

SYNERGY

The Newsletter of the Resource Center on Domestic Violence: Child Protection and Custody

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

THE COVER:

OTHER NEWS:

Working With Immigrant Victims of Domestic Violence: Family Law and Immigration Relief **2**

Tapestri, Inc.: An Immigrant and Refugee Coalition Challenging Gender Based Violence and Oppression **6**

Court Corner **7**

Culturally Specific Resources on Domestic Violence **8**

Legislative Update: Illinois Addresses DV and the Workplace **10**

New Staff Introductions **11**

**As we enter 2004
our hope for all of you
is that you find those things
that inspire you to continue
the excellent and hard
work you do.**

Working toward the elimination of domestic violence is challenging, and sometimes fraught with frustration. Yet, we continue to find inspiration in many ways—inspiration that helps us continue our work, to believe that a world without violence is possible, and to share what we have learned with those who come behind us so that the passion for this work is never lost.

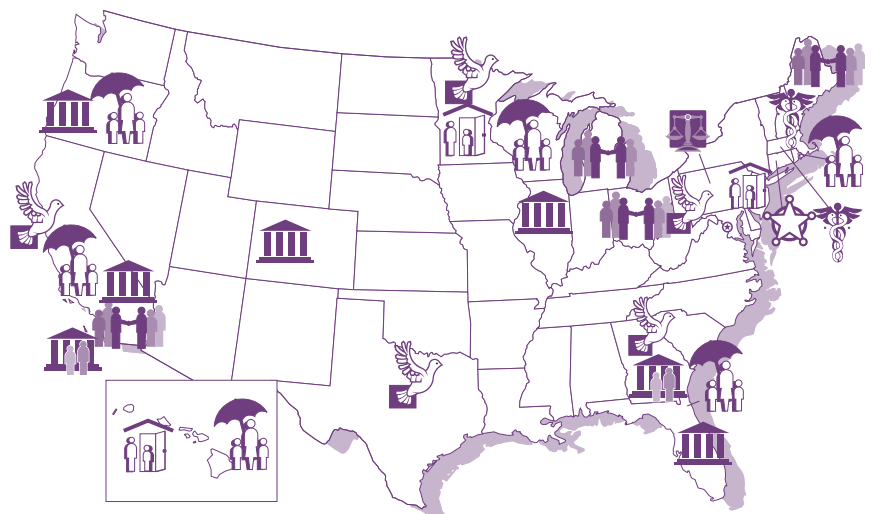
In this issue of *Synergy*, we are hopeful that you will find some inspiration in its pages. We open with the lead article that not only addresses the challenges faced by immigrant women dealing with domestic violence, but also provides insight into the Violence Against Women Act and its tools that help battered immigrant women take charge of their own lives and immigration cases.

The *Legislative Update* discusses a sweeping labor law enacted in Illinois in 2003 that is designed to protect victims of domestic violence. *Court Corner* reports on two case holdings, one from Tennessee concerning the purpose of guardian *ad litem* reports in custody disputes, and the other from Montana expanding the category of acts that constitute domestic violence. On the community front, the report on *Tapestri, Inc.* is an account of an organization that helps immigrant and refugee women find culturally appropriate services.

As we enter 2004, our hope for all of you is that you find those things that inspire you to continue the excellent and hard work you do. We are thankful for the opportunity to work along side of you and wish you health, happiness, and safety in this New Year.

Merry Hofford

	ADVOCACY PROGRAMS Atlanta, Georgia: Tapestri, Inc.
	COURT PROGRAMS
	CHILD PROTECTION
	JUSTICE SERVICES
	VISITATION CENTERS
	CROSS TRAINING
	DOMESTIC VIOLENCE
	HEALTH SERVICES
	PROSECUTION PROGRAMS



VOLUME 8 • NO. 1
WINTER 2004

The map above shows the location of programs depicted as icons in the inset at left which have been highlighted in recent reports or earlier issues of *Synergy* and which serve battered women and their children. The latest addition is "Tapestri, Inc.," an immigrant and refugee coalition challenging gender based violence and oppression in Atlanta, Georgia.



Working With Immigrant Victims of Domestic Violence: Family Law and Immigration Relief

Leslye E. Orloff is the Director of the Immigrant Women Program, NOW Legal Defense and Education Fund, and Joyce L. Noche, is a Staff Attorney for the Immigrant Women Program, NOW Legal Defense and Education Fund

For many immigrant women and children who are victims of domestic violence, systemic barriers of language, culture, and economics pose challenging obstacles to obtaining protection and relief under the laws in this country. Abusers of immigrant women use immigration-related abuse as a powerful form of emotional abuse, in order to trap immigrant battered women and their children in these dangerous relationships. Fortunately with the passage of the Violence Against Women Act (VAWA) in 1994 and its successors, access to legal immigration relief for immigrant victims of domestic violence and other crimes has been greatly expanded. This in turn has improved the range of options available to immigrant victims, both those who choose to try to leave their abusers, and those who do not. This article will identify potential issues that arise when working with immigrant victims in family law cases and discuss various forms of relief available to immigrant victims under family and immigration laws.

Recognizing Immigration-Related Abuse as Power and Control

Abusers effectively use the immigration process to exert power and control over their immigrant victims. Legal immigration status in the United States controls whether an individual can work legally in the U.S., travel in and out of the U.S., or sponsor children and family members for immigration status in the U.S.; it also determines eligibility for public benefits and certain federally-assisted educational programs.¹ A U.S. citizen or lawful permanent resident spouse controls the immigration process to sponsor his/her non-citizen spouse and any non-citizen children. A U.S. citizen or lawful permanent resident spouse can choose to stop

the immigration petitioning process or choose not to file for his/her spouse or children at all, leaving the non-citizen spouse and children without any legal documentation in the U.S. For many immigrant victims of domestic violence, their only source of information about the U.S. legal system, is the information supplied by the abuser. This circumstance has prevented many immigrant victims from not seeking protection or relief from justice and social systems.²

Immigration-related abuse is eight times more likely in relationships that are also physically and sexually abusive.³ Further, immigration-related abuse in relationships that do not yet include physical or sexual abuse may be a predictor that the lethality of the relationship's violence is likely to escalate.⁴

Immigration-related abuse can take many forms, including abusers threatening to report their victims to the immigration authorities and taking important documents from the immigrant victims.

As with any other form of emotional, sexual, and physical violence, it is important for advocates and attorneys to be aware of any immigration-related abuse and to document its effect on the immigrant victim. For example, how did the immigration-related abuse impact her ability to seek assistance? How did it impact her emotional and mental well-being?

Cultural Competency

It is important when working with immigrant victims to ensure that the victim is fully informed of her rights and the consequences of pursuing certain types of relief so that she can decide the best option for herself and her children. Creating a responsive environment for immigrant victims includes: appropriate services in her language, collaboration with immigrant and domestic violence groups and the legal community, translated materials, and advocates and attorneys trained in domestic violence and immigrant issues. Service providers should be trained in providing culturally sensitive assistance⁵ and should actively recruit bilingual staff for their programs. Immigrant victims need access to attorneys and advocates who are both knowledgeable about the laws governing special access to legal immigration status and public benefits for battered immigrants and are prepared to counter abusers' efforts to use immigration status against a victim in family and criminal court cases and via law enforcement or the Bureau of Immigration and Customs Enforcement (BICE formerly known as INS).

Safety-Planning

Safety-planning is always a primary concern when working with domestic violence survivors, including immigrant survivors. For example:

Gathering Important Documents

Ensuring that a victim of domestic violence gathers any important documents before she leaves her abuser can be especially important for immigrant victims. Often abusers will keep or destroy an immigrant victim's immigration and identification documents. Unlike U.S. Citizen victims, it may be difficult for an immigrant victim to obtain copies of these and other documents that may be essential for her immigration case. In addition, obtaining immigrant documents from the Bureau of Citizenship and Immigration Services (BCIS) may be difficult without her spouse's assistance.

For those who are working with immigrant victims planning to leave their abusers, making a list of necessary documents and discussing how the client will obtain them can be critical to living independently from her abuser.⁶ For example, if she is going to apply for immigration relief as a victim of domestic violence, collecting documents on her identity, proof of marriage, and documentation on the abuse will be helpful. For her family law case, she may also need documentation for proving the abuse. Immigrant survivors should never attempt to obtain these documents if it is not safe for them to do so. It may be possible through a protection order, divorce, or custody case to obtain the necessary documents.

Protection Order Enforcement

Documenting protection order violations is an important step to safety for immigrant survivors. This documentation may be used in future enforcement actions or in preparation of a custody case or an immigration application under VAWA.

Telephone numbers of shelter and police

Ensuring that an immigrant survivor knows that she can report domestic violence crimes to police and how to contact local shelter programs is also critical. Many immigrant survivors have never called 911 nor a shelter hotline. The client may not be able to communicate effectively in English, and she may also have a distrust of the law enforcement system. It is important to address her fears and create solutions that she is comfortable with. It is also important that she knows that she can receive a protection order and access domestic violence services whether or not she wants to leave her abuser.

Immigration Relief Under the Violence Against Women Act

VAWA 1994 included specific provisions to help battered immigrants escape their abusive U.S. citizen or legal permanent resident husbands. VAWA 2000

expanded relief to other immigrant victims of domestic violence (those who are not married to U.S. citizen or legal permanent residents), and to victims of rape, sexual assault, and other violent crimes who seek justice system help.

The VAWA Self-Petition

VAWA allows immigrant spouses or parents of children who are victims of domestic violence to petition themselves, without the cooperation of the U.S. citizen or lawful permanent resident spouse or parent. An immigrant victim must prove in an administrative application to BCIS that she is or was married to a U.S. citizen or lawful permanent resident (or is the child of a U.S. citizen or lawful permanent resident), that she or her child suffered battering or extreme cruelty, that she entered the marriage in good faith, that she resided with the abuser, and that she was of good moral character. Upon receipt of a *prima facie* notice from BCIS, shortly after filing the self-petition, she may be eligible to receive a limited set of public benefits. Once BCIS has approved the self-petition application, the immigrant victim will be eligible for lawful permanent resident status. While her application for lawful permanent resident status is pending, employment authorization will be available to her.

Special Crime Victim Visa: The U visa

The U visa is designed for non-citizen crime victims who have suffered substantial physical or mental abuse flowing from criminal activity and who are willing to cooperate with government officials in investigating or prosecuting such criminal activity.

A broad range of criminal activity is covered under the U visa. Examples include: domestic violence, trafficking or forced prostitution, female genital mutilation committed in the United States, slave labor, rape, felonious assault, and sexual assault.

To be eligible for a U visa, the applicant must meet five conditions:

- 1) she must have suffered substantial physical or mental abuse as a result of having been a victim of one or more of the criminal activities described above;
- 2) she must possess information concerning the criminal activity;
- 3) she must be helpful, have been helpful, or be likely to be helpful to a federal, state, or local investigation or prosecution of a form of listed criminal activity;
- 4) she must obtain certification from a law enforcement official, prosecutor, judge, BCIS

Continued on the next page

Abusers of immigrant women use immigration-related abuse as a powerful form of emotional abuse in order to trap immigrant battered women and their children in these dangerous relationships.

Working With Immigrant Victims (cont.)

Continued from page 3

official, or other federal or state authority investigating or prosecuting any of the criminal activities listed above; and
5) the criminal activity described must have violated the laws of the United States or occurred in the United States or the territories and possessions of the United States.

Once an immigrant victim applies for a U visa and is placed in deferred action or stay of removal status, she can receive employment authorization. After three years with U visa status, the Attorney General has discretion to adjust the status of the immigrant victim to that of a lawful permanent resident on the basis of humanitarian need, public interest or family unity.

Family Law Proceedings

For many immigrant victims, their family court case may be their first contact with the legal and justice system. Many immigrant victims fear the legal system and often believe that reporting domestic violence will result in their deportation. Thus, advocates and



attorneys working with immigrant victims should be cognizant of the potential challenges and systemic barriers that may exist when representing immigrant survivors in their family court cases.

Protection Orders

A civil protection order can be helpful to

an immigrant victim in deterring further violence and for use in a custody case or immigration case, if she is applying under VAWA for immigration relief. Civil protection orders are available in all 50 states, Puerto Rico, the District of Columbia, and all U.S. territories⁷ and are designed to protect battered individuals from their abusers.⁸ Since victims have a high degree of control over the protection-order process, they can choose when, whether, and how to enforce protection orders.

Protection orders can contain a wide range of remedies that can be used to address the specific needs of a battered immigrant. Relief in the protection order should be as detailed as possible and should ensure that the individual needs of the victim are addressed. Gaps in the relief listed in the order, or a lack of specificity, may lead to further violence and may make the order difficult or in some cases impossible to enforce. When possible, the protection order should always contain orders regarding custody. Obtaining custody for immigrant survivors as part of a protection order is particularly important since their abusers often threaten

that if the victim seeks help the abuser will obtain custody of the children.

Protection orders for all battered women with minor children should also include child support awards and, if applicable, spousal maintenance awards. Financial support is especially important for battered immigrants who do not have work authorization, who are undocumented, or who have pending VAWA self-petitions and are able to receive only limited public assistance. The state's child support guidelines should be used to determine the amount of the award. Whenever possible, the child support amount should be paid through wage-withholding, so the abuser cannot use child support payments to exert control over the victim.

Custody Cases

The fear of losing custody of or access to children is a significant factor that keeps battered women from leaving their abusers or seeking help to stop the abuse.⁹ Abusers use child custody litigation as a vehicle to maintain control over their victim.¹⁰ Advocates and attorneys seeking to prevent an abuser's use of the victim's immigration status as an issue in court must act strategically. Abusers may try to persuade the court that the victim's immigration status is relevant in custody cases, arguing that if the victim is undocumented she will be more likely to flee the jurisdiction with the child or that it is not in the child's best interest to remain with the immigrant victim because she will not be able to provide financially or emotionally for the child. Courts should be discouraged from allowing abusers to use such arguments to deflect the court's attention from the abuser's violence by focusing its attention on the victim's immigration status.

Most states use the "best interests of the child" standard in adjudicating decisions on child custody.¹¹ In applying this standard, the judge weighs a variety of factors to make a custody determination. Most, but not all, states require that the courts consider domestic violence when determining the best interest of a child.¹²

In order to counter an abuser's argument that it is in the child's best interest to reside with him because he has superior immigration status, an attorney representing the victim should:

- Present evidence on any immigration-related abuse. Help the court understand that the battered immigrant would not be undocumented had the abuser filed immigration papers for her, or that because of domestic violence she may be eligible for a U visa under VAWA.
- Demonstrate that the victim has been the primary caretaker of the children.
- Present evidence on the domestic violence in the home and its impact on the children.
- Show that the victim has taken steps to remove the child from the domestic violence, her ability to care for the children, and her ability to support the child emotionally and financially (including any court ordered child support).

Through VAWA ... immigrant victims and their children can legally access the full range of justice system remedies and a wide range of social services.

- Provide the court with a copy of the ABA Report on the Impact of Domestic Violence on Children.¹³

Photos courtesy of the Family Violence Prevention Fund



Conclusion

Ensuring adequate access to justice and social system services for immigrant victims and their children is crucial to protecting their safety and well-being. Developing effective justice and social systems interventions for immigrant victims requires improved and continuous collaboration between justice and social system advocates and attorneys who have expertise working with immigrant victims. Through VAWA, most immigrant family violence victims now have access to some form of legal immigration status. Moreover, immigrant victims and their children can legally access the full range of justice system remedies and a wide range of social services. However, many immigrant victims are unaware of these options. It is important that advocates and attorneys educate themselves about the range of legal relief available to immigrant victims and the systemic barriers that can impede their access to what can be life-saving justice system relief. Advocates and attorneys must also become actively involved in assuring that immigrant victims of domestic violence are informed about all of their legal options and attain justice and social system remedies that will support their efforts and those of their children to survive domestic and sexual abuse and live safe and full lives.

For additional information and technical assistance, please contact the Immigrant Women Program, at NOW Legal Defense and Education Fund, (202) 326-0040, iwp@nowldef.org.

Area, 6 POVERTY & RACE 9-10 (Jul/Aug 1997).

3 Mary Ann Dutton et al., *Characteristics of Help-Seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas*, 7 GEO. J. ON POVERTY L. & POLY 245, 271 (2000).

4 *Id.*

5 Woodrow Wilson International Center for Scholars, *Women's Rights in Theory and Practice: Employment, Violence and Poverty* (2002).

6 Contact the Immigrant Women Program of NOW Legal Defense and Education Fund, at (202) 326-0040 or iwp@nowldef.org, for checklists of evidence that victims should collect to file a domestic violence-related immigration case.

7 Catherine F. Klein & Leslye E. Orloff, *Providing Legal Protection for Battered Women: An Analysis of State Statutes and Case Law*, 21 HOFSTRA L.REV. 801, 811 (1993).

8 *Id.* at 810.

9 Dutton, et al., *supra* note 3, at 301.

10 Daniel G. Saunders, *Child Custody Decisions in Families Experiencing Woman Abuse*, 39 SOC. WORK 51, 53 (1994); Barbara Hart, *Family Violence and Custody Orders*, 43 JUV. & FAM. CT. J. 29, 33-34 (1992).

11 Howard Davidson, *The Impact of Domestic Violence on Children: A Report to the President of the American Bar Association* (August 1994).

12 The Family Violence Project of the National Council of Juvenile and Family Court Judges, *Family Violence in Child Custody Statutes: An Analysis of State Codes and Legal Practice*, 29 FAM. L. Q. 197, 201 (1995).

13 You can obtain a copy of the report by contacting the Immigrant Women Program at (202) 326-0040 or iwp@nowldef.org.

1 Leslye E. Orloff & Janice V. Kaguyutan, *Offering a Helping Hand: Legal Protection for Battered Immigrant Women: A History of Legislative Responses*, 10 AM. U.J. GENDER SOC. POLY & L. 95 (2001).

2 In a survey conducted among Latina immigrants in the Washington, D.C. area, 83% of battered immigrant women interviewed did not contact law enforcement about the abuse. See Leslye E. Orloff & Nomi Dave, *Identifying Barriers: Survey of Immigrant Women and Domestic Violence in the DC Metropolitan*

An Immigrant and Refugee Coalition Challenging Gender Based Violence and Oppression¹

Immigration and cultural issues can create huge barriers for victims in need of assistance. In Georgia, a coalition of advocates are working hard to ensure that immigrant and refugee battered women can find culturally appropriate help when needed. Tapestri, Inc., a coalition of ethnically diverse advocates, was created in 1996 and holds the philosophy that every person, no matter what their culture or background, has the

right to live a life without fear. The name Tapestri itself symbolizes “the different threads of society coming together to form a safe cover to protect its many colored communities.”² Advocates involved in Tapestri understand that culturally specific services for immigrants and refugees are vital and that such services should be respectful of their diverse backgrounds. Some of the assistance that Tapestri provides includes multicultural training, legal advocacy, services to victims of trafficking, a family violence intervention program for men, technical assistance, and local and national advocacy programs.

Through the work of the many member programs in Tapestri, immigrant and refugee women are able to find culturally appropriate services and assistance. Many of these diverse programs include:

Caminar Latino

A project of St. Joseph's Mercy Care Services, Caminar Latino provides direct services to Latino families impacted by domestic violence. It provides services for women and children as well as a Family Violence Intervention Program for Latino Men. For more information, contact Caminar Latino at (404) 880-3737 [Spanish language capacity].

Center for Pan Asian Community Services, Inc. (CPACS)

A non-profit organization, CPACS is dedicated to creating a comprehensive social and health service to counteract immigrant, refugee, and minority problems in the Asian American community and to establishing a multi-service community center. Services available include counseling, interpretation for victims, and referrals. For more information,

contact CPAC at (770) 936-0969, or visit its web site at <http://www.cpac.org/>.

International Women's House

International Women's House is a safe shelter for refugee and immigrant battered women and is open to women of all nationalities. To contact the shelter, you may call them at their 24-hour hotline number, (404) 299-1550.

Raksha

Raksha, meaning “protection” in several South Asian languages, is a nonprofit organization serving the South Asian community in Georgia in order to promote a stronger and healthier South Asian community through support, education, and advocacy services. For more information, contact Raksha at (866) 725-7423 or (877) 672-5742 or visit its web site at <http://raksha.org>.

Refugee Family Services (RFS)

Refugee Family Services' mission is to help refugee/immigrant women and children regain self-sufficiency through economic opportunities and direct support. RFS operates a refugee community center and an activity center, which are located near the largest concentration of recent arrivals from a variety of countries, including Bosnia, Iraq, Somalia, Sudan, and Vietnam. The community center offers a refugee women's support program, women's employment program, family violence prevention program, and computer lab. The activity center offers a refugee youth program, a school liaison program, English as a second language classes, and a childcare center. RFS also provides outreach services, as well as classes and workshops held in the community. For more information, contact RFS at (404) 299-6217, or visit its web site at <http://www.refugeefamilyservices.org/>.

Shalom Bayit

Shalom Bayit is dedicated to dispelling the myth that domestic violence does not happen in the Jewish family and provides short- and long-term assistance for families experiencing violence or stressful challenges. Some of the services provided by Shalom Bayit include counseling, support groups for women, community education, referrals, and job training and placement. For more information, contact Shalom Bayit at (770) 677-9322 or (770) 677-9349.



Women Watch Afrika, Inc. (WWA)

Women Watch Afrika is a non-profit, grass roots organization working to eliminate all forms of discrimination against women, and to promote the social and economic development of women and girls. Services are primarily open to under-served, English-speaking African refugee and immigrant women and girls. However, WWA's violence against women project is open to all women of African

descent. WWA's services include crisis counseling, legal advocacy and referrals, community education, and a girls' youth intergroup program. For more information, contact WWA at (404) 292-0069.

1 The information contained in this article was taken from the web site for Tapestry, Inc., at <http://www.tapestry.org>.

2 See *id.* at Home.

COURT CORNER

Two recent court cases were recently decided and may impact battered mothers and their children. The first is a Tennessee case focusing on the use of guardian *ad litem* (GAL) reports in custody determinations. The second is a Montana case focusing on Montana's definition of partner or family abuse, in particular the "reasonable apprehension of bodily injury" element.

Toms v. Toms, 98 S.W.3d 140 (Tenn. 2003), involves a custody dispute between the minor child's grandparents and biological parents, which resulted in the appointment of a GAL, who produced two reports. In *Toms*, the Supreme Court of Tennessee concluded that the GAL's reports were hearsay and that the trial court erred in relying upon them as the sole basis for its custody determination.² The Court reasoned that "in lieu of the introduction of the written report, a GAL should testify at the trial or hearing and be subject to cross-examination."³ While the Court held that a GAL report is not admissible evidence, it also held that such a report could be reviewed by the trial court.⁴ In doing so, the Court envisions the GAL report to be used as a tool to assist the judge by providing an overview of the evidence and by allowing the court to determine the contested issues.⁵

The second legally significant case is *State v. Vukasin*, 2003 WL 22020775 (Mont. 2003). In *Vukasin*, the Supreme Court of Montana affirmed the jury's decision that the batterer, Vukasin, was guilty of one count of partner or family violence.⁶ Although this particular incident for which Vukasin was convicted did not involve physical violence, the State had the ability to charge Vukasin with partner or family member assault under the Montana statute which provides that "a person commits the

offense of partner or family member assault if the person ... purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member."⁷

In affirming the jury's decision, the Supreme Court of Montana found that "[f]leeing from her apartment with

"a person commits the offense of partner or family member assault if the person ... purposely or knowingly causes reasonable apprehension of bodily injury in a partner or family member."

her dog over concern about Vukasin's past violent behavior, locking herself in a neighbor's bathroom, hearing Vukasin scream that he was going to kill her, observing knife holes Vukasin was making in her apartment door, and ultimately fleeing the building are facts from which, when viewed in a light most favorable to the prosecution, a jury could find, beyond a reasonable doubt, that [she] has sustained reasonable apprehension of bodily injury caused by Vukasin."⁸ Moreover, it is important to note that this affirmation is an implicit and emphatic rejection of Vukasin's argument on appeal that he could not be convicted under said statute because the battered woman neither stated that Vukasin had hit her nor specifically indicated that she was fearful.⁹

1 *Toms v. Toms*, 98 S.W.3d 140, 141-42 (Tenn. 2003).

2 *Id.* at 144.

3 *Id.*

4 *Id.*

5 *Id.*

6 *State v. Vukasin*, 2003 WL 22020775, 5 (Mont. 2003).

7 *Id.* at 4.

8 *Id.* at 5.

9 *Id.*

Culturally Specific Resources

The following resources provide some information and materials to assist professionals working in the field of domestic violence with guidance relevant to providing culturally relevant services. The list is not all-inclusive.

Asian & Pacific Islander Institute on Domestic Violence (APIIDV)

APIIDV works to eliminate domestic violence in Asian and Pacific Islander communities through awareness outreach, an increased visibility of culturally specific issues, research and policy development, and other efforts. For more information, contact APIIDV at (415) 954-9964 or visit its web site at <http://www.apiahf.org/programs/apidvinstitute/>.

Disability Services ASAP: A Safety Awareness Program (Disability Services of Safe Place)

Disability Services of Safe Place conducts a national training and technical assistance project that provides training throughout the United States on issues related to abuse of individuals with disabilities. This project also provides onsite consultation for disability, domestic violence, and rape crisis agencies across the country. For more information, contact Disability Services of Safe Place at (512) 267-SAFE (512) 267-7233 or (512) 927-9616 TTY for Deaf callers, or visit its web site at <http://www.austin-safeplace.org/programs/disability/default.htm>.

Institute on Domestic Violence in the African American Community (IDVAAC)

IDVAAC works to prevent or reduce family violence in the African American community through an interdisciplinary approach to research, examination of service delivery and intervention mechanisms, and identification of appropriate and effective responses. For more information, contact IDVAAC at (877) NIDVAAC (643-8222) or visit its web site at <http://www.dvinstitute.org/>.

Jewish Women International (JWI)

JWI honors the concept of tikkun olam and repairing the world through education, advocacy, and action. JWI has many programs and projects that help abused women, educate others about prejudice and family violence, encourage and promote self-sufficiency for women and girls, and empower family violence victims to help themselves. For more information, contact JWI at (202) 857-1300 or (800) 343-2823, or visit its web site at <http://www.jewishwomen.org>.

Minnesota Rural Project for Women and Child Safety (Rural Project)

The Rural Project is a statewide, multi-agency effort to assist rural and tribal communities in Minnesota to address the needs of battered women and their children better. The Rural Project is a collaboration of the Minnesota Coalition for Battered Women, Battered Women's Legal Advocacy Project, Battered Women's Justice Project, Minnesota Center Against Violence and Abuse, Department of Human Services: Children's Services Division, and Minnesota Center for Crime Victim Services. For more information, contact the Minnesota Coalition for Battered Women at (800) 289-6177 or visit the Rural Project's web site at <http://www.mincava.umn.edu/rural/>.

National Coalition of Anti-Violence Programs (NCAVP)

NCAVP provides support to communities working to respond to violence; raises awareness and educates the general public about the existence and extent of violence against and within lesbian, gay, bisexual, and transgender communities; trains law enforcement agencies, direct service providers, health care providers, and other advocates that assist victims of violence; and reports and documents sexual assault, rape, domestic violence, and other crimes of violence. For more information, contact NCAVP at (212) 714-1184 or visit its web site at <http://www.ncavp.org>.

National Latino Alliance for the Elimination of Domestic Violence (Alianza)

Alianza promotes understanding, sustaining dialogue, and generating solutions to move toward the elimination of domestic violence impacting Latino communities, with an understanding of the sacredness of all relations and communities. For more information, contact Alianza at (800) 342-9908 or visit its web site at <http://www.dvalianza.org/>.

on Domestic Violence

NOW Legal Defense and Education Fund Immigrant Women Program (IWP)

IWP strives to protect and expand the rights of immigrant women and their children, while enhancing the legal rights and basic economic security of this traditionally underserved group. IWP works closely with the National Immigration Project of the National Lawyers Guild and the Family Violence Prevention Fund. These three organizations co-chair the National Network to End Violence Against Immigrant Women.

For more information, contact IWP at (202) 326-0040 or its web site at <http://www.nowldef.org/html/issues/imm/index.shtml>; the National Immigration Project at (617) 227-9727 or its web site at <http://www.nationalimmigrationproject.org/>; or the Family Violence Prevention Fund at (415) 252-8900 or its web site at <http://endabuse.org/programs/immigrant/>.

Sacred Circle

Sacred Circle assists tribes and tribal organizations in stopping violence against Native women. Sacred Circle addresses violence against Native women in the context of historical, jurisdictional, and cultural issues; facilitates agency coordination with tribal communities; and addresses the impact of federal legislation on Indian tribes. Sacred Circle also operates the National Resource Center to End Violence Against Native Women. For more information, contact Sacred Circle at (877) 733-7623 (red-road).

Selected Materials Published in 2003

Conversations With Mothers of Color Who Have Experienced Domestic Violence Regarding Working With Men To End Domestic Violence. Autry, A. et al. (2003). Available on the Family Violence Prevention Fund web site: <http://endabuse.org/programs/children/files/conversations.pdf>

Developing Culturally Relevant Responses To Domestic Abuse: Asha Family Services, Inc. Vann, A. (2003). Available on the National Resource Center on Domestic Violence (NRCDV) web site: http://www.vawnet.org/NRCDVPublications/TAPE/Papers/NRCDV_Asha.php

Forging New Collaborations Between Domestic Violence Programs, Child Welfare Services and Communities of Color. Carter, N. (2003). Available on the NRCDV web site: <http://www.vawnet.org/NRCDVPublications/WOCN/Papers/>

Model Protocol on Safety Planning for Domestic Violence Victims with Disabilities; Increasing Agency Accessibility for People with Disabilities: Domestic Violence Agency Self-Assessment Guide; and Model Protocol for Screening Practices for Domestic Violence Victims with Disabilities. Hoog, C. (2003). Available on the Washington State Coalition Against Domestic Violence web site: http://www.wscadv.org/projects/disability_protocols.htm

Raising Public Awareness on Domestic Violence in Indian Country. Artichoker, K. & Gullickson, V. (2003). Available on the VAWNet web site: http://www.vawnet.org/NRCDVPublications/TAPE/Papers/NRCDV_Cangleska.php.

The Military Response to Victims of Domestic Violence: Tools For Civilian Advocates. Beals, J.E. (2003) (Battered Women's Justice Project). Available on-line at www.bwjp.org/documents/BWJPMIL.pdf.

Women of Color Network Resource Guide Update. Women of Color Network, a project of NRCDV. Available from the NRCDV by calling 800-537-2238.



DIVERSITY

Legislative Update: DV and the Illinois Workplace

In August 2003, the Illinois legislature addressed the tremendous impact domestic violence has on employees as well as their employers by passing one of the most sweeping labor laws designed to protect victims of domestic violence.¹ In passing such law, the legislature recognized that:

- Victims of domestic violence often face the threat of job loss and loss of health insurance as a result of the illegal acts of their abusers;
- Studies indicate that as much as 74% of employed battered women were harassed at work by their abusive partners;
- According to a 1998 report of the U.S. General Accounting Office, between one-fourth and one-half of domestic violence victims reported losing a job because of domestic violence;
- Women who have experienced domestic violence are more likely than other women to be unemployed, suffer from health problems that can affect employability and job performance, report lower personal income, and rely on welfare;
- Abusers frequently seek to control their partners by actively interfering with their ability to work, including preventing their partners from going to work, harassing their partners at work, and sabotaging their partners' child care arrangements; and
- The Bureau of National Affairs has estimated that domestic violence costs U.S. employers between three to five billion dollars annually in lost time and productivity.²

In response to such glaring statistics, and in an effort to remove these obstacles from the paths of victims of domestic violence, the Illinois legislature passed the Victims' Economic Safety and Security Act (VESSA), 820 ILCS § 180/1 et seq. Modeled after the Federal Family and Medical Leave Act (FMLA), VESSA prohibits employers who employ 50 or more

In August 2003, the Illinois legislature addressed the tremendous impact domestic violence has on the workplace ...

employees from discharging, discriminating, or retaliating against employees who are victims of domestic violence or whose family member or household member is a victim of domestic violence. It also offers victims of domestic violence up to 12 weeks of unpaid leave per year to allow the employee to:

- seek medical attention for the employee or his or her family members;
- obtain services from a victim services organization for the employee or his or her family members;
- obtain psychological or other counseling for the employee or his or her family members;
- participate in safety planning, temporarily or permanently relocate, or engage in other actions to increase the safety of the employee or family member; or
- seek legal assistance, including preparing for or participating in any civil or criminal legal proceeding derived from the domestic violence.

The leave available to the employee may be taken intermittently or through a reduced work schedule. Unlike the FMLA, which requires that the employee be employed for a year prior to taking leave, the employee is eligible for the leave immediately upon the date of hire.³

The employer may require the employee to provide certification to the employer that the employee or a member of the employee's family or household member is a victim of domestic violence and that the leave is for one of the purposes outlined above. However, the certification requirement is met if the employee:

- provides the employer with a sworn statement attesting to the facts, and
- upon obtaining such documents as police or court records, records from a victim services agency, or other corroborating evidence, provides them to the employer.

... the result was the Victim's Economic Safety and Security Act, modeled after the Federal Family and Medical Leave Act (FMLA).

New Staff Introductions

The Act does not require that there be corroborating documentation, only that the employee provide any that do exist. Employers are required to keep all records submitted by the employee confidential.

VESSA provides that, upon returning from leave, the employee is entitled to be restored to the position of employment held by the employee when the leave commenced or to be restored to an equivalent position with equivalent pay, benefits, and terms and conditions of employment. No benefits accrued prior to taking leave will be lost, and health benefits will be maintained during the leave time; but the employee will not accrue benefits during the period of time on leave.

Finally, VESSA prohibits discrimination against an employee because the employee exercised any right provided under the Act or opposed any practice made unlawful by the Act. The Act further prohibits an employer from failing to hire, discharging, or harassing any individual, or otherwise discriminating against any individual, because the individual:

- is or is perceived to be a victim of domestic violence;
- attended, participated in, prepared for, or requested leave to attend, participate, or prepare for a criminal or civil proceeding relating to an incident of domestic violence;
- requested an adjustment in job structure, workplace facility, or work requirement; or
- the workplace is disrupted or threatened by the action of a person whom the individual states has committed or threatened to commit domestic or sexual violence against the individual or the individual's family or household member.

The Act does not create a private cause of action for employees who believe they have been discriminated against in violation of the Act. Rather, the employee must file a complaint with the Illinois Department of Labor. Sanctions against the employer may include back pay, injunctive relief and attorneys' fees awards.

1 H.B. 3486, 93rd Gen. Assembly (Ill. 2003) (codified at 820 ILL. COMP. STAT. 180/1, et seq.).

2 *Id.* at Section 5. See also 820 ILL. COMP. STAT. 180/5 (2003).

3 However, if the reason for the employee's leave request also qualifies as a serious health condition as defined under the FMLA, the employee will not be eligible for any additional leave time under VESSA. See 820 ILL. COMP. STAT. 180/20(a)(2).

The Family Violence Department of the National Council of Juvenile and Family Court Judges is pleased to announce the addition of four new staff members:

Candy Behan joins the department as an Administrative Assistant II, working on the Safe Havens: Supervised Visitation and Greenbook projects. Prior to this position she worked with the Sonoma County Office of Education in the Alternative Education Department. Candy holds an AA in Early Childhood Education and is currently pursuing a BS in Human Services/ Management from the University of Phoenix.



Amy Brown joins the Family Violence Department as an Administrative Assistant II. Amy has an extensive background in customer service as well as previous experience in payroll and accounting and office administration. Her primary responsibilities with the department are coordinating staff and committee travel and supporting the department's meeting planning activities.



Amy Pincolini-Ford, JD joins the department as an Information Specialist in the Resource Center on Domestic Violence: Child Protection and Custody. Prior to taking this position, Amy performed legal research for the department, clerked for a United States Magistrate Judge in the United States District Court, District of Nevada, and practiced with a law firm primarily in the areas of divorce and custody. Amy received her BA in English with an emphasis in writing from the University of Nevada-Reno and her JD from California Western School of Law.



Danielle Gratz joins the department as an Administrative Assistant II. Her primary function is to assist both the Staff Attorney and Policy Analyst. Along with other projects, she is responsible for helping to maintain the domestic violence statutes database. Prior to this position Danielle worked as a word processor for a geotechnical engineering firm. She is currently working toward a BS in Accounting at the University of Phoenix.



SYNERGY

The Newsletter of the Resource Center on Domestic Violence: Child Protection and Custody

NATIONAL COUNCIL OF JUVENILE AND FAMILY COURT JUDGES

Officers

Hon. James A. Ray
President
Toledo, Ohio

Hon. Leonard P. Edwards
Immediate Past President
San Jose, California

Hon. Sharon P. McCully
President Elect
Salt Lake City, Utah

Hon. James W. Payne
Vice President
Indianapolis, Indiana

Hon. Stephen M. Rubin
Treasurer
Tucson, Arizona

Hon. Dale R. Koch
Secretary
Portland, Oregon

Hon. David B. Mitchell
Executive Director
National Council of
Juvenile and Family
Court Judges

Family Violence Department: 1-800-527-3223 • www.ncjfcj.org/dept/fvd

This document was developed under grant number 90EV0250 from the U.S. Department of Health and Human Services (HHS). The points of view expressed are those of the authors, and do not necessarily represent the official position or policies of HHS.

Family Violence Department Staff

Merry Hofford, Director
Candy Behan, Administrative Assistant
Sara Blake, Information Specialist
Amy Brown, Administrative Assistant
Jill Comcowich, JD, Policy Analyst
Sue Dansie, Manager
Billie Lee Dunford-Jackson, JD, Assistant Director
Marie Gonzales, Administrative Assistant
Danielle Gratz, Administrative Assistant
Tracy Keever, Administrative Assistant
Lauren Litton, JD, Manager
Amy Pincolini-Ford, JD, Information Specialist
Danielle Pugh, Executive Assistant
Sherrie Riley, Manager
Amy Saathoff, Manager
Maureen Sheeran, Assistant Director
Jim Simchera, Administrative Assistant
Jannette Tucker, JD, Attorney
Ruby White, Manager
David Wohler, Executive Assistant
Media Wright, Information Specialist

NATIONAL COUNCIL OF JUVENILE
AND FAMILY COURT JUDGES
University of Nevada, Reno
Post Office Box 8970
Reno, Nevada 89507

NONPROFIT ORG.
U.S. POSTAGE
PAID
RENO, NV
PERMIT NO. 122

ADDRESS CORRECTION REQUESTED

VOLUME 8 • NO. 1
WINTER 2004