

# **Domestic Violence Expert Witnesses: Immigration Proceedings**

by  
Noël Busch-Armendariz

and

Edna Yang

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NATIONAL CLEARINGHOUSE FOR  
THE DEFENSE OF BATTERED WOMEN  
Working for justice for victims of battering charged with crimes

# Domestic Violence Expert Witnesses: Immigration Proceedings

Written by  
Noël Busch-Armendariz, Ph.D., LMSW, MPA  
Professor and Associate Dean of Research  
University of Texas at Austin

and

Edna Yang, JD  
Legal Director  
American Gateways

for the  
National Clearinghouse for  
Defense of Battered Women  
Philadelphia, PA

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# Preface

Between April 2013 and November 2016, the National Clearinghouse for the Defense of Battered Women conducted 15 webinars related to the use of expert witnesses. This paper is one (of four) papers based on webinars in that series. The other papers include:

*Advocates As Expert Witnesses: Weighing Benefits and Drawbacks* by Cindene Pezzell

*Domestic Violence Expert Testimony: Legal Settings and Issues* by Cindene Pezzell

*Domestic Violence Expert Witnesses: Tips to Help Prepare for Your First Case* by Scott Miller and Melissa Scaia

The webinar series included webinars on weighing possible benefits and drawbacks of advocates being experts, use of expert witnesses in immigration proceedings involving victims of battering, lessons learned from the witness stand, and the use of expert witnesses in civil legal proceedings.

Download the papers from this series and other papers on expert witness-related topics at <https://www.ncdbw.org/publications>

Find the expert witness series webinars at [http://www.ncdbw.org/experts\\_recordings.htm](http://www.ncdbw.org/experts_recordings.htm)

*Domestic Violence Expert Witnesses: Immigration Proceedings* is based on a two-part webinar series presented by Noël Bridget Busch-Armendariz and Edna Yang. It includes contributions by Margaret Bassett.

**Noël Bridget Busch-Armendariz, PhD, LMSW, MPA**, is a Professor at the School of Social Work at the University of Texas at Austin and the associate dean of research. She is the founder and principal investigator of the UT-Austin Institute on Domestic Violence and Sexual Assault (IDVSA), a collaboration of the Schools of Social Work, Nursing, and Law and the Bureau for Business Research and more than 150 affiliate community organizations. She is regularly called as an expert witness in criminal, civil, and immigration cases and directs national trainings on the topic.

**Edna Yang, JD**, is the Legal Director for American Gateways and past Interim Executive Director. Edna represents indigent immigrants before the Immigration Service, the Immigration Court, and in Federal Court. She also conducts training sessions for law enforcement officials and social service providers throughout central

Texas and nationally about how to work with and provide services to immigrants in the community.

The authors have worked together on several immigration cases involving victims of intimate partner violence.

# Introduction

Expert witnesses can play a key role in immigration proceedings when issues of intimate partner violence (IPV) arise. Many of the adjudicators in these proceedings — who are either judges or hearing officers — have little to no background in the dynamics of IPV. An expert’s explanation of the power and control that exists in battering relationships can have a significant impact on the outcome of a case.

Domestic violence (DV) advocate experts who participate in immigration proceedings or are interested in doing so are the primary audience for this paper. This material may also be helpful to domestic violence experts from other professions (e.g., clinicians, academics) who become involved or are interested in immigration proceedings.<sup>1</sup>

Immigration proceedings are typically less formal than civil or criminal court proceedings and may sometimes, although certainly not always, be less adversarial and less stressful for an IPV expert. While immigration proceedings can be a good place for newer IPV experts to gain experience, the stakes are high for the victims involved. Community-based advocates serving as experts in civil or criminal proceedings usually do not interview the parties or provide victim-specific testimony.<sup>2</sup> Experts in immigration cases almost always interview the victim and provide a written report to the court. Since these interviews resemble an intake at a community-based anti-DV program, rather than a forensic assessment, advocates may be more comfortable and experienced with this type of interview.<sup>3</sup> When working with a skilled attorney, even a new IPV expert may be influential in an immigration proceeding.

This resource is not intended to be a primer on immigration law or procedures. Although it includes some basics about immigration law and courts, focus is on providing community-based advocates with general information about how to be an IPV expert in cases where victims are involved in immigration proceedings.

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<sup>1</sup> A related publication from the National Clearinghouse may also be useful to advocates and other domestic violence experts: *A Guide for Advocates Working with Battered with Immigrant Women Charged with Crimes* (Benson and Junck). While written primarily for community-based advocates, experts testifying in immigration proceedings may also find it helpful. The guide helps build a working understanding of some of the key concepts and issues related to working with immigrant victim-defendants. Available at <http://ncdbw.org/>.

<sup>2</sup> See *Domestic Violence Expert Testimony: Legal Settings and Issues* by Cindene Pezzell in the National Clearinghouse expert witness series.

<sup>3</sup> A forensic assessment — also referred to as a forensic interview — is a formal, investigative interview with a fact-finding purpose and goal of obtaining as much accurate and reliable information as possible. Confidentiality is limited and it is usually recorded.

## HOW CAN AN EXPERT HELP?

Immigrant victims of battering have often suffered extreme violence, in their countries of origin and in the United States. Because of myths and misconceptions about IPV, however, adjudicators making decisions about whether to grant immigration relief often do not believe that the victim was abused or understand the dynamics and impact of IPV. Experts on IPV — including community-based advocates — can be extremely helpful in educating the court.

The paths to citizenship for immigrants are extraordinarily complicated and beyond the scope of this paper.<sup>4</sup> While IPV experts in immigration proceedings do not have to be experts on the nuances of immigration law, it is helpful for them to have a basic understanding of the types of immigration proceedings with which victims of IPV are most often involved. In these proceedings, the history of IPV is often crucial to the victim getting immigration relief and/or some type of status in the United States. An expert can be instrumental in helping the adjudicator understand an immigrant victim's experiences of abuse. Immigration proceedings in which victims of IPV are commonly involved include:

- *VAWA self-petitions or family petitions.* A victim seeks to become a Lawful Permanent Resident (LPR) because of family ties in the United States or because of past and current abuse.
- *VAWA cancellation of removal or other types of waiver applications.* A victim tries to stop a deportation based on the violence and abuse suffered while in the United States.
- *U-Visas.* An immigrant seeks to stay in the United States after being a victim of a qualifying violent crime and assisting law enforcement to detect, investigate, or prosecute the crime.
- *T-Visas.* An immigrant seeks to stay in the United States after being a victim of a severe form of human trafficking, is likely to suffer extreme hardship if returned to their home country of origin, and is assisting law enforcement investigation of the trafficking.
- *Asylum.* An immigrant victim seeks asylum status in the United States based on persecution suffered in her country of origin. If asylum status is granted, the immigrant can apply for a green card after a year following the grant of status. The persecution suffered can be gender-based, such as female genital mutilation, forced marriage, family violence, consequences of divorce, refusal

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<sup>4</sup> For general and current information about immigration laws and immigrant rights, see the ACLU Immigrants' Rights page: <https://www.aclu.org/issues/immigrants-rights>. Also, U.S. Citizenship and Immigration Services in the Department of Homeland Security, including specific information for "Battered Spouse, Children & Parents" at <https://www.uscis.gov/humanitarian/battered-spouse-children-parents>.

to comply with gender norms, and/or being LGBTQ. Some, but not all, IPV experts may have the experience, background, or training to be able to offer an expert opinion about the unique issues of violence that arise under this type of proceeding.

When part of the evidentiary threshold required for an immigrant victim to get relief is grounded in IPV, such as whether the victim was “battered or subject to extreme cruelty” or “extreme hardship,” the testimony of an IPV expert can be critical in meeting that threshold. As is true for many IPV victims, immigrant victims frequently may have little or no documentation of their experiences of being battered, controlled, or otherwise abused. The victim may have done — or failed to do — things that lead uninformed people to think that the person really isn’t a victim or that the abuse was minor. Experts can be particularly helpful by educating the court on the non-physical forms of abuse, especially when there haven’t been hospitalizations or physical manifestations of assault. An expert can help an adjudicator understand how someone can be a victim of extreme cruelty regardless of whether there is documented physical abuse.

In cases where the victim is seeking either U-Visa or T-Visa — when being a crime victim is part of the eligibility criteria — experts are extremely helpful in documenting and substantiating the abuse and harm-related evidentiary requirements. For example, experts can help to demonstrate how the abuse and trauma experienced while being trafficked has impacted a victim’s entire life, resulting in isolation, injury, stigmatization, and so forth. A clear, thorough picture of the abuse can be critical in educating the adjudicator about how the victim’s experiences of abuse and trauma may render the victim unable to comply with a request from law enforcement for assistance, thereby supporting an exemption from the crime reporting requirement for a U-Visa or T-Visa. Additionally, an expert can help to explain the ways in which trauma can sometimes cause the victim to behave in ways that might otherwise appear puzzling. For example, an expert might be able to help the adjudicator understand why the victim appears to be unemotional.

## ROLES

Experts and attorneys in immigration proceedings often work closely together. This relationship works best when both individuals are clear on their respective roles. While expert witnesses can be crucial in securing a good outcome for a battered immigrant, it is the attorney’s job to persuade the judge or hearing officer — the adjudicator — that the survivor’s position is meritorious. The expert’s job is not to “prove” the case, but to support the attorney in presenting relevant information about intimate partner violence.

### **ATTORNEY**

- Analyze the legal case and determine type of relief to be sought.



- Determine the strengths and weaknesses of the case.
- Develop the case plan/theory.
- Share the case theory with the expert and collaborate with the expert on how the expert's testimony or written submissions can support the case theory.
- Persuasively argue the client's claim.
- Present evidence that can corroborate the expert's opinion whenever possible.

### **EXPERT WITNESS**

- Provide content expertise about relevant issues in the case to educate both the attorney that has engaged the expert and the trier of fact.
- Highlight the ways that intimate partner violence is generally misunderstood.
- Validate case-related findings through experience, research, and literature.
- Consider all evidence available, including review of case documentation.
- Provide alternative explanations for survivor behaviors that might appear puzzling or counterintuitive.
- Provide testimony and/or a written report or affidavit.
- Give an unbiased, informed professional opinion.

# Qualifying as an expert witness

There are people from many backgrounds and walks of life who have the expertise to participate as an expert in immigration proceedings. In cases where a domestic violence expert is used, there is no requirement that the expert have a specific background or educational certification. However, before an expert gives testimony or submits an affidavit, the judge or hearing officer must decide whether the expert is “qualified” — namely, whether the expert has the requisite relevant expertise to testify. Immigration judges and hearing officers have a lot of discretion about whom they will allow to testify as an expert and/or submit written reports. In many cases, experienced advocate experts may be permitted to testify.

Immigration proceedings are not technically governed by the Federal Rules of Evidence, though immigration judges may look to the rules for guidance when deciding who may testify as an expert. Rule 702 (commonly known as the *Daubert* Standard) is the federal rule that controls the admission of expert testimony. Rule 702 states, in part, that “the expert’s scientific, technical, or other specialized knowledge will help the trier of fact to understand the evidence or to determine a fact in issue” and that a “witness who is qualified as an expert by knowledge, skill, experience, training, or education may testify in the form of an opinion or otherwise.”

In practice, adjudicators in immigration proceedings usually do not apply this rule stringently, but even those who do may find that an advocate with years of experience is qualified to serve as an expert witness.<sup>5</sup> The Board of Immigration Appeals (BIA) — the agency that makes decisions about immigration decisions that have been appealed — has said that “expert witness” is broadly defined,<sup>6</sup> although “junk science” should be excluded from administrative proceedings.<sup>7</sup>

Though advocate experts may be qualified to testify as experts in immigration proceedings, each immigration case is unique, as is any case. Not every expert will be right for every case. Attorneys and experts should be on the same page about what kind of expertise is needed for the case and whether that expert is the right person for the job. For example, as discussed later, some attorneys may want a bio-psychosocial assessment or mental health assessment of their client by the domestic violence expert. Many advocate experts will not have the necessary expertise to complete these kinds of assessments.

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<sup>5</sup> “There is no ironclad requirement that an academic, to be qualified as an expert witness, must publish academic books or articles in the precise subject matter of her testimony.” *Niam v. Ashcroft*, 354 F.3d 652 (7th Cir. 2004); *Matter of DR*, 25 I&N Dec. 445 (BIA 2011).

<sup>6</sup> In *Matter of DR*, I&N Dec. 445 (BIA 2011).

<sup>7</sup> *Niam v. Ashcroft*, 354 F.3d 652 (7th Cir. 2004).

Experts don't need to be researchers, but it is often helpful to include well-founded research in oral testimony and written reports because it makes it easier for judges to justify why they ruled one way or another. Using phrases such as "this is consistent with the research in the field," citing to easily accessible resources, and providing resources for the attorney to include with the documents submitted to the court can be useful.

In general, advocates (and any other service providers) should not testify as experts on behalf of victims they are providing services to. Advocates and experts have very different roles and an expert's objectivity and credibility may be called into question if the expert is also the victim's advocate.<sup>8</sup> In addition, there may be disclosures that occur during a therapeutic relationship (such as between an advocate and a battered woman) that should not be the subject of expert testimony.<sup>9</sup>

In some cases, the attorneys on both sides will stipulate that the expert is qualified and the expert will not have to answer questions about their expertise. Usually, however, the finder of fact will make the determination based on testimony by the expert. If there is no hearing, the expert typically submits an affidavit which the immigration adjudicator reviews to determine whether the expert's opinions can be considered as evidence and what weight to give those opinions. Whether through a hearing or affidavit, experts will be evaluated in three general areas: experience, education, and methodology. Table 1 provides an overview of each area and illustrations of the ways in which an expert can prepare to answer the adjudicator's questions.

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<sup>8</sup> See Domestic Violence Expert Witnesses: Tips to Help Prepare for Your First Case by Scott Miller and Melissa Scaia in the National Clearinghouse expert witness series.

<sup>9</sup> For more on this issue, please contact the National Clearinghouse.

**TABLE 1**  
**Qualifying as a domestic violence expert witness**  
**Information the immigration court is seeking**

AREA OF EXPERTISE	HOW TO PREPARE . . . WHAT TO PROVIDE
<p>Direct practice experience</p> <p>Experts will be asked to explain the direct service work they have done with survivors of battering, people who batter their partners, children, etc.</p>	<ul style="list-style-type: none"> <li>• Estimate the number of people worked with directly.</li> <li>• Estimate the number of employees and volunteers supervised.</li> <li>• Include relevant volunteer service work.</li> <li>• Describe the type of direct practice, services provided, and the dates involved.</li> </ul>
<p>Education and training</p> <p>Experts don't necessarily need advanced degrees to qualify to testify, but should be prepared to explain their informal and formal sources of knowledge.</p>	<ul style="list-style-type: none"> <li>• State credentials accurately and without exaggeration.</li> <li>• Include all relevant sources of education and training, including schooling, conferences, trainings/certificates, writing/publications, and reading.</li> <li>• Include any direct responsibility for or contributions to research.</li> </ul>
<p>Methodology</p> <p>Methodology refers to how experts arrived at their professional opinions about issues of battering and intimate partner violence (e.g., the professional opinion that intimate partner violence is about power and control).</p>	<ul style="list-style-type: none"> <li>• Explain how the professional opinions, theories, or techniques offered are accepted as valid by the DV field and research community.</li> <li>• Cite peer-reviewed research.</li> <li>• Talk about prevalence, rates and other statistics, IF able to articulate them with ease and cite the source.</li> </ul>

**Prepare with the attorney requesting the expert's qualification.**  
**Practice answering questions whenever possible.**

# Common areas of expert testimony

As in other kinds of cases, an expert's involvement can give the fact finder important background information about the victim's experiences of abuse and the impact that abuse had on her, help buttress the victim's credibility by normalizing her experiences, and educate the fact finder about the dynamics of family violence.

Every case is unique, and there is no finite list of issues that a domestic violence expert witness may be asked about. In addition to the general dynamics of IPV, an expert may be asked about "power and control" and the "cycle of violence," among many other topics.

## THEORIES OF INTIMATE PARTNER VIOLENCE

### POWER AND CONTROL

"Once the victim is fully committed to the relationship and experiences a support and love from her partner, the abuser typically uses other methods of power and control to regulate the victim's behavior (Bancroft, 2002)."

The Power and Control Wheel is a useful tool. It can often be used as a visual aid by experts during their oral testimony or included as a part of their reports. Physical violence, sexual violence, use of children, economic control, and isolation are clearly defined and the tool is well-accepted in the field.<sup>10</sup>

When discussing power and control in cases involving immigrant survivors, there are additional factors to consider that are not always present in non-immigration cases, including:

- Threats to be turned into immigration (ICE)
- Threats to be deported without children
- General mistrust of law enforcement
- Isolation from support systems in home country
- Limited or no English language

<sup>10</sup> The Power and Control Wheel was developed in 1984 by the Duluth Domestic Abuse Intervention Project (DAIP) as a graphic way to describe battering for victims, offenders, practitioners in the criminal justice system, and the public. DAIP convened multiple focus groups with women who had been battered and documented the most common abusive behaviors or tactics. For history and a library of wheels, see <https://www.theduluthmodel.org/wheels/>. Futures Without Violence, with permission from DAIP, has adapted the wheel to reflect the forms of power and control that immigrant women experience. Download the adapted wheel at <https://www.futureswithoutviolence.org/power-and-control-tactics-used-against-immigrant-women/>

- Lack of access to interpreters
- Inability to earn money
- Limited or no access to driver's license, car, public transit

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### **Case report example: Excerpt from an expert report describing power and control**

*Mr. P severely restricted his wife's personal freedom in manners consistent with extreme psychological abuse (O'Leary & Maiuro, 2001). Ms. D states that her husband is "real jealous" and that he frequently accused her of infidelity or of looking at other men. Though he owned a car, he refused to teach her to drive and would not let her make friends with people outside his immediate family or leave the house with anyone else. Ms. D experienced further social isolation during the time the couple resided in Charlotte, because the house had no phone. Mr. P often left Ms. D alone to care for their infant daughter for days without explanation of where he was or when he would return. Withholding information on where he was and what he was doing or how to be in touch with him, and her inability to make decisions, get support from her family members, or experience self-efficacy, are examples of the ways that Mr. P controlled his wife.*

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### **THE "CYCLE OF VIOLENCE"**

Originally described by Lenore Walker (1979), the "cycle of violence" in abusive relationships commonly consists of three phases: a tension building phase, an acute battering phase, and a honeymoon phase. Revisions of the cycle of violence theory have been proposed in response to critiques that women who are battered do not experience the phases as originally conceived.<sup>11</sup>

Since Walker's work is often considered classic in the field of intimate partner violence, using it may allow an expert to speak with added authority. However, it is

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<sup>11</sup> For an overview of theories of intimate partner violence and summary of critiques of the "cycle of violence," see "Theories of Violence" at <http://hrlibrary.umn.edu/svaw/domestic/link/theories.htm>. Critics observe that the theory "was not consistent with women's experiences. Many women never experienced a honeymoon period. Others stated that there was no gradual build-up of tension, but rather unpredictable, almost random, episodes of battering. This theory also did not explain why men directed their explosions of rage only against their intimate partners." See also, Dutton, with Osthoff and Dichter (2009), who note that "there is little empirical evidence testing the cycle of violence theory. Walker's own early research showed that only some of the women interviewed in her study reported patterns of abuse consistent with this theory" (p. 2). [http://www.ncdsv.org/images/Dutton\\_UpdateBWSCritique\\_8-2009.pdf](http://www.ncdsv.org/images/Dutton_UpdateBWSCritique_8-2009.pdf).

important for experts to build in and use current research and to acknowledge disagreements or controversies in the field when they exist, such as critiques of the “cycle of violence” theory. Experts who testify about the “cycle of violence” may face challenges to this area of research and must be prepared to explain the controversy behind this construct. Some experts prefer to talk about certain non-prescriptive stages that an abusive relationship may or may not go through.

Although considered by some to be controversial and/or outdated, some experts — including one of the authors of this paper — have found the cycle of violence conceptualization helpful when answering questions about “why didn’t she just leave?” or “why did she go back?”<sup>12</sup> Dr. Busch-Armendariz has found that utilizing the cycle of violence theory may be an effective strategy to help the adjudicator to understand manipulative perpetrator behavior, including how most relationships that are abusive do not start out abusive, how difficult it is for a victim to leave an abusive relationship, the coexistence of abuse and “love,” and other manipulative behaviors.

## EXPLAINING “WHY DIDN’T SHE LEAVE?” OR “WHY DID SHE GO BACK?”

Finders of fact may need to be educated about the reasons that some victims stay with their abusive partners. It is often important for experts to give specific, straightforward reasons as to why the victim in the case didn’t leave her abusive relationship.

It is almost always imperative for an expert to explain “why didn’t she just leave?” or “why did she go back?” These questions almost always come up in court proceedings. These questions almost always come up in court proceedings, largely because the average person — including an immigration court adjudicator — does not understand or believe that abusive relationships do not start out as abusive; physical abuse usually isn’t constant; and that anyone can be a victim of battering. The average person typically finds it difficult to comprehend these and many other reasons why a victim of battering doesn’t “just leave,” including — but by no means limited to — danger, fear, isolation, lack of resources, loss of economic stability, homelessness, and children’s needs.

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<sup>12</sup> Walker’s early writings discussed the concept of “learned helplessness” as being involved in the cycle of violence. While Dr. Busch-Armendariz testifies about the cycle of violence, she does not use Walker’s theory of learned helplessness as that theory has been disproven by Davies and others in looking at a victim’s ability to use protective behaviors (Davies and Lyon, 1998). However, it is important to give Lenore Walker credit for her seminal work because it gave the field a basis to articulate and name the complexities involved in perpetrators’ behaviors against victims.

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### Case report example: Explaining the inability to escape abuse

*Mr. X has suggested to his wife that she can “just leave” the relationship if she does not approve of his extramarital affairs, addictive video gaming, and other behaviors, such as going out of town without her, keeping their finances secret, etc. He is exerting his control over her with this threat that she can “just leave.” Like most abusers, he knows that his wife is unable to leave him because of her vulnerability as an immigrant to the U.S. She is vulnerable because of her immigration status and her financial dependency. Research indicates that abusive partners married to immigrant women are acutely aware of their power to control their partners’ actions. When an abuser uses psychological and emotional abuse, as Mr. X has done, there is no need to use physical violence to control a victim.*

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If the expert witness fails to educate the court about the complexities involved in a victim’s decisions, it is likely that the court will reach its own conclusions (i.e., that the abuse was not very bad, that she was not actually abused, not a “real” victim, etc.), which can be extremely detrimental to a victim’s case. Thus, it is often helpful for the expert to preemptively explain that the dynamics involved in a survivor’s decisions are based on the behavior of the abuser and that she is trying to negotiate and secure safety for herself — and perhaps her children, too — in response to that abusive behavior.

Experts have different ways of explaining how someone might end up being victimized and staying in a relationship. Some talk about “grooming” behaviors by the batterer or early stages in the abusive relationship that create dependency and trust. As previously discussed, others use

the “cycle of violence” to help explain how relationships that involve intimate partner abuse do not begin with an abusive incident (among other things). On the contrary, relationships that later involve intimate partner violence typically begin as romantic and loving.

An expert must help the educate the court (and others, including a victim’s attorney) that many abusive relationships often involve periods of time in which no physical abuse occurs and that after a violent episode many abusers may exhibit contrite or remorseful behavior with promises of reform. There might be many days, weeks, and months of perceived change, prompting hope by their victims that this change will be permanent. Although these gestures appear to be genuine, they serve to control the victim through encouraging hope in a sincerity to change (Bancroft, 2002). Many survivors may still love their partners and believe that the relationship will work out. Many victims, particularly those with children, report that they want to be hopeful that their partners have changed and will again become the non-abusive person that they fell in love with. Fear of retaliation, physical violence and/or death, threats to



stalk and stalking behaviors, and retribution by using finances, children, and other means are also controlling and coercive behaviors that keep victims from leaving or push them to return to an abusive partner.

In short, it is the *abusive partner's* manipulative behavior that keeps victims engaged in the relationship. An expert can help the court understand how the manipulation, charm, threats, and violence all can co-exist within one relationship and how the abuser's inconsistent behavior is a tactic of control that makes it difficult for a victim to get away. An expert can help provide the needed contextual analysis of the abuser's behaviors and motivations that helps explain how someone might end up in an abusive relationship, and be unable to freely and safely leave.

Experts can also help the court understand that leaving doesn't always end violence and that staying can be safer than leaving. It can be helpful to explain to the adjudicator that many survivors do try to leave — typically more than once — and the violence they experience while trying to leave can affect future decision-making.

## GENDER

The adjudicator may believe that only women can be victims of intimate partner violence. Experts can explain that while most abuse victims are women — particularly in the context of battering — men can also be victims of domestic violence or sexual assault. Perpetration of intimate partner violence isn't always limited to one gender.

An expert can also address issues and experiences for immigrant LGBTQ survivors, such as "outing" as a tactic of control and abuse in same-sex relationships, persecution based on gender identity or sexual orientation, and increased vulnerability of LGBTQ individuals in immigration detention.<sup>13</sup>

## ABUSE IS NOT ALWAYS PHYSICAL

An expert can clarify that physical violence is not the only kind of abuse used by an abuser and that physical abuse can happen intermittently among other types of abuse. Because a victim of battering doesn't always show signs of physical violence, it is often helpful for experts to preemptively explain the different kinds of violence, coercion, and control that can take place in an abusive relationship.

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<sup>13</sup> The Immigrant Legal Resource Center provides practice tips and legal guidance related to the needs of LGBTQ immigrants: <https://www.ilrc.org/lgbt-immigrant-rights>. Just Detention International reports on the targeting of LGBTQ persons in U.S. immigrant detention facilities: <https://justdetention.org/wp-content/uploads/2015/10/FS-LGBTQ-Detainees-Chief-Targets-for-Sexual-Abuse-in-Detention.pdf>. VAWnet online resource library has published a special collection on intimate partner violence in LGBTQ communities (2013): <http://vawnet.org/sc/preventing-and-responding-domestic-violence-lesbian-gay-bisexual-transgender-or-queer-lgbtq>.

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### **Case report example: Discussing impact of economic abuse and other tactics of control related to immigration status**

*Mrs. Y states that her husband, a US citizen, has not provided her the support that newcomers to this country need and that is often part of a healthy marriage. He has not initiated a change in her immigration status, although she is likely eligible for this change given her marriage to him. Domestic violence research on immigrant women indicates the use of immigrant status is one of the most effective non-physical ways to control a partner because it “determines an individual’s social and political rights” (Lockhart and Danis, p. 156). For example, Mrs. Y is unable to obtain a driver’s license, which creates great difficulty in her ability to access support from friends or other services, employment, and many other activities in which citizens engage. Given this, her ability to make decisions, get support in the community, become less isolated, and experience self-efficacy is severely limited. Consequently, Mrs. Y is also dependent on her husband for her financial well-being. She must ask — as if she was a child and not a partner — for money for food, her monthly cell phone charges, and other necessities, such as feminine products. Relationships that are based on equality involve both partners’ having access to their resources, regardless of who earns the income. Financial control is very apparent in this relationship. The restriction of her cell phone has been particularly detrimental for Mrs. Y because not only does it restrict her ability to connect with others in her immediate community, she also experiences extreme stress from being unable to be in touch with her family in her home country.*

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Research indicates that abusers routinely use non-abusive tactics to maintain power and control over their victims. Among these non-abusive tactics are intimidation and threats, emotional abuse, verbal abuse, psychological abuse, economic deprivation, using male privilege, and the use of children (Walker, 1979; Gelles, 1997; Davies, 1998; O’Leary & Maiuro, 2001).

An expert can educate the adjudicator on the primary dimensions of psychological abuse, for example, including (1) denigrating damage to partner’s self-image or esteem, (2) passive-aggressive withholding of emotional support and nurturance, (3) explicit or implicit threatening behavior, and (4) restricting personal freedom (O’Leary and Maiuro, 2001).

An expert can assist the adjudicator in recognizing and understanding the impact of economic abuse, such as coerced debt, which is another common example of

non-physical abuse. One form of coerced debt occurs when an abusive partner obtains credit in the victim's name through fraud, manipulation, and coercion. Coercive debt has generally gone undetected because until recently there have been few screening questions about economic coercion and no recourse for battered women to untangle themselves from this abusive strategy (Littwin, 2012).

Immigrant victims of battering may experience versions of these tactics that are specific to their experience of immigration, such as threatening to report her to Immigration and Customs Enforcement (ICE), refusing or failing to file immigration papers to legalize her status, threatening to remove her children from the United States, hiding or destroying important papers (e.g., her passport, children's passports), isolating her from persons who speak her language, and not allowing her to learn English.<sup>14</sup>

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<sup>14</sup> See note 11. Forms of Domestic Violence that Women Experience: Immigrant Women Experience is an adaptation of the Power and Control Wheel that describes these tactics. <https://www.futureswithoutviolence.org/power-and-control-tactics-used-against-immigrant-women/>

# Addressing the impact of trauma

It is important for an expert working with traumatized victims — particularly those who may not “act like victims” — to be able to explain trauma and common trauma

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## Case report example: Integrating concepts related to impact of trauma

*Loring, Smith, & Golden (1997) write, “battered women, like other hostages, lose their own perspective and confidence while under the fear and domination of a batterer” (p. 10). Strategies to damage the battered woman’s self-image and esteem are also very common.*

*Battered women are at greater risk for depressive symptoms (Sato & Heiby, 1992), poor self-esteem (Sato & Heiby, 1992), and other problematic health conditions. There is support that suggests that because the abusive partner is in control, and the victim placates and minimizes the abuse, that the victim’s decision making to an outsider or someone uninformed about intimate partner violence might appear illogical.*

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responses. Experts can then help adjudicators understand that certain puzzling victim behaviors are common and not necessarily indicators of whether someone is lying. Conveying the nature and impact of trauma can be accomplished by using information gleaned from other professionals’ reports, current research, and an expert’s substantiated professional opinion of alternative explanations for client behavior. It may be helpful for an expert to read the client’s affidavit before the interview so that the victim does not need to repeat every detail.<sup>15</sup> Experts should be familiar with trauma-informed interviewing techniques.<sup>16</sup>

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<sup>15</sup> The application for many forms of immigration relief for immigrant victims — such as a VAWA self-petition, U-visa, or T-visa — includes an affidavit of the client describing the elements of the relief. For example, a VAWA self-petition affidavit will describe, in the victim’s words, how she met her husband, how their relationship began and developed, and how the abuse began and progressed. A U-visa affidavit will have the victim describing the violent crime that occurred and any past incidents of abuse linked with that crime, as well as a description of how the crime has impacted the victim.

<sup>16</sup> Bessel van der Kolk is one of the leading researchers on the impact of trauma. Information on his publications and resources related to understanding trauma are available through the Trauma Center at Justice Resource Institute: <http://www.traumacenter.org/index.php>. Archived webinars and other material related to trauma-informed practice (including the Forensic Experiential Trauma Interview, or FETI) are available through Ending Violence Against Women International: <http://www.evawintl.org/PAGEID19/Best-Practices/Resources/Neurobiology-of-Trauma>. The National Center on Domestic Violence, Trauma and Mental Health provides domestic violence-specific information and resources: <http://www.nationalcenterdvtraumamh.org/>.

## RESILIENCE AND SELF-PRESERVATION

Another often-misunderstood issue in domestic violence is the ability of a victim to take steps toward self-preservation, even while enduring high levels of control and abuse. Many victims dig deep into themselves and a reservoir of resilience to survive an abusive relationship (Davies, 1998), both daily and over time.

### **Case report example: Victim self-preservation**

*Ms. B shows signs of survivorship. For example, she sought employment, attended school and completed higher education degrees, and was actively involved in immigration reform initiatives. By taking these initiatives, she became more financially independent and created purpose for herself outside of her abusive relationship. However, this was not without challenge. These self-initiated actions were not without their costs. Often in abusive relationships when a victim starts to make strides towards independence, the abusive partner will create tension and/or problems that often lead to the victim disengaging in these positive actions. This happened to Ms. B. When Mr. H was so persistent about her “putting him first,” rather than her work, she relented and quit her advocacy position. He also jeopardized her reputation by calling and reporting false information about her.*

Challenges with this case included the possibility that the Court would minimize the abuse, so the report included statements to address that possibility:

*While it is important to recognize Ms. B’s fortitude, it is also equally important to recognize that she is not fully self-sufficient or completely free of the abuse, control, and potential for continued abuse. Mr. H is well-aware of this fact, too.*

*Her efforts toward self-preservation should not be mistakenly viewed as mitigating the extreme cruelty of the abuse. On the contrary, these actions should be viewed as protective factors by victims (Davies, 1998) to ameliorate the impact of the abuse. Research indicates that many victims take protective actions in their abusive relationships. However, these actions should not be interpreted in a way that concludes that victims in relationships where protective actions are possible are somehow in less abusive relationships. There is no research to support that conclusion, as many victims engage in protective actions, regardless of the level of violence and abuse.*

## COMPLEXITY OF SEEKING HELP

Sometimes adjudicators will misconstrue a victim's failure to use hotlines, battered women's programs, and other services as an indication that she wasn't really abused or that the abuse she suffered wasn't that severe. Experts can explain the many reasons why victims of IPV, particularly immigrant victims, might not be willing or able to seek help from service providers.

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### Case report example: Immigrant Victim help-seeking

*Consistent with victims' experiences reported in research, Mr. W did not become physically abusive to his wife until the first trimester of her pregnancy. What began with grabbing and pushing escalated to slapping and punching before the birth of their daughter. Abusive men will escalate their controlling behaviors in order to maintain their authority over their victims (Bancroft, 2002). Mr. W continued to physically assault his wife with increasing severity following the birth of their daughter. On one occasion, Mr. W used extreme physical assault after his wife locked herself in a bedroom during an argument. Ms. R states that her husband broke the door down and began pushing and shoving her. When she attempted to get away, Mr. W grabbed her and began strangling her until Ms. R's mother intervened. Ms. R did not seek medical attention after this incident, but stated that the assault left marks on her neck.*

*Immediately following the strangulation, Ms. R made her first attempt to leave her abusive husband. However, with no viable social support or money, she was forced to return to her husband at the end of the day. When I asked Ms. R if she knew about the community supportive shelter services for battered women she said "no." On occasion when she would take her daughter to the health clinic, she would look at the pamphlets on domestic violence. She never called the hotline because she was afraid that Mr. W would find out that she had reached out for support and she would suffer retribution for doing so.*

*Ms. R was also very fearful of seeking support services because of her undocumented immigration status. Consistent with research conducted in Texas by the Texas Council on Family Violence, many immigrant women do not seek help from formal community services. Ms. R was sure that if she went to the hospital, called law enforcement during a violence incident, or called the national hotline, that immigration officials would be notified of her undocumented status and she would be deported without her child. She was unwilling to take this risk.*

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# What to expect in an immigration case

It is important to be aware of the ways in which immigration cases are different from other types of cases, as well as how they are similar. Experts and potential experts familiar with one court system, such as civil or criminal, must be aware of these differences when working in a new setting or with a case that involves multiple court systems.

## INTERVIEWS

Expert witnesses in immigration cases almost always interview the victim, and often her children, in preparation for the expert's written report and/or testimony. This interview doesn't necessarily need to be a psychological assessment or a forensic interview, which require related professional training and credentials. While every case is different, advocate experts are often qualified to interview the victim, based on their experience talking and working with victims and conducting intake interviews.

## REPORTS

Experts in immigration cases are required to submit a written report or affidavit to the court. There are no formal requirements for how these reports should look. Case examples are included throughout this paper. See "Writing a Report" later in this paper for guidelines and additional sample language about what these reports should address.

## USING OTHER MENTAL HEALTH PROFESSIONAL REPORTS/ANALYSIS

In immigration cases, it is often a good idea for attorneys to use additional experts (psychologists, social workers, or other kinds of professionals) when a client is suffering trauma symptoms or has mental health challenges. In other kinds of cases, such as criminal cases and family court cases, there is sometimes a downside to raising and/or discussing mental health information because it might be used *against* the survivor or turned around or mischaracterized as pathology.

## NO FORMAL DISCOVERY OR DEPOSITIONS

Experts who are accustomed to testifying in other kinds of proceedings, such as criminal court, may be used to providing their interview notes or being asked for

additional materials based on their written report. In immigration proceedings, however, there are minimal rules about turning over documents to the other party. In addition, there are no depositions in immigration proceedings.

## QUESTIONS DURING THE PROCEEDING

The expert may be asked to answer questions posed by direct and cross-examination and by the judge or hearing officer.

**Direct examination** in immigration proceedings is much like direct examination in other kinds of cases, with an emphasis on (1) qualification as an expert and (2) open-ended questions from the proffering attorney regarding the expert's findings and how they relate to the case theory. Not all immigration proceedings involve a hearing, so the expert may not be asked to testify at all.

**Cross-examination** in an immigration proceeding also can work much like it does in other court proceedings. Government attorneys often don't ask many cross-examination questions, however, and sometimes there are *no* questions. Many experts find that cross-examination in immigration court is less combative than in criminal court. On the stand, it is important for experts to come off as well-informed and articulate, but not as a know-it-all.

**Questions by the immigration judge** may be likely if the government attorney doesn't ask any questions on cross examination. The judge or hearing officer may do so to help establish the record. Experts can use this as another opportunity to educate the judge about intimate partner violence and put the judge in a better position to assess the facts of the case. Though judges can question experts in other types of cases, the practice is more common in immigration proceedings.

## UNIQUE BURDENS OF PROOF AND LEGAL THRESHOLDS

There are specific things that a survivor in an immigration proceeding might have to prove to get relief. These "burdens of proof" and "legal thresholds" will vary depending on the kind of relief the survivor is seeking. Experts in immigration proceedings can often be very helpful in explaining how a victim's circumstances meet the legal threshold required for relief. Some examples of these thresholds relevant to immigration law include:

- **Extreme hardship to family if victim/client is removed**

Based on the client interview, the expert can discuss what will happen if there is continued violence which may result if the victim does not receive immigration relief. In the interview, the expert can ask the client where she went for help and whether it was formal or informal help. Help-seeking behavior can identify



important sources of support that will be lost to the family if the victim is removed. Asking about help-seeking also provides context for victim behavior. For example, the victim may report that she didn't go to the hospital or call the police because her partner told her she'd be detained and deported. Experts can describe generally how a survivor tried to reach out or couldn't reach out and explain it from a bio-psycho-social assessment perspective.

- **Extreme cruelty as a basis for an immigrant spouse to self-petition for status**

An immigrant spouse who is being abused can self-petition for legal status. Immigration cases can involve some of the most extreme cases of physical violence and related PTSD. Women have often come to the U.S. to flee from this extreme physical violence and cruelty. Experts can help the adjudicator understand the severity of physical violence, even if there is little to no documentation, and how various forms of violence can impact the survivor.

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**Case report example: Showing extreme hardship**

*If deported, it is likely that Ms. A and her children will experience extreme hardship through continued violence. Mr. B has threatened to kill Ms. A. She requested protection from the police, but was unaided. It is unlikely that the extent of supportive domestic violence services available in Texas would be available to Ms. A in Guatemala. Additionally, Ms. A's children witnessed their father's abusive behavior since their births. Research and literature regarding child witnessing of violence suggests that Ms. A's children are at higher risk for behavioral and emotional problems (Edleson, 1999; Newman & Newman, 1999). Any further separation from her mother or exposure to violence by their father would add undue psychological and emotional stress to the life of these young children.*

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# Writing a report

## GENERAL GUIDELINES

Immigration cases may require the expert to share her expertise through oral testimony or through written reports. While the use of written reports (without any oral testimony) is somewhat unique to administrative proceedings, the issues that the expert covers in her report are often the same ones that are relevant in other types of court settings, such as civil or criminal cases. There are no formal rules for the structure of a report. The following guidelines help produce a report that is clear, accurate, and readable.

- Be thorough and accurate: check facts; check spelling, grammar, and punctuation.
- Consider the balance and type of information included (sometimes more is better, sometimes less is better).
- Include qualifications and contact information.
- State the methodology used: i.e., state how expert conclusions were drawn.
- Use and quote from current or seminal research to support the methodology.
- Document dates, times, length of interview(s).
- When appropriate, use the victim's words or phrases.
- Emphasize key words by underline or *italics*.
- List all the documents reviewed for the case.
- Check: Is there anything in the report that could mar the credibility of the victim respondent/applicant in the immigration proceeding?
- Check: Does the report contradict the State Department or other documents submitted in the case?
- Check: Does the report address any aggravating circumstances? If yes, can those be explained within the context of intimate partner violence? For example, the victim has been convicted of a crime but has no other criminal history and there is corroborating evidence to suggest that she participated in the criminal activity because of the abuser's threats.
- Check: Is the report clear enough for the adjudicator to understand without further explanation if the expert is not allowed to testify telephonically and cannot appear to offer oral testimony?

- Have someone read the report before submitting it to ensure that it is clear, readable, and free of spelling and other errors.

## SAMPLE LANGUAGE

See the Appendix for an example of a written report submitted in an immigration proceeding. The following examples illustrate language that might be used to address common topic areas in a report. They include (1) case-specific information about the abuse the victim has experienced, (2) immigration-specific research and data, and (3) any specific assessments the expert has conducted.

### **CASE SPECIFIC INFORMATION**

“Ms. B has withstood extreme violence at the hands of Mr. S, including threats of death to her and her children. For example, at nine months pregnant, Mr. S pushed Ms. B down the stairs, which induced labor. Mr. S also continuously raped Ms. B. After their second daughter was born, Ms. B did not consent to sex with Mr. S. Mr. S also had extra-marital affairs publicly in ways that humiliated Ms. B.”

### **IMMIGRATION-SPECIFIC RESEARCH AND DATA**

“As with most abusers, he knows that his wife is unable to leave him because of her vulnerability as an immigrant to the United States. She is vulnerable because of her immigration status and her dependency on him for his legal residency status. Research indicates that abusive partners of immigrant women are acutely aware of their power to control their partner’s actions.”

### **BIO-PSYCHO-SOCIAL ASSESSMENT**

“The interview with Ms. C consisted of bio-psycho-social assessment with an emphasis on gathering family history related to her relationship to Mr. DD. Specifically, I was asked to provide my expert professional opinion as to whether their relationship involved intimate partner violence and my assessment about the continued threat of this violence.”

# Conclusion

Experts on the dynamics and impacts of intimate partner violence can be useful in immigration proceedings involving victims of battering. This paper touches on key considerations in what are often complex and high-stakes proceedings for victims seeking to stay safe and gain legal residency. We recommend that those new to testifying in an immigration proceeding seek out other experts with experience in immigration matters. Additional support is available from the National Clearinghouse through its expert witness series of papers and webinars.<sup>17</sup>



Comments or questions? Need more information? Please contact the National Clearinghouse:

National Clearinghouse for the Defense of Battered Women  
125 S. 9th Street, Suite 302  
Philadelphia, PA 19107  
215/351-0010  
[ncdbw@ncdbw.org](mailto:ncdbw@ncdbw.org)  
[www.ncdbw.org](http://www.ncdbw.org)

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<sup>17</sup> Find links to expert witness series papers and webinars, including resources related to immigrant victims of battering through the National Clearinghouse. See Resources at <http://ncdbw.org/index.htm>.

# Citations

The following publications are referenced in this paper:

Bancroft, L. (2002). *Why does he do that? Inside the minds of angry and controlling men*. New York, NY: G. P. Putnam's Sons.

Davies, J. (1998). *Safety planning with battered women: complex lives/difficult choices*. Thousand Oaks, CA: Sage Publications, Inc.

Dutton, M.A., with Osthoff S. & Dichter, M. (2009). *Update of the 'battered woman syndrome' critique*. VAWnet Applied Research Forum. National Online Resource Center on Violence Against Women. Available: [http://vawnet.org/sites/default/files/materials/files/2016-09/AR\\_BWSCritique.pdf](http://vawnet.org/sites/default/files/materials/files/2016-09/AR_BWSCritique.pdf)

Edelson, J. L. (1999). *The overlap between child maltreatment and woman abuse*. VAWnet Applied Research Forum. National Online Resource Center on Violence Against Women. Available: [http://vawnet.org/sites/default/files/materials/files/2016-09/AR\\_Overlap.pdf](http://vawnet.org/sites/default/files/materials/files/2016-09/AR_Overlap.pdf)

Gelles, R. (1997). *Intimate violence in families*. (3rd ed.) Thousand Oaks, CA: Sage Publications, Inc.

Littwin, A. (2012). Coerced debt: The Role of consumer credit in domestic violence. *California Law Review*. 100(4), 952-1026. Available: <http://scholarship.law.berkeley.edu/cgi/viewcontent.cgi?article=4178&context=californialawreview>

Loring, M. T., Smith, R. W., & Bolden, T. (1997). Distal coercion: Case studies. *Psychology: A Journal of Human Behavior*. 34(1), 10-14.

Miller, S. & Scaia, M. (2016). *Domestic violence expert witnesses: Tips to help prepare for your first case*. National Clearinghouse for the Defense of Battered Women.

Newman, B. & Newman, P. (1999). *Development through life: A psychosocial approach*. (7th ed.) Belmont, CA: Wadsworth Publishing Co.

O'Leary, K. D. & Maiuro, R. D. (2001). *Psychological abuse in violent domestic relations*. New York, NY: Springer Publishing Co.

Pezzell, C. (2016). *Domestic violence expert testimony: Legal settings and issues*. National Clearinghouse for the Defense of Battered Women.

Sato, R. A. & Heiby, E. M. (1992). Correlates of depressive symptoms among battered women. *Journal of Family Violence*. 7[3], 229-245.

Walker, L. (1979). *The battered woman*. New York, NY: Harper & Row.

# Appendix: Sample Report

This document was prepared for participants of the June 30, 2014 webinar, "Understanding the Role of Experts in Immigration Proceedings Involving Victims of Battering, Part 2," sponsored by the National Clearinghouse for the Defense of Battered Women. It is included here to illustrate an expert report and should not be used for any other purpose. This document should not be distributed or reproduced without the written permission of Dr. Noël Busch-Armendariz: [nbusch@mail.utexas.edu](mailto:nbusch@mail.utexas.edu).

TO: Edna Yang, Attorney  
American Gateways

FROM: Noël Busch-Armendariz, PhD, LMSW, MPA  
Professor and Principal Investigator  
The School of Social Work  
Institute on Domestic Violence & Sexual Assault  
The University of Texas at Austin

RE: Assessment for Mrs. RG

DATE:

I have prepared this independent assessment of Mrs. G's application for a U-Visa under the Violence Against Women Act (VAWA). In preparation for this report, I interviewed Mrs. G at the American Gateway office in Austin, Texas on [DATE] and I have read all available case documents. The interview consisted of bio-psycho-social-history social work assessment with an emphasis on gathering family history related to her marriage to Mr. G. Specifically, I was asked to provide my expert professional opinion if the marriage of Mr. G and Mrs. G involved extreme cruelty.

I have approximately 20 years of direct and indirect work in the field of domestic violence. I am currently an associate professor at The University of Texas at Austin School of Social Work and the director of the Institute on Domestic Violence and Sexual Assault. I am licensed by the Texas State Board of Social Work Examiners as a Licensed Master of Social Work (LMSW) # 35978.

## Findings of Battery or Extreme Cruelty

Mrs. G describes her courtship with her husband as one of a long-distance involvement and one of attraction, attentiveness, and concern on the part of Mr. G,

and non-abusive. The attention and support that Mr. G demonstrated toward Mrs. G served to create an atmosphere of love, trust, and care. Early on in their long-distance relationship, Mrs. G did not have any concerns about his behavior or treatment toward her. Mr. G insisted to her that it would be good for them as a couple that Mrs. G stay in the U.S. once she arrived and that they get married.

Research indicates that relationships that involve intimate partner abuse do not often begin with an abusive incident. On the contrary, relationships that later involve intimate partner abuse typically begin as attentive, romantic, and loving. This was true for Mr. G and his relationship with Mrs. G. Originally described by Lenore Walker in 1979, the cycle of violence in abusive relationships commonly consists of three phases (honeymoon, tension building and acute battering). Current research indicates that although not all relationships follow this prescription, there are similarities across abusive relationships that include both non-abusive and abusive periods. Generally, during what Walker characterizes as the initial honeymoon phase, the abuser is perceived as loving and attentive and victims perceive this behavior towards them as idyllic (Walker, 1979; Bancroft, 2002). Mrs. G experienced Mr. G in this way, both during their long distance relationship and in their in-person meetings in Romania and the U.S.

Because of its loving intensity, the initial honeymoon phase is also the factor that secures the commitment of the victim to her partner (Walker, 1979). Once the victim is fully committed to the relationship and experiences a support and love from her partner, the abuser typically uses other methods of power and control to regulate the victim's behavior (Bancroft, 2002). Subsequent honeymoon phases follow tension building and acute battering phases (Hepworth, Larsen & Rooney, 1997; Walker, 1979, 1989; Bancroft, 2002). Although these gestures appear to be, and in fact may be, genuine on his part, they serve to control the woman through convincing her of her partner's sincerity to change (Bancroft, 2002). Consistent with research, early in the relationship Mr. G presented as a caring and attentive partner. His exertion of power and control began to manifest only after the couple was fully committed to each other and after they were married. Based on their courtship, Mrs. G fully anticipated a fulfilling, blissful marriage. As with many victims of domestic violence, the severe change is difficult to figure out (Bancroft, 2002). Mrs. G has experienced a tremendous loss and grief.

Relationships that involve intimate partner violence are not always characterized by physical abuse. In fact, research indicates that abusers use a number of non-abusive tactics to maintain power and control over their victims. Among these non-abusive tactics are intimidation and threats, emotional abuse, verbal abuse, psychological abuse, economic deprivation, using male privilege, and the use of children, (Walker, 1979; Gelles, 1997; Davies, 1998; O'Leary & Maiuro, 2001). O'Leary and Maiuro (2001) contend that, "a comprehensive definition of domestic violence now includes all behaviors that exert physical force to injure, control, or abuse an intimate or family member, forced or coerced sexual activity, destruction of property, acts which



threaten or abuse family pets, as well nonphysical acts that threaten, terrorize, or personally denigrate, or restrict freedom” (p. ix – x). It is my assessment that Mr. G uses a continuous pattern of psychological and verbal abuse, financial control, personal denigration through the use of extramarital affairs, and restriction of freedom that result in extreme cruelty against Mrs. G. While this relationship may not seem to fit the *typical* definition of extreme cruelty because of the lack of physical violence, experts in this field agree that it is in no way less abusive or less cruel than a relationship that may involve physical or sexual violence. Moreover, there are several reasons why Mr. G does use physical and sexual violence against his wife. In sum, it is because he does not have to use physical and sexual violence in order to maintain control and dominance over her. Further explanations are provided below.

O’Leary and Maiuro (2001) identify four primary dimensions of psychological abuse: (1) denigrating damage to partner’s self-image or esteem, (2) passive-aggressive withholding of emotional support and nurturance, (3) explicit or implicit threatening behavior, and (4) restricting personal freedom. Mr. G inflicted denigrating damage to Ms. G’s self-image and esteem through name calling, criticizing her appearance, and blaming her for his behavior. Battered women are at greater risk for suicide or suicidal ideation (Walker, 1979; Stark & Flitcraft, 1996; Davies, 1998; O’Leary & Maiuro, 2001), depressive symptoms (Sato & Heiby, 1992), poor self-esteem (Sato & Heiby, 1992), and other problematic health conditions. Consistent with research, Mrs. G described symptoms associated with depression and poor self-esteem such as loss of appetite and frequent crying. She has lost weight and appeared to be extremely underweight during my interview with her. Moreover, according to the psychological assessment conducted by social worker Rose O’Brien, Mrs. G meets the criteria for Adjustment Disorder with Mixed Features. This is confirmation of the impact of the psychological and emotional abuse that she is suffering.

Mr. G also severely restricts his wife’s personal freedom in manners consistent with extreme psychological abuse (O’Leary & Maiuro, 2001). Mrs. G states that her husband has not provided her the support that newcomers to this country need and that are often a part of a healthy marriage. He has not initiated a change in her immigration status, although she is likely eligible for this change given her marriage to him. Domestic violence research on immigrant women indicates the use of immigrant status as one of the most effective non-abusive ways to control a partner because it “determines an individual’s social and political rights” (Lockhart and Danis, 2010, p. 156). For example, Mrs. G is unable to obtain a driver’s license which creates great difficulty in accessing support from friends or other services, employment, and many other activities in which citizens engage. Consequently, her ability to make decisions, get support in the community, become less isolated, and experience self-efficacy is severely limited.

Mrs. G is also dependent on her husband for her financial well-being. She must ask, as if she was a child and not an adult partner, for money for food, her monthly cell phone charges, and other necessities, such as feminine products. Relationships that

are based on equality involve both partners, regardless of who earns the income, having access to their resources. Financial control is very apparent in this relationship. The restriction of her cell phone has been particularly detrimental for Mrs. G because not only does it restrict her ability to connect with others in her immediate community, she also experiences extreme stress from restrictions on her ability to be in touch with her family in Romania. She is very emotionally close to her family and has depended on them for support during her abusive marriage. This tactic is intended to inflict fear, isolation, stress and trauma, through the restriction of personal freedom, and has had a lasting and tremendous impact on her.

There are two other issues in domestic violence that are often misunderstood. First is the ability of a victim to take some steps toward self-preservation. Many victims *dig deep down* in their psyches to survive an abusive relationship (Davies, 1998), both daily and overtime. Mrs. G, consistent with this literature, shows signs of survivorship. For example, she started to work as a nanny to two young children and by doing so she is less dependent on her husband financially. Also by doing so, she has created some purpose for herself outside of her abusive marriage and gained some independence. She has also found some friends in Austin from Romania. While it is important to recognize her fortitude, it is also equally important to recognize that she is not fully self-sufficient nor will she be with a part-time childcare position. Her husband is well aware of this fact, too, so he can “allow” her to work. Notwithstanding this, her efforts toward self-preservation should not be mistakenly viewed as mitigating the extreme cruelty of the abuse. On the contrary, these actions should be viewed as protective factors by victims (Davies, 1998) to ameliorate the impact of the abuse.

Research indicates that many victims take protective actions in their abusive relationships. However, these actions should not be interpreted to conclude that victims in relationships where protective actions are possible are somehow in less abusive relationships. There is no research to support that conclusion as many victims engage in protective actions, regardless of the level of violence and abuse. The determination or assessment is the degree to which one partner has power and control over another partner. In this case, Mr. G has extreme control over his wife.

Second, Mr. G has suggested to his wife that she can “just leave” the relationship if she doesn’t approve of his extramarital affairs, addictive video gaming, or other behaviors, such as going out, going out of town without her, and keeping their finances secret. He is making an idle threat and exerting his control over her with this threat. As with most abusers, he knows that his wife is unable to leave him because of her vulnerability both as an immigrant to the US. She is vulnerable because of her immigration status and her dependency on him for his. Research indicates that abusive partners married to immigrant women are acutely aware of their power to control their partner’s actions. When an abuser uses psychological and emotional abuse, as Mr. G has done, there is no need to use physical violence to control. This control is easily maintained through these other strategies; however, it should not be

interpreted that the abuse is benign. On the contrary, given Mrs. G's vulnerabilities and psychological, verbal and emotional abuse and financial control by her husband it is my professional opinion that she has experienced extreme cruelty in her marriage.

### Concluding Remarks

Mr. G 's controlling behavior toward his wife during their marriage is consistent with the elements of domestic violence recognized in current literature and research. The abuse that Mrs. G endures does not appear as a single or brief act; rather, it is a pattern of controlling behaviors. Evidence of battery or extreme cruelty to Mrs. G is documented in examples of extreme psychological and emotional abuse and the impact on her well-being. Mr. G has also controlled Ms. G's personal freedom and her access to supporting resources. In addition, and as indicated in this report, the history of abuse created an atmosphere of fear and isolation that has affected Ms. G's health. Domestic violence literature further suggests that most abusers use whatever tactics are necessary to control and dominate their victims and that physical assault, as a means of control, often escalates over time. It is likely that this relationship will become physically assaultive. [Referenced citations attached.]

Respectfully submitted,

Noël Busch-Armendariz, PhD, LMSW, MPA  
[Insert full title]

Date

]

## **ASSESSMENT FOR MRS. RG: REFERENCES**

- Bancroft, L. (2002). *Why does he do that? Inside the minds of angry and controlling men*. New York, NY: G. P. Putnam's Sons.
- Davies, J. (1998). *Safety planning with battered women: complex lives/difficult choices*. Thousand Oaks, CA: Sage Publications, Inc.
- Edelson, J. L. (1999). The overlap between child maltreatment and woman abuse. VAWnet Applied Research Forum. National Online Resource Center on Violence Against Women. Available: [http://vawnet.org/sites/default/files/materials/files/2016-09/AR\\_Overlap.pdf](http://vawnet.org/sites/default/files/materials/files/2016-09/AR_Overlap.pdf)
- Gelles, R. (1997). *Intimate violence in families*. (3rd ed.) Thousand Oaks, CA: Sage Publications, Inc.
- Giles-Sims, J. (1983). *Wife battering: A systems theory approach*. New York, NY: The Guilford Press.
- Gilfus, M. E. (2002). *Women's experiences of abuse as a risk factor for incarceration*. VAWnet Applied Research Forum. National Online Resource Center on Violence Against Women. Available: <http://vawnet.org/material/womens-experiences-abuse-risk-factor-incarceration>
- Hepworth, D., Rooney, R., & Larsen, J. A. (1997). *Direct social work practice: Theory and skills*. (5th ed.) Pacific Grove, CA: Brooks/Cole Publishing Co.
- Kaminski, J. (2001). *Pregnancy and violence against women: Implications for clinicians*. *Directions*. 15 (6), 65-74.
- Lockhart, L. & Danis, F. (Eds.) (2010). *Domestic violence: Intersectionality and culturally competent practice*. New York, NY: Columbia University Press.
- Loring, M. T., Smith, R. W., & Bolden, T. (1997). Distal coercion: Case studies. *Psychology: A Journal of Human Behavior*. 34(1), 10-14.
- Newman, B. & Newman, P. (1999). *Development through life: A psychosocial approach*. (7th ed.) Belmont, CA: Wadsworth Publishing Co.
- O'Leary, K. D. & Maiuro, R. D. (2001). *Psychological abuse in violent domestic relations*. New York, NY: Springer Publishing Co.
- Richie, B. (2002). *Understanding the links between violence against women and women's participation in illegal activity*. National Criminal Justice Reference

Service [On-line]. Available: <https://www.ncjrs.gov/pdffiles1/nij/grants/199370.pdf>

Richie, B. (1996). *Compelled to crime: The gender entrapment of battered black women*. New York, NY: Routledge.

Sato, R. A. & Heiby, E. M. (1992). Correlates of depressive symptoms among battered women. *Journal of Family Violence*. 7[3], 229-245.

Stark, E. & Flitcraft, A. (1996). *Women at risk: Domestic violence and women's health*. Thousand Oaks, Ca: Sage Publications.

Walker, L. (1979). *The battered woman*. New York, NY: Harper & Row.

Walker, L. (1989). *Terrifying love: Why battered women kill and how society responds*. New York, NY: Harper & Row.