

# Legal Issues\*: Domestic Violence

## CONTEXT

Although Santa Clara County is a home of a great number of immigrant groups, discussions about domestic violence usually do not focus on immigrants. Domestic violence clearly happens in every culture and anyone can be a victim. However, immigrants have many additional specific issues related to domestic violence. Santa Clara County has organized many conferences, activities and events in order to reduce the incidence of domestic violence and place the emphasis on prevention. *SJMN* 1/6/00, *SJMN* 2/25/00. Still, even at shelters that serve a great majority of non-English speaking people such as the Asian Women's Shelter, the discourse fails to clearly frame immigrant issues connected with domestic violence. *SJMN* 3/12/00.

As immigrants enter the United States the American concept of domestic violence is almost always unclear. There is a great need to educate newcomers on every detail related to domestic violence, including the concept, prevention, assistance and services for victims, and legal rights and responsibilities.

The consequences immigrants face in cases where domestic violence occurs can be extremely severe, from long-term imprisonment to deportation. Almost no immigrant is aware of what constitutes a misdemeanor domestic violence conviction, and that it leads to deportation without a defense since the 1996 immigration law in the United States.

U.S. policy makers and service providers should not assume that domestic violence regulations are familiar to all other cultures. Even though immigrants are responsible for knowing laws and behaving accordingly, there is no doubt that there are many cultural differences, especially in relation to the ways children are disciplined. Service providers working on domestic violence prevention should learn enough about particular immigrant groups in order to determine the methods and approaches to particular communities that work best, so that prevention can be carried out successfully. It would be very useful to keep statistics and improve awareness of the presence of immigrants at all agencies serving victims of domestic violence.

In order to provide meaningfully services to immigrant communities in Santa Clara County, it is necessary not only to follow up with Violence Against Women Act (VAWA) provisions and be able to make referrals to immigration attorneys, but also to provide more culturally and linguistically specific services. Recent studies show that "minorities" are more likely to be arrested on felony domestic violence charges, but "figures alone don't tell the whole story of who commits domestic violence in California; they just record who gets caught." *SJMN* 9/28/99

\* Placed in the Legal Issues section for heuristic purposes only. Domestic violence is far from a legal issue only, but it has many unresolved legal contexts in Santa Clara County.

## FINDINGS AND RECOMMENDATIONS

### ***Finding 1: There is a lack of culturally competent, low cost services for domestic violence that specifically target immigrants.***

Several focus groups conducted with different groups of immigrants showed that immigrants needed services related to domestic violence to be more immigrant-sensitive, taking into account cultural-specific issues. Most often they saw their existing immigrant organizations as a potential source of education and prevention in this area. Immigrants tended to trust domestic violence agencies that serve their own “ethnic” group more than they trusted mainstream providers. A need for transitional housing for abused women and children was also identified.

These are some of the findings from immigrant focus groups:

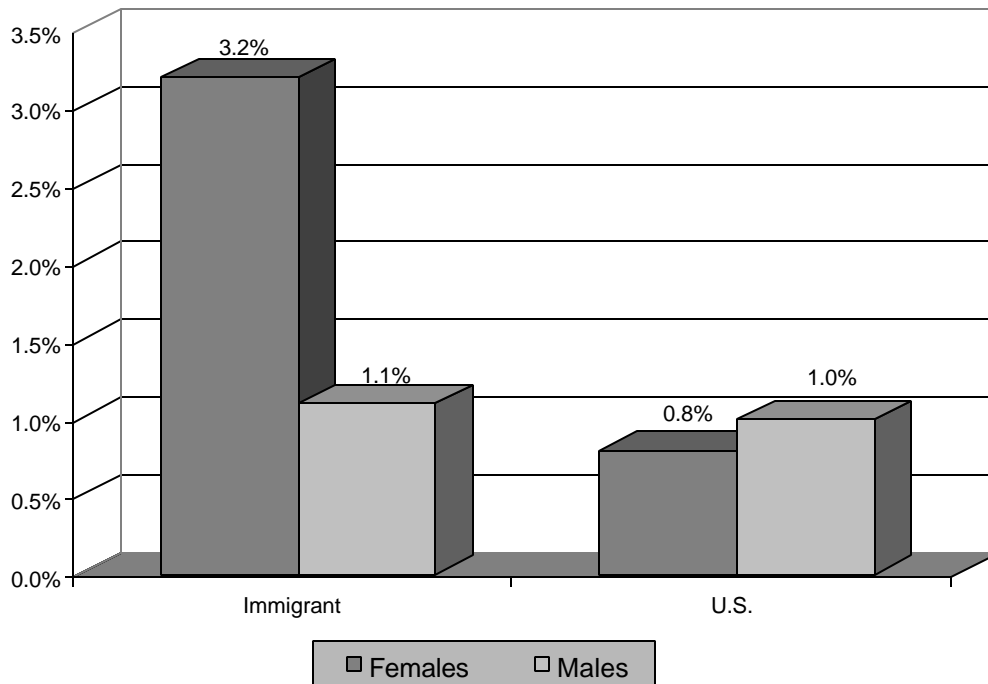
- The Laotian focus group identified the need to work on domestic violence prevention inside their own immigrant group.
- The focus group with Moslem women receiving CalWORKs suggested that “cultural sensitivity” and education about Moslem women is needed.
- The focus groups with Somalis were especially interesting. Men said that there was no domestic violence in Somali families because Islam prescribes the roles of men and women and they behave accordingly. Women did not discuss domestic violence directly. Most problems that they identified seemed to stem from changing roles in the US of both women and children.
- One female H-4 visa holder stated that “In certain situations, where a marriage has failed, the woman faces a critical situation--both economic and housing. They are subject to domestic violence and abuse. There are not many agencies that help such women in crisis.”

Immigrants Building Community (IBC) emphasized similar issues. The Iranian group said that they needed information about domestic violence in Persian. Iranians also said that prevention methods needed to be familiar with the Iranian culture. The Latino IBC group emphasized that it was very important to adapt to new customs and laws and that there is lack of educational opportunities for Latino parents regarding child rearing practices, making it hard to determine the extent of discipline and the responsibility of parents. The group also said that free domestic violence workshops were needed. The Vietnamese group talked about both spousal and child abuse. The group said that the issue of children abusing parents has been observed. Vietnamese immigrants needed community education in Vietnamese.

The random sample survey showed that the need for domestic violence services was much greater for immigrants than for US-born respondents. Immigrant women who responded to our questions about domestic violence were four times more likely to express the need for help with domestic violence than US-born women. Even though the

numbers of respondents are low, low numbers of responses to such complex and intimate questions are not unexpected.

### Respondents Needing Help With Domestic Violence (Random Sample)



There are indicators that immigrants with higher income receive domestic violence assistance more often than those with low income. The random sample survey showed that there was a significant difference among those immigrants who needed help and did not receive it by income levels. Other answers suggested that the level of English influenced the level of receiving many services. Low income immigrants with less English needed the most help.

Research on gaps in services and best practices indicated that many domestic violence agencies serve immigrants but are not necessarily aware of specific issues each immigrant group and all immigrants are facing. Only four institutions in the county are capable of helping victims of domestic violence under VAWA, and only one provides the critical legal services. There is no local network or advocacy group on behalf of battered immigrant women and children.

## ***Recommendations for Finding 1:***

- Create new services or support existing immigrant organizations that can deal with domestic violence issues to organize prevention, education and other types of services for immigrants specifically. Culturally proficient services and community education should be particularly directed at the low-income, women, and non-English speaking.
- Encourage the Santa Clara County Domestic Violence Council to form a subcommittee for immigrants.
- Keep domestic violence statistics by country of origin, not just by ethnicity, so that the nationality-specific particularities of domestic violence incidences can be identified, understood, and addressed.
- Organize free domestic violence workshops for immigrants and service providers that work with immigrants.
- Shelters, emergency and transitional housing should become more available to immigrants and the time immigrants could spend in them should be extended beyond 90 days. Ensure that staff with appropriate language capacity is helping immigrants. The availability of immigrant-sensitive transitional housing will provide options to immigrant women and children and prevent them from staying in abusive relationships.
- Invest more in education about different immigrant cultures.
- Educate service providers, community leaders and all communities living in the county.

## ***Finding 2: More community education needs to take place about domestic violence and VAWA within the immigrant community, especially with low-income immigrant women.***

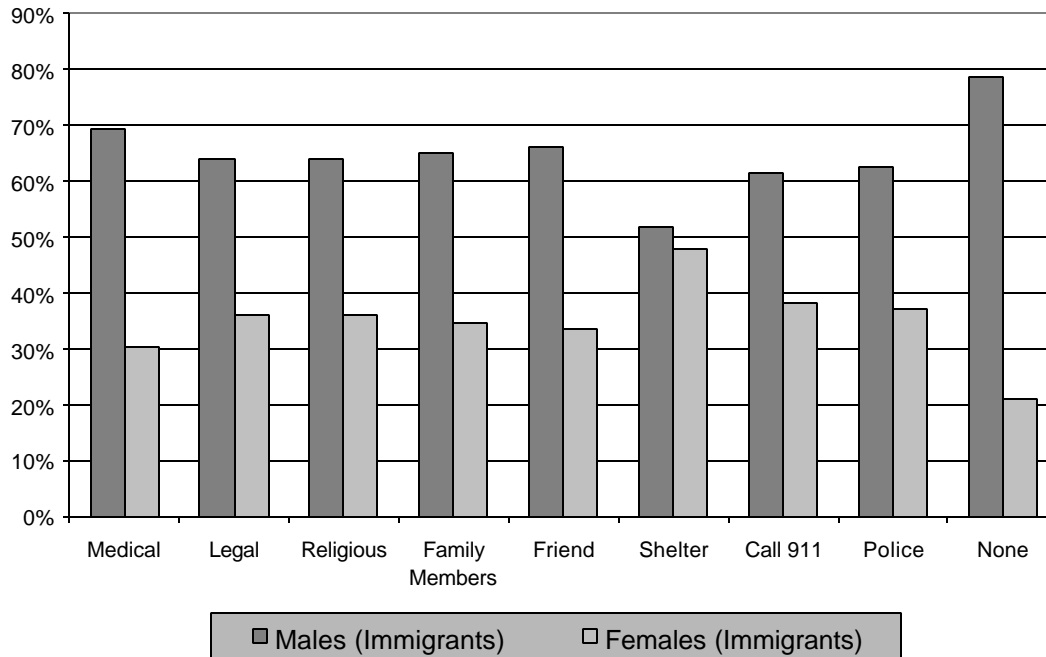
Very few immigrants know about their rights under VAWA or receive services for domestic violence. Women and children have the greatest need to know about their rights and existing services.

The percentage of immigrant women saying that they would not ask for any help if abused indicates that more education about domestic violence needs to be done inside immigrant communities. The following graph presents the sources of help immigrant respondents would use in case of domestic violence incidents. The percentages represent the number of people that answered this question and chose one or more types of help. Women were far less likely to say they would utilize services than men.

The random sample indicated that of all groups, immigrant women and children are the most common victims of violence and the least likely to receive services.

In addition, 1 out of 4 respondents from all groups viewed the elderly as victims of abuse. The Vietnamese group was more likely than others to think that men were also victims of violence.

**Types of Help Respondents Would Use in Case of Domestic Violence by Gender (Random Sample)**



***WHAT IMMIGRANTS SAY ABOUT DOMESTIC VIOLENCE  
LATINA WOMEN ON CALWORKS***

**Helen:** “It is very difficult to know how to treat kids here in the United States because there are laws against child abuse. But the kids turn around and use that against us so that we won’t reprimand them. I have a very hard time understanding what to do as a mother to discipline my kids.”

**Monica:** “It seems like the government castigates the parents for taking care of their kids. The abuse then happens from the kids to the parents, not vice versa. The kids threaten to call the police whenever we reprimand them. It would be important to know how to discipline them without the danger of having them call the police.”

**Erica:** “A lot of my neighbors and Latinas are affected by domestic violence. I think domestic violence training should happen because many people don’t know what to do.”

### ***Recommendations for Finding 2:***

- Support more organizations and service providers to provide community information and education related to legal issues concerning immigrants and domestic violence, particularly with the provisions of VAWA. VAWA protects battered immigrant women and children and helps them adjust immigration status to permanent residence independently from their abusers. An attorney specializing in this area is needed to handle the cases.
- Encourage more local networks and inter-agency collaboration to advocate on behalf of battered immigrant women.
- Educate immigrant service providers themselves about the complex provisions of VAWA.

### ***Finding 3: Immigrant same sex domestic partners and immigrant spouses in Santa Clara who cannot present lawful proof of marriage to a US citizen or permanent resident are not protected under VAWA.***

Immigrant women that cannot present proof that they are legally married to an American citizen or a lawful permanent resident of the US are not protected under the Violence Against Women Act (VAWA). They, together with their children, are vulnerable to abuse. The spouses of H-1B professionals also have no remedy if they are abused, even if the children remain in the U.S. with the spouse. Different and same sex partners that live together also do not enjoy any protection from abuse under VAWA.

Best practices and gaps research showed that immigrants were better protected in Australia. The Domestic Violence Provisions of the Australian Immigration Law are going to be applied to the so-called “interdependency” applications submitted by gay and lesbian partners of Australian citizens. These provisions are for people whose permanent residence is dependent on their relationship in which domestic violence has occurred against the applicant or dependent child.

### ***Recommendations for Finding 3:***

- Extend legal protection to all immigrants who lack documents to prove that they are legally married, if they can prove that they live together with the abuser and that they or their children are victims of domestic abuse..
- Allow H-4 visa holders to work and petition under VAWA.
- Advocate for applying the Australian model of extending protection to lesbian and gay immigrants.

***Finding 4: Additional research needs to be conducted relating to specific immigrant issues and domestic violence.***

The Summit on Immigrant Needs could not focus research on the issue of domestic violence in-depth, because of the attempt to examine the multiplicity of needs. Research on the sensitive and complex issue of domestic violence should be conducted exclusively. As a result of including this issue among all others, not enough data was collected about specific immigrant issues and domestic violence.

Focus groups dealt with domestic violence issues minimally. The random sample survey showed that there wasn't a big difference of incidence and ways of abuse inside immigrant communities and the larger society. However, there are indicators that immigrants did not get help as often as they needed. Also, a substantial number of both immigrants (39%) and US born (49%) said that they would ask family members to help in case violence happened to them or another family member. There are also indicators that emotional abuse was a very common form of abuse in both immigrant and US born groups. This was shown in both the random sample and the public assistance recipient survey.

***Recommendations for Finding 4:***

- Fund more in-depth research with respect to domestic violence issues in immigrant communities. Researchers should be familiar with the culture
- Conduct focus groups and interviews inside immigrant communities with specific domestic violence topics.

***Additional Recommendations***

- Re-evaluate cultural conflicts between the host society and other cultures.
- Study the situation of immigrant offenders convicted of misdemeanor or felony domestic violence offenses to determine the best options for immigrant families, especially as to whether local incarceration or foreign incarceration best need the needs of abused immigrant families. Study the same issues in the context of deportation proceedings.
- Support education at all levels regarding gender relations.