

Domestic Violence and Immigration: Eliminating Barriers to Support for Non-Citizen Survivors of Domestic Violence and Sexual Assault

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INTRODUCTION

The legal landscape a non-citizen woman faces today in North Carolina can be an enormously difficult one. Often there are significant language barriers to overcome, or difficulty finding work or enrolling children in school. The stress of fleeing their home country due to violence, poverty, or other circumstances creates an often tense and demanding living environment. Despite the immediacy of this issue, current legislation does not address the undocumented survivor population in the safest and most productive means. This brief advocates for the improvement of standing governmental initiatives for immigrant women, such as renewal of Sanctuary City legislation and U-Visa processes, combined with the scaling-up of SART (Sexual Assault Response Teams) programming in both rural and urban settings.

HISTORY AND BACKGROUND OF THE ISSUE

The following statistics demonstrate some of the precarious situations in which immigrant and non-citizen women find themselves in terms of increased risk of domestic violence and sexual assault:

- An estimated 169,200 female undocumented immigrants reside in NC according to a 2012 estimate. (ProCon)
- Domestic Violence is one of the crimes least likely to be reported among immigrant communities. (Wood 2004)
- Undocumented Latina women in the US experience an increased number of mental health disorders. Of those, 22% in one 2007 study had experienced physical assault in their lifetime. (Malley-Morrison and Hines 2007)

- In one wide-range study of Latina immigrant women in the US, 48% of women reported that their partner (whether married or unmarried) exhibited increased violence toward them since emigrating to the United States. 52% were still with their abusers. (Dutton 2000)
- According to the same study, of the Latina population surveyed, 50% of those experiencing physical or sexual assault from an intimate partner were undocumented. See Figure 1. (Dutton 2000)

These statistics simply scratch the surface of the circumstances that immigrant women, Latina women in particular, face in their day-to-day lives. Social, economic, and political factors create environments where domestic violence and sexual assault are likely to affect health-seeking behaviors as well. As stated in the political science journal *Popular Government*, “Immigrant women in abusive relationships are in a particularly precarious situation because they are vulnerable to both physical assault and coercive measures related to their immigration status.” (Deborah Weissman, 2000) Many environmental factors such as language barriers, economic dependency on abusive partners, and difficulty navigating new legal systems often prevent undocumented women from pursuing help-seeking behavior after an incident of domestic violence. See Figure 2 to observe the social ecology of risk factors that leads to domestic violence in Hispanic Communities.

Political action in North Carolina shows that the current majority of NC legislators are not in favor of assisting and supporting immigrant populations. NC Governor Pat McCrory recently signed House Bill 318, which was designed to prevent North Carolina cities from adopting sanctuary policies for non-citizen immigrants. (Foley 2015) While sanctuary city policies vary from place to place, they generally limit the extent to which local law enforcement can prosecute suspected non-citizens on Federal immigration matters. See Figure 3 to observe which cities in North Carolina have previously supported or adopted Sanctuary City Legislation.

POLICY RECOMMENDATIONS

Sanctuary City Re-Instation Programming: Reinstating Sanctuary City legislation in North Carolina's Capital, as well as in the most populous counties for undocumented citizens, Mecklenberg, Wake, and Forsyth, (Zota 2008) could greatly improve reporting and support for non-citizen survivors of sexual assault and domestic violence via the actions:

- **Prohibit law enforcement from inquiring about citizenship status in domestic violence and sexual assault reports.**

- Undocumented women are deterred from seeking assistance in the event of a domestic violence crime if it is common practice for law enforcement to inquire about citizenship status before proceeding with investigation of the crime.

- **Enforce that all domestic violence shelters accept survivors regardless of citizenship status. Additionally, whether publically funded or not, comply with the Secretary of Housing and Urban Development's policy guidance defining "short-term emergency shelter" as follows:**

- *"This policy directive clarifies that all programs administering HUD grants, which provide emergency shelter, transitional housing, short-term shelter and housing assistance to victims of domestic violence are deemed necessary, under the Order, for the protection of life and safety. Therefore, programs and services of this type that deliver in-kind services at the community level and do not condition the provision of assistance, the amount of assistance provided, or the cost of assistance provided on the individual recipient's income or resources are to make their programs available to all persons without verification of citizenship, nationality or immigration status, as set forth in the Order..."* (SHUD via American University)

Compliance of these emergency shelter guidelines and installation of sanctuary city legislation is necessary in order for services to be more equitable in non-citizen communities. However, that is not all that is required for the legislation to be a success. Communities need to be educated on the existence and the function of shelter and "safe haven" services. Educational and outreach programming from institutions such as NCCASA and NCCADV, targeted toward undocumented women, that are

supplemented by public funding, could increase involvement and effectiveness of these programs overall.

U-Visa Application Process Improvements: Legal Aid of North Carolina’s Battered Immigrant Project supports the U-Visa initiative for survivors of domestic violence. The U-Visa is designed for “victims of certain crimes who have suffered mental or physical abuse and [who] are helpful to law enforcement or government officials in the investigation or prosecution of criminal activity” (US Citizenship and Immigration Services). Although the current U-Visa process is a vital resource for many undocumented women, many barriers impede the process from being a viable path to legal documentation for vulnerable populations.

- **Increasing the federal cap of U-Visa’s provided yearly.**

- There is a federally mandated cap of 10,000 U-Visas distributed each fiscal year on a first-come basis. All visas have been claimed in recent years before the fiscal year is completed. (NOLO) Due to the demonstrated need, the necessary requirements to for a U-Visa can be improved to prevent excluding the usual acts necessary in order to enter the country as an undocumented citizen or having been in the US for longer than 6 months, if only for the purpose of receiving justice and protection for a domestic violence or sexual assault crime. (See Figure 4 to view the most recent year’s data on U-Visa application outcomes)

- **Amending the stipulation that applicants must have arrived to the US via legal means.**

- The application process can be discriminating and lengthy. Enough NC states that “An applicant for a U-visa must also be admissible to the United States. There are many grounds of inadmissibility to the United States, some of which are as follows: the applicant cannot have entered the United States without permission, lied to immigration authorities, have a criminal record, been unlawfully present in the United States for more than 6 months and then left, falsely claimed to be a U.S. citizen for any benefit, be a threat to national security, just to name a few.” (EnoughNC) Due to the difficulties and barriers of arriving legally in the US as a non-citizen,

many domestic violence surviving immigrant women will not qualify for a U-Visa under these requirements.

Additionally, public government funding can be applied to boost programs such as the Legal Aid of North Carolina, who are currently only sustained financially from the government for emergency-only services via the Victims of Crime Act.

NC SART Undocumented Citizen Programming: The North Carolina Coalition Against Sexual Assault (NCCASA) utilizes a model to best assist sexual violence survivors called Sexual Assault Response Teams (SARTs). SARTs utilize a survivor-centered, multi-disciplinary approach to dealing with sexual assault specifically in rural communities. SARTs consist of teams of law enforcement, legal staff, public servants, school administrators, health professionals, and hospital administrators to ensure that all parties are informed of correct procedures when presented with a sexual assault case. They are designed to install the requirements of Violence Against Women Act which include the following: 1.) To offer rape kits, paid for by Risk and Vulnerability Assessment Team, to all victims regardless of whether or not they have decided to pursue legal action, and 2.) To provide a system of accountability throughout the chain of response to domestic violence and sexual assault crimes, in order to ensure that the community is dedicated to justice for victims. The SART in each community aims to ensure that technical assistance is made available and the process adheres to forensic compliance.

- **Expanding and scaling up the SART Program to better serve undocumented citizens.**

- This network of informed and well-resourced individuals may expand to include interpreters, community and church leaders who connect with these populations, and cultural anthropologists and social workers who have an understanding of the social implications impeding these communities from reporting domestic violence crimes. Should these crimes be

committed in immigrant communities, each member of the SART team will be educated on how to best handle and guide survivors through the process of attaining justice.

CONCLUSIONS

To address the significant and growing population of non-citizen women in NC experiencing domestic violence and sexual assault, various structural adjustments can improve availability of services, quality of support, and likelihood to seek help in these vulnerable populations. Other than the benefits these solutions can bring to undocumented communities, the financial benefits in improving care and support for domestic violence victims is substantial and proven. The Violence Against Women Act that was introduced in 1994 has been estimated to have averted approximately over 14.8 billion dollars in costs, but cost only approximately 1.6 billion dollars to implement (Clark, Biddle, Martin 2002). Investing in both the well-being and health of non-citizen women is not only a cost-beneficial decision, it is one that upholds the third article of the International Declaration of Human Rights, which states that “Everyone has the right to life, liberty and security of person” (IDHR). No matter their citizenship status, women in North Carolina deserve their own liberty and security of person. The suggestions put forth in this policy brief are designed to create and maintain liberty for all.

GRAPHS AND FIGURES:

Figure 1:

TABLE 1. SAMPLE DEMOGRAPHIC CHARACTERISTICS BY ABUSE TYPE (PERCENTAGES)

Demographic Variables	General Population			
	Physical &/or Sexual Abuse n = 139	Psych Abuse, Only n = 33	No Abuse n = 107	Total n = 279
Education				
0 to 4 years	24.6	21.2	22.2	23.3
5 to 12 years	63.0	69.7	68.5	65.9
High school grad	9.4	3.0	9.3	8.6
College or beyond	2.9	6.1	0.0	2.2
Immigration Status				
USC/LPR ^d	23.8	26.7	22.3	23.6
Temporary ^e	26.9	33.3	28.7	28.3
Undocumented	49.2	40.0	48.9	48.0
Time in U.S. (years)	4.7	5.7	5.2	5.1
(S.D.)	(3.85)	(4.48)	(3.87)	(3.94)
Country of Origin				
El Salvador	46.3	50.0	46.0	46.6
Guatemala	11.0	6.3	9.0	9.7
Dominican Rep	8.1	6.3	12.0	9.3
Honduras	5.9	3.1	5.0	5.2
Other Latin	28.7	34.4	28.0	29.1
Spouse Immigration Status				
USC/LPR ^d	47.8	53.3	62.5	52.6
Temporary ^e	10.1	20.0	6.3	10.3
Undocumented	42.0	26.7	31.3	37.1
Father of Child Immigration Status				
USC/LPR ^d	41.7	50.0	18.2	33.3
Temporary ^e	8.3	0.0	0.0	3.7
Undocumented	50.0	50.0	81.8	63.0

^a3-group comparison for age: $\chi^2 = 12.72, p \leq .05$. There are more women over 30 years in the Psychological Abuse, only group than the other two groups.

^b“Partnered” includes married, living together, living with same sex partner.

^c“Unpartnered” includes single, separated, divorced, widowed.

^dUSC/LPR = U.S. citizen or lawful permanent resident.

^e“Temporary” includes temporary conditional resident, provisional permanent resident, temporary resident, seasonal agricultural worker, legal refugee, student visa, tourist visa, business visa, temporary protected status.

(From Dutton 2000: "Characteristics of Help-seeking Behaviors, Resources and Service Needs of Battered Immigrant Latinas: Legal and Policy Implications.")

Figure 2:

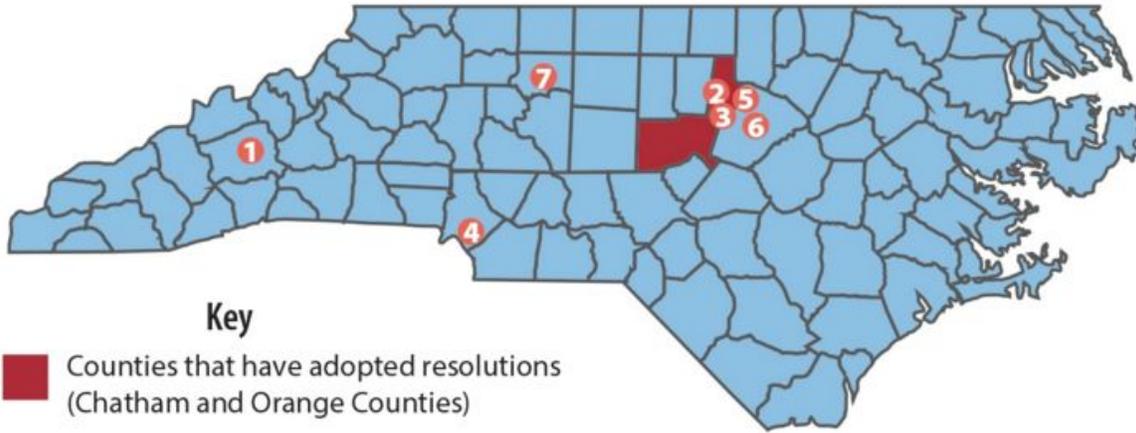
Risk Factors (for Domestic Violence)	Diminishing the Risk Factors
Language Barriers (→ lack of knowledge about legal rights and resources)	English Language Instruction in Hispanic Communities; Bilingual Staff & Publications for Social Service Organizations
Hispanic Cultural Scripts which Condone Violence (E.g. <i>Marianismo</i> , <i>Machismo</i> , <i>Familismo</i> , <i>Respeto</i> , & Catholicism)	Reinterpret Cultural Scripts by Emphasizing Positive Hispanic Cultural Values (e.g. family unity, respect, mutuality, and humility)
Dependency Relations (e.g. a woman may be dependent on her abuser for financial support and language interpretation)	Create Women's Work / Support Groups and Community-Based Education Services so that women can survive without their abusers and can become equal contributors in their relationships
Social Learning of Domestic Violence (children who witness domestic violence may become abusers and victims as adults)	Counseling for children whose parents are in abusive relationships
Inadequate Legal Remedies E.g. U Visas, orders of protection, imprisonment of abusers, mandatory arrest policies... Current remedies give abused women few options – if women want legal protection, they must leave and help deport their abusers (though this might not be in the woman's economic and cultural interest) Legal remedies emphasize punishment instead finding / responding to the factors behind the abuse	Expand women's choice of remedies Provide prevention services for domestic violence services (instead of only responding to abuse which has already happened) for both men and women Introduce culturally-appropriate mediation / counseling services and Restorative Justice approaches Reconcile competing immigration and domestic violence laws (e.g. INA Section 287g and VAWA)

(From Melanie Erb's 2008 presentation titled "Domestic violence among undocumented Hispanic immigrant couples: an ecological solution to the problem.")

Figure 3:

These NC 'sanctuary cities' limit enforcement of immigration policies

There are over 200 sanctuary cities, counties and states in the country that limit enforcement immigration laws and locally issued IDs to those who are not citizens. The following shows the locations of the cities and counties in North Carolina.



- 1 Asheville**
- 2 Carrboro**
Resolution adopted on May 16, 2006
- 3 Chapel Hill**
Resolution adopted on Feb. 26, 2007
- 4 Charlotte**
- 5 Durham**
Resolution adopted on Oct. 20, 2003
- 6 Raleigh**
- 7 Winston-Salem**

SOURCE: SANCTUARYCITIES.INFO

DTH/JOSÉ VALLE

(The Daily Tarheel, 2015)

Figure 4:



Period	Petitions by Case Status											
	Victims of Criminal Activities ¹				Family Members ¹				Total			
	Petitions Received ²	Approved ³	Denied ⁴	Pending ⁵	Petitions Received ²	Approved ³	Denied ⁴	Pending ⁵	Petitions Received ²	Approved ^{3,7}	Denied ⁴	Pending ⁵
Fiscal Year - Total⁶												
2009	6,835	5,825	688	11,863	4,102	2,838	158	9,275	10,937	8,663	846	21,138
2010	10,742	10,073	4,347	7,403	6,418	9,315	2,576	6,242	17,160	19,388	6,923	13,645
2011	16,768	10,088	2,929	10,184	10,033	7,602	1,645	8,329	26,801	17,690	4,574	18,513
2012	24,768	10,122	2,866	19,899	15,126	7,421	1,465	15,592	39,894	17,543	4,331	35,491
2013	25,432	10,030	1,829	33,540	18,263	8,198	1,440	24,956	43,695	18,228	3,269	58,496
2014	26,039	10,020	4,056	45,898	19,229	8,500	3,017	33,111	45,268	18,520	7,073	79,009
2015	30,106	10,026	2,715	63,762	22,560	7,662	1,965	46,541	52,666	17,694	4,680	110,303
Fiscal Year 2015 by Quarter												
Q1. October - December	7,469	10,008	570	42,995	5,618	6,664	405	31,774	13,087	16,672	975	74,769
Q2. January - March	7,235	D	818	49,598	5,541	549	579	36,324	12,776	553	1,397	85,922
Q3. April - June	7,381	D	634	56,440	5,517	276	506	41,155	12,898	278	1,140	97,595
Q4. July - September	8,021	18	693	63,762	5,884	173	475	46,541	13,905	191	1,168	110,303

D Data withheld to protect petitioners' privacy.
 - Represents zero.
¹ Refers to victims of certain criminal activities (U-1) and family members of victims (U-2,3,4,5).
² The number of new petitions received and entered into a case-tracking system during the reporting period.
³ The number of petitions approved during the reporting period.
⁴ The number of petitions that were denied, terminated, or withdrawn during the reporting period.
⁵ The number of applications awaiting a decision as of the end of the reporting period.
⁶ Data unavailable in the reporting system for previous fiscal years.
⁷ The U visa cap is against the principal only. The derivatives are not counted in the annual cap of 10,000.
 NOTE: 1) Some petitions approved or denied may have been received in previous reporting periods.
 2) The report reflects the most up-to-date estimate available at the time the report is generated.

(US Citizenship and Immigration Services)

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