

## Appendix 3P

### Training Memo – Interventions with Immigrant Victims of Battering

#### Immigration in the United States

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In recent years, the United States has seen the biggest wave of immigration since the early 20<sup>th</sup> century. The number of U.S. residents born in a different country increased by 57% between 1990 and 2000, going from 19.8 million to 31.1 million. In 2010, immigrants comprised 12% of the U.S. population.<sup>1</sup>

Most of the recent new arrivals have emigrated to the U.S. from Latin America, and many others have traveled from Asia and Africa. Today's newcomers are moving beyond gateway cities like New York and Los Angeles and settling in suburbs, small towns and rural areas, attracted by greater economic opportunity and a lower cost of living. Consistent with national trends, Shelby County has also seen a recent increase in immigration, with 10% of its residents in 2010 having been born in another country. Of these immigrants, over half are Latino or Hispanic, and a little less than two percent are Asian and Pacific Islander.

Immigrants bring with them a diverse range of cultures and more critically, languages. In 2011, over 60 million U.S. residents reported that they speak a language other than English at home, and that they speak only limited English.<sup>2</sup> In Shelby County, one out of ten residents speaks a language other than English.

Despite these numbers, Federal, state and local legal systems are struggling to accommodate the needs of immigrants, including survivors of domestic violence, sexual assault, dating violence and stalking. For public safety and social service agencies, the challenge of communicating, building trust and serving these communities can be immense.

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<sup>1</sup> Retrieved from the US Census online

<http://factfinder2.census.gov/faces/tableservices/jsf/pages/productview.xhtml?src=bkmk>

<sup>2</sup> Language Use in the United States: 2011, American Community Survey Reports, United States Census Bureau. Retrieved from the US Census online

[mailto:http://factfinder2.census.gov/faces/nav/jsf/pages/community\\_facts.xhtml](mailto:http://factfinder2.census.gov/faces/nav/jsf/pages/community_facts.xhtml)

## Public Safety Issues

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### The Challenge for Law Enforcement

As first responders, working often under crisis conditions that call for quick decision-making, law enforcement personnel face a special burden. Police officers are challenged to perform their duties well when they cannot communicate with the people they serve. When language barriers prevent individuals from reporting a crime or describing a suspect, for example, it becomes that much harder for police to gather evidence or provide protection.

The relationship between immigrant communities and public safety agencies is further complicated by the fact that immigrants often fear or misunderstand the role of first responders and go to great lengths to avoid contact. Especially in a political environment where immigrants' legal status is a prominent issue of national debate, more and more immigrants—particularly those who do not speak fluent English—are staying away from public services and government institutions.

### The Challenge for Immigrant Victims of Battering

The process of immigration itself can be very difficult and traumatic. It involves leaving behind family and friends—a great source of cultural, economic and social support—and moving great distances to unknown foreign lands. And in this unfamiliar new life, many immigrants face prejudice and discrimination.

In that context, numerous cultural, economic, legal and practical factors may prevent immigrant women who are battered from seeking the help they need.

1. Many immigrant women are unaware that in the U.S., the type of violence that their partners have used against them for years is considered criminal.
2. For many immigrant women, leaving their spouse or intimate partner for a safer environment may mean losing not only his financial support and her possessions, but also the extended family or temporary new community that can help her obtain work.
3. Abusers of immigrant women often use immigration-related threats to assert power and control over them. They exploit their partners' unfamiliarity with the new country and threaten to:
  - a. deport them
  - b. revoke residency sponsorship

- c. refuse to file the necessary immigration petitions that would provide the victim with lawful status in the U.S.
- d. take the children away
4. Family and community members often are unsupportive, obstructive and resistant to the victim's plans to leave her spouse or the involvement of the police in their family or community.
5. The inability to communicate in a common language prevents battered immigrant from learning about and accessing the assistance available.

## Best Practice

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In general, when interacting with immigrant community members, consider their concerns and fears of police. More specifically, do not ask victims or suspects about immigration status during your first response. The victim's immigration status is not necessary information for the investigation of the incident. It is not the officer's role or duty to ascertain whether immigrant victims are in the U.S. with or without documentation. Since the officer's goal is to respond to the scene and build trust in the community, inquiring about official documentation is counter-productive and is likely to scare the victim and reinforce the abusers threats.

Effective policing requires a certain level of trust and cooperation between the police and the community they serve. The task of communicating and developing trust with immigrant communities may seem especially formidable, yet many law enforcement agencies around the country are figuring out how to do this. A number of legal provisions and remedies can help you in your efforts to respond effectively to cases involving immigrant victims of battering.

## Language Access

Federal law mandates that law enforcement agencies find ways to overcome language barriers. Under Title VI of the Civil Rights Act of 1964 (42 U.S.C. Section 2000d et seq.), police agencies that receive any federal assistance must take steps to ensure that their services are meaningfully accessible to those who do not speak English well. Failure to do so could constitute national origin discrimination.

[Cite language access policy.] The Memphis Police Department is covered by this provision and has developed a language access policy. In accordance with that policy officers responding to a scene where either party is an immigrant with Limited English Proficiency (LEP), officers should:

1. Identify the language spoken. The attached “I-Speak” cards can help identify the language needed, if it is unclear to the officer at the scene.
2. Once the language is identified, determine if a bilingual officer is on duty and able to assist. Do not use children at the scene as interpreters.
3. If there is a bilingual officer on duty available, ensure that separate conversations are held with each party. Officers should only communicate in a second language with parties at the scene if they are proficient in that language. Being fluent in a language is required for interpretations to be effective. Otherwise, the language line should be used.
4. If no bilingual officer is available, utilize the **Language Line Solutions number at 800-752-6096** to obtain language interpretation each party who needs it. Ensure that the parties are separated and are able to utilize the interpretation service away from the other party.
5. Officers should collect any evidence in the language of the parties. Texts, emails, and voicemails, for example, should all be translated through the use of the language line.
6. Apps such as Google Translate could be used as an ad hoc method of communication if no other resource exists and permissible by department policy.
7. Provide the victim with a referral to local advocacy services serving immigrant women.

### Legal Provisions Assisting Battered Immigrant Women

Over the past twenty years, Congress has recognized the unique challenges immigrant victims of battering face and has initiated legal remedies to assist them in accessing safety in the U.S. As a result, battered immigrant women have certain rights under the law and can access various types of immigration relief. Officers working with an immigrant victim of battering should offer her the following information.

### Help All Battered Immigrant Women Can Receive

Even if you do not have legal immigration status in the United States, or if your legal status is tied to your abuser’s work visa, you can receive all of the following services:

- ✓ Services from shelters and other domestic violence programs
- ✓ Civil protection orders from a court

- ✓ Custody and support for children
- ✓ Police assistance
- ✓ Emergency medical care
- ✓ Your abuser can be criminally prosecuted
- ✓ Your citizen children can receive public benefits

### Police Assistance for Battered Immigrants

Domestic violence is against the law. If you want to leave, then the police can help you and your children get out of the house and often they can drive you to a safe place. The police may arrest your husband/intimate partner if they think that a crime has been committed. If the police officer does not speak your language, find someone to interpret for you or who can help you ask the police to get an interpreter. Most police officers do not enforce immigration laws. However, in some places or situations they do. You can ask a local domestic violence or immigrant community based advocate to find out if the local police enforce immigration law your community.

Immigration options if you are battered, assaulted, or the victim of criminal activity

There are twelve ways you or your child may qualify for legal immigration status without your abuser's knowledge, help, or control. The immigration relief you may qualify for, depends on:

- Who abused you
- If you are or were married to your abuser
- If your abuser is your parent, step-parent, or over 21 year old son or daughter
- If your child has been abused
- The immigration status and/or citizenship of your abuser
- If your spouse ever filed immigration papers for you
- If you came to the United States on a fiancé visa

The immigration options for victims of battering are:

1. The self-petition under the Violence Against Women Act
2. The battered spouse waiver
3. Cancellation of Removal under the Violence Against Women Act (only after you have been placed in deportation proceedings)
4. The crime victims visa, called a U-visa

5. Gender-based asylum
6. The trafficking visa, called a T-visa
7. VAWA NACARA (Nicaraguan Adjustment and Central American Relief Act) of 1997
8. VAWA Haitian Refugee Immigration Fairness Act of 1998 (HRIFA)
9. VAWA Cuban Adjustment Act of 1966
10. VAWA Abused Adopted Child Protections
11. Special Immigrant Juvenile Status (includes special protections under VAWA 2005)
12. International Marriage Broker Regulation Act Protection and access to information