individuals I work with are hurt by people close to them, I have started asking everyone some questions about relationships and abuse...

Initiating Conversation cont.

If a client has already completed a survey on IPV, initiate conversation with

I want to review with you your response to the survey that you just completed. I understand that you may be in a relationship that is difficult in one way or another. I am concerned that we provide care for all of your needs. So, I'd like to ask you a few more questions.'

IPV Screening Tools

Ask questions using a screening tool

- Brief screens
 - Quick general assessment
 - 3 – 20 items
- In-depth screens
 - Target specific types of abuse and activities
 - *Partner Abuse Scale* – 25 items
 - *The Measure of Wife Abuse* – 60 items

Brief Screen

New South Wales Department of Health Survey

1. Within the last 12 months, have you been hit, slapped or hurt in other ways by your partner or ex-partner?
2. Are you frightened of your partner or ex-partner?
3. Are you safe to go home when you leave here?

If person answers yes to any of the questions, ask...

4. Would you like some assistance with this?

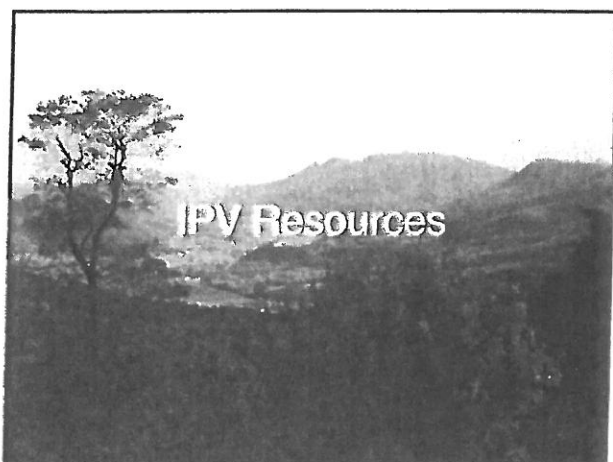
Conversation Pitfalls

During conversations about IPV, avoid

- Threatening to end services if the victim does not cooperate.
- Blaming the victim for the abuse.

Conversation Pitfalls cont.

- Minimizing the potential danger.
- Relying on another person's account that the victim is incompetent or demented.
- Relying on information provided by the abuser.



IPV and Rural Older Women: PowerPoint and Brochures

A PowerPoint and related brochures are available for download at www.gerontology.vt.edu and www.wrcnrv.org

Brochure topics

- Overview of IPV
- Professional Response
- Fact Sheet
- Resource List
- Community Referral List
- Helping a Friend/Helping Yourself

