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Violence Against Undocumented Women

by *Sandra Henriquez Cacavas**

I have been asked to speak about the forms of violence that affect Latinas. I have chosen to focus on recent immigrants and undocumented women. Before I do that, however, I would like to tell you more about my agency and what I do so that you may get an idea of the interaction I have with Latinas.

The Los Angeles Commission on Assaults Against Women (the "Commission") is a private, nonprofit social service agency. Since 1971, the Commission has been offering services to survivors of domestic violence and sexual assault.

The Commission operates two 24-hour rape and battering hotlines, through which we receive between eight hundred and one thousand calls per month. Many of these calls are from women who are in abusive relationships or who recently have been sexually assaulted. We receive a large number of calls from Latina survivors, many of whom are undocumented immigrants. While these women often would like to report the crimes committed against them, they fear that law enforcement officials will "cross report" them to the Immigration and Naturalization Service (INS).

In Los Angeles, law enforcement officials often turn over undocumented persons (or those persons suspected of being undocumented) to the INS after a crime is reported. Street vendors, witnesses and victims of crime have been reported to the INS. Los Angeles Special Order 40¹

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1. Los Angeles Police Department, LAPD MANUAL, CHIEF OF POLICE SPECIAL ORDER #40, 4/264.50 (regarding enforcement of U.S. immigration laws).

states that law enforcement officials should cross report neither witnesses to crimes nor persons charged with misdemeanors to the INS. However, the language of this policy is vague, and there is room for differing interpretations. Efforts are underway to clarify the Order.

Domestic violence is a serious problem in our society. Accurate statistics are not available on the number of women who are abused because spousal abuse, like rape, is a highly underreported crime. According to Government statistics, however, approximately 12.5 percent of all reported violent crime is committed by spouses and ex-spouses (nearly all of that against women).² It is found among all socioeconomic classes. We now have laws in California to help protect battered women and to treat or punish batterers.³ Unfortunately, undocumented women do not feel that they are among the protected. Rather than looking to law enforcement officials for help, they fear them. We must ask ourselves why this is so.

Is it because in reality the undocumented do not have equal protection under the law? Or is it because they are denied due respect? The reality is that in many instances the victims have been turned over to the INS. It is time we made changes — changes so that everyone feels safe in seeking help, changes so that everyone can benefit from laws that protect innocent victims.

Our experience at the hotline indicates that the number of women

2. United States Department of Justice, SOURCEBOOK OF CRIMINAL JUSTICE STATISTICS-1989 (Timothy Flanagan & Kathleen Maguire eds.).

3. The following sections of the California Penal Code (West 1991) provide relief for battered women:

§ 273.5: provides for penalty as a felony for willful infliction of corporal injury on spouse or cohabitant; requires participation in a batterer's treatment program as a condition of probation;

§ 273.6: provides for penalty for willful and knowing violation of a court order to prevent domestic violence;

§ 273.7: provides for penalty for malicious disclosure of location of domestic violence shelter;

§ 273.8, et seq: provides funding and policies for District Attorney spousal abuser prevention prosecution programs;

§ 136.2: provides for the issuance of orders to prevent intimidation or dissuasion of victim or witness in criminal prosecution for domestic violence;

§ 12028.5: authorizes the temporary taking of firearms at the scene of domestic violence incidents for the protection of the officer and victim;

§ 13519: sets forth procedures for training courses and guidelines for law enforcement officers in handling domestic violence complaints;

§ 13700: Title 5 Law Enforcement Response to Domestic Violence, provides for restraining orders, data collection, and implementation of policies under 13700;

§§ 13823.3, 13823.15: provide for comprehensive statewide domestic violence program policies and funding;

§ 13823.4: provides for financial and technical assistance to local domestic violence and family violence centers in implementing family violence prevention programs.

raped or assaulted in the Los Angeles area is astounding, and that much physical violence is committed in the home. Rape and battering are violent acts in which a woman's power and control are taken away from her. Thus, our philosophy at the Commission is to empower survivors — to help them regain control of their lives. As part of this process, we support them in making decisions that promote recovery.

For many survivors, reporting and prosecution are important factors in the empowerment and healing process. The hope that they can prevent another woman from experiencing the same pain is a great tool for recovery. Undocumented survivors are no different. On many occasions they have expressed a desire to report in the hope that justice will be served.

In cases affecting undocumented women, we as advocates find ourselves in a dilemma. Do we support survivors in doing what is helpful to their recovery? Or do we suggest that they remain quiet and not speak out about being raped or battered?

The original intent of Los Angeles Special Order 40⁴ was to encourage everyone, including undocumented persons, to report crimes without the fear of cross reporting. However, because of the vague language of the Order, cross reporting continues. Therefore, we as advocates do not feel comfortable assuring survivors that they will not risk deportation if they report crimes. Many of the undocumented fear deportation, which is a valid fear. Thus, many survivors endure their pain in silence.

In cases in which undocumented survivors have filed reports, we have seen trauma added to the initial trauma of the attack. These women live in constant worry that their days in the United States are numbered. They fear that they may soon have to return to their countries of origin, which in many cases are in turmoil or even war. Many of the Latina survivors who use our services are from Mexico and Central America, particularly El Salvador and Honduras.

To illustrate this phenomenon, I would like to share a few stories of undocumented women who were victimized. Cases such as these are not isolated; they are very common. Further, they demonstrate that in many instances this population specifically is preyed upon because it is perceived as helpless. These cases will show how the healing process for these undocumented survivors of sexual assault and domestic violence is further complicated by the fear of deportation.

One evening after work, a co-worker gave Maria, a recent immigrant, a ride home. En route, a police officer pulled them off the road and into a vacant lot. The officer informed them that the driver was suspected of drug trafficking. He commanded the driver to put his hands on his head, remain in the car, and not to move. Subsequently, the officer instructed

4. See *supra* text accompanying note 1.

Maria to exit the car and follow him to his patrol car. She did so.

Once inside the patrol car, the police officer told Maria that he knew that she was undocumented and that if she did not do as he ordered, she would be deported. He then proceeded to sexually assault her during the following fifteen minutes. Before allowing her to return to the car, he warned her once again.

I met Maria in the emergency room. She refused to report the assault and initially did not tell me who had assaulted her. Maria is a very strong woman and her hesitation to report did not come from lack of desire to do so, but from fear. Maria feared that she, an undocumented woman in this country, would not be believed; that she, instead of the perpetrator, would be penalized for her victimization; and ultimately, that she would be forced to return to her country, which is in the midst of turmoil.

Maria is not alone in her victimization. At the Commission, we know that she and many others are the targets of terrorizing assaults such as this one merely because assailants know they can silence their victims.

I would like to share with you another case in which the perpetrator was not a stranger, but the husband of the victim. Yolanda first contacted me when she arrived home, after being hospitalized for a week. The hospital social worker had given her the Commission's telephone number. When the social worker asked Yolanda if her husband had inflicted her injuries, Yolanda lied. She told the social worker that she had fallen down the stairs.

While it is not uncommon for battered women to deny that their partners are to blame, undocumented women have additional concerns. Like Maria, Yolanda refrained from reporting the abuse due to her fear of deportation. Yolanda's added burden, however, was her concern that her husband would be deported.

Yolanda had heard on television that treatment programs were available for men who battered. However, she did not feel that she could get her husband to attend voluntarily. I explained to her that if she reported the battering he could be ordered into a treatment program. She was hesitant. If she reported the abuse, wouldn't her family be shipped back to their country? I explained to her that this shouldn't happen because often battering complaints are filed as misdemeanors, and cross reporting is authorized only when the perpetrator has committed a felony. I could not give Yolanda any guarantees that law enforcement officials would not cross report to the INS. Ultimately, she was not willing to take the risk, so she did not report the attack.

Although I knew that the battering would continue if the cycle was not interrupted, I had to respect her choice based on her personal circumstances. She was six months pregnant at the time. No one would give her work in that condition. She was completely dependent on her spouse

financially. She had not yet learned the language or ways of this country. Returning to her country was not an option. Her hands were tied.

Survivors of rape and battering experience traumas that affect their lives drastically. Whether we are speaking of undocumented Latinas or those who are here with permission, violence is a major factor in many of their lives. As can be seen by the two previous examples, the violence that these women experience is not committed solely by their partners. In some instances, it is perpetrated by the very people who are supposedly here to protect them: law enforcement officials. I am saddened to tell you that these are not isolated incidents.

Regardless of documentation, we as Latinas face a society that does not understand our rich cultures. Instead of viewing our cultures as different and valuable, other people perceive them as wrong. Furthermore, we are often seen as less than equal. Unfortunately, these feelings exist not only among the populace, but also among top government officials.

These antagonistic attitudes make it very difficult for members of the Latino community to have faith that justice will be achieved in the American legal system. It is these very attitudes that perpetuate violence. Whenever we see someone who is different from ourselves, whenever we dehumanize that person and make that person less than ourselves, it becomes easier for us to abuse that person, and to allow others to do the same.

As a group, we as Latinas often believe that violence, such as rape and domestic violence, is more prevalent within our community. I have talked to many women who are under the impression that Latino men are more likely to beat their wives or partners than white men. This myth can be very restricting. If we believe the myth, we will be ashamed and afraid to seek help. Contrary to popular belief, domestic violence is not more prevalent among Latinos; domestic violence has no boundaries. Our community is affected further, however, because fewer resources and educational programs are available than in other communities.

I chose to focus on recent immigrants and the undocumented because I believe that their experience represents an extreme example of the attitudes and fears that exist for Latinos as a group. While I believe that we as Latinos are oppressed, I also believe that we Latina women live with many forms of "isms," including, but not limited to, racism, classism and sexism. These "isms" are intensified for immigrants and undocumented women.

Discrimination and oppression are serious problems within our society. Progress can only be made possible if we constantly expose the problem and seek the solution. I do not feel that there will be any significant changes in our society until we all take a stand, whether we are Latinas, African-Americans, Asians, Anglos, men, or women.