

PROVINCIAL BRIEFING DOCUMENT 6: EXECUTIVE SUMMARY

Criminal Justice System Issues for Abused Immigrant, Refugee, and Non-Status Women

It is important that the criminal justice system is equipped to respond to the particular circumstances of immigrant, refugee, and non-status women who are victims of domestic or sexual violence. As the needs of these women and their children may differ in crucial ways from those of abused Canadian-born women and their children, it is essential that any initiatives designed to improve the criminal justice system's response to violence against women, including initiatives being undertaken as part of the Government's *Domestic Violence Action Plan*, specifically take account of this particularly vulnerable population.

Recommendations

Immediate

1. The Ministry of Public Safety and Solicitor General (MPSSG) and the Ministry of Attorney General (MAG) should ensure that the Government's *Domestic Violence Action Plan*, including the criminal justice system components, incorporates a specific focus on the needs and circumstances of abused immigrant, refugee, and non-status women and their children.
2. As part of the *Domestic Violence Action Plan*, MPSSG and MAG should ensure that all criminal justice personnel are well trained in the nature and dynamics of domestic violence against immigrant, refugee, and non-status women, including risk-factors that may be specific to this group, and on the importance of coordination and risk related information-sharing and federal and provincial privacy legislation.
3. As part of the updating of the *Violence Against Women in Relationships (VAWIR) Policy*, MPSSG and the MAG should ensure that the policy includes a specific focus on the needs and circumstances of abused immigrant, refugee, and non-status women and their children.
4. As part of the updating of the VAWIR Policy, MPSSG and MAG should work with police and Citizenship and Immigration Canada (CIC) to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women. These should ensure that: women and their children's safety is a priority; offenders are arrested for their abuse; any pending removal issues arising from women's lack of status be put "on hold" until custody matters have been resolved; and women are aware of these protections.
5. MPSSG and MAG should ensure that abused immigrant, refugee, and non-status women who do not speak English are provided with a qualified interpreter for all criminal justice matters, both within and outside the court, including at the time of the initial police response.

Medium-term

6. MPSSG should ensure that all its contracted victim-serving agencies receive adequate training on the importance of coordination and risk related information-sharing and on federal and provincial privacy legislation, while appreciating that the safety of women and their children must be the overriding concern.
7. MPSSG and the MAG should make every effort to ensure that language interpreters used to assist abused immigrant, refugee, and non-status women in criminal justice system matters are trained in the nature and dynamics of domestic violence and the particular impacts of such violence for immigrant, refugee, and non-status women and their children.



PROVINCIAL BRIEFING DOCUMENT 6

Criminal Justice System Issues for Abused Immigrant, Refugee, and Non-Status Women

ISSUE: It is important that the criminal justice system is equipped to respond to the particular circumstances and needs of immigrant, refugee, and non-status women who are victims of domestic or sexual violence.

KEY POINTS

- As the needs of abused immigrant, refugee, and non-status women and their children may differ in some important ways from those of abused Canadian-born women and their children, it is essential that any initiatives designed to improve the criminal justice system's response to domestic or sexual violence against women, including initiatives being undertaken as part of the Government's *Domestic Violence Action Plan*, specifically take account of this particularly vulnerable population.
- It is important that criminal justice personnel, including police, Crown counsel, corrections personnel, and victim service workers be well-trained in the particular circumstances and pressures facing abused immigrant, refugee, and non-status women, including risk factors that may be specific to this group.
- In order to address safety issues for abused immigrant, refugee, and non-status women and their children, it is essential that abused immigrant, refugee, and non-status women who do not speak English are provided with a qualified language interpreter for all criminal justice matters, both within and outside court, including for the initial police response.
- It is important that language interpreters used to assist abused immigrant, refugee, or non-status women in criminal justice system matters are trained in the nature and dynamics of domestic violence and the particular impacts such violence may have for immigrant, refugee, and non-status women.
- In order to maximize safety for immigrant, refugee, and non-status women, it is important that the criminal justice system response to domestic violence against immigrant, refugee and non-status women be coordinated with other provincial service providers responding to domestic violence as well as with Citizenship and Immigration Canada (CIC), including the Canada Border Services Agency (CBSA).
- Lack of coordination between CIC, including CBSA, and police regarding non-status women who have unresolved custody issues involving Canadian-born children may result in a lack of information-sharing about the risks facing Canadian-born children if their mother

is removed from Canada. A situation in which a woman is removed from Canada while a custody case is in progress, leaving her Canadian-born children in the care of a father who has been violent towards their mother, is arguably not in the best interests of the child. It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children.

THE CONTEXT

- Many of the women murdered and seriously injured in BC in recent years as a result of domestic violence have been immigrants. Some of the risk-factors and needs relating to domestic violence cases involving immigrant, refugee, and non-status women, many of whom do not speak fluent English, may differ from those involving Canadian-born women.
- In response to the murder of the Lee/Park family in Oak Bay in 2007, two reports were produced: the British Columbia Coroner's Service Report, *Findings and Recommendations as a Result of the Inquest Into the Death of CHUN, Kum Lea; PARK, Moon Kyu; LEE, Christian Thomas Jin Young; PARK, Yong Sun; LEE, Hyun Joon* and the report of the Representative for Children and Youth, *Honouring Christian Lee*.
- In response to these two reports, the BC Government has developed a *Domestic Violence Action Plan*, led by the Ministry of Public Safety and Solicitor General.
- As part of its *Domestic Violence Action Plan*, the Province is reviewing and updating the *Violence Against Women in Relationships Policy* to ensure a coordinated approach across all components of the justice system, setting out roles and responsibilities of all service providers who respond to domestic violence (Ministry of Public Safety and Solicitor General, 2010).
- Front-line workers have described cases of non-status women being threatened with criminal charges if they leave the country with their children before a custody matter has been resolved. There have also been reports from workers of non-status women being removed from Canada while custody matters are still before the courts.
- Research has indicated that in some instances, lack of qualified interpreters as part of the police response to domestic violence against non-English-speaking women in BC have put abused immigrant women at risk of further violence. (Light, 2007).

RECOMMENDATIONS

1. The Ministry of Public Safety and Solicitor General (MPSSG) and the Ministry of Attorney General (MAG) should ensure that the Government's *Domestic Violence Action Plan*, including the criminal justice system components, incorporates a specific focus on the needs and circumstances of abused immigrant, refugee, and non-status women and their children.
2. As part of its review and updating of the *Violence Against Women in Relationships Policy*, MPSSG and the MAG should ensure that the policy includes a specific focus on the particular needs and circumstances of abused immigrant, refugee, and non-status women and their children.

3. MPSSG and MAG should take steps to ensure coordination between the criminal justice system and Citizenship and Immigration Canada (CIC) to make sure that an abused non-status woman is not removed from Canada while a child custody matter is still before the courts.
4. As part of the Province's review and updating of the *Violence Against Women in Relationships Policy*, MPSSG and MAG should work with police and CIC to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women. These should ensure that: women and their children's safety is a priority; offenders are arrested for their abuse; any pending removal issues arising from women's lack of status be put "on hold" until custody matters have been resolved; and women are aware of these protections.
5. In order to address the safety of abused immigrant, refugee, and non-status women and their children, MPSSG and the MAG should ensure that abused immigrant, refugee, and non-status women who do not speak English are provided with a qualified language interpreter for all criminal justice matters, both within and outside the court, including at the time of the initial police response.
6. As part of the *Domestic Violence Action Plan*, MPSSG and the MAG should ensure that all criminal justice personnel are well trained in the nature and dynamics of domestic violence against immigrant, refugee, and non-status women, including risk-factors that may be specific to this group, and on the importance of coordination and risk related information-sharing and federal and provincial privacy legislation.
7. MPSSG should ensure that all its contracted victim-serving agencies receive adequate training on the importance of coordination and risk related information-sharing and on federal and provincial privacy legislation, while appreciating that the safety of women and their children must be the overriding concern.
8. MPSSG and the MAG should make every effort to ensure that language interpreters used to assist abused immigrant, refugee, and non-status women in criminal justice system matters are trained in the nature and dynamics of domestic violence and the particular impacts of such violence for immigrant, refugee, and non-status women and their children.

CONTACT: Tracy Porteous, Executive Director
Ending Violence Association of BC
Telephone: 604-633-2506
E-mail: porteous@endingviolence.org

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This document is one of a series of eight provincial and six federal Briefing Documents produced by the Ending Violence Association's Community Coordination for Women's Safety Program as part of its Safety for Immigrant, Refugee, and Non-Status Women Project.