

# AGENTS FOR CHANGE

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**Agents for Change**  
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Battered Women's Legal  
Advocacy Project, Inc.

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## Introducing the Domestic Violence Interagency Councils

BWLAP is very excited and pleased to announce the implementation of the Domestic Violence Interagency Councils (DVIC). The Minneapolis Foundation has graciously funded two sites for this project located in Beltrami and Kandiyohi Counties. Members of the councils consist of but are not limited to: law enforcement, advocacy, social services, court administration, probation, mental health, guardians' ad litem, prosecution, judiciary, child protection, public health, victim witness coordinators and parenting time centers. The formation of the DVIC is based on the Minnesota Model Protocol Project and the book *Improving Community Response to Crime Victims: An Eight Step Model for Developing Protocol* by Anita B. Boles and John C. Patterson.

The implementation of the DVIC will assist each county in providing the best practices in administrating services to victims of domestic violence. The overarching goal will be to formulate proactive and collaborative protocols that are implemented throughout each agency that handles cases or provides services to victims of domestic violence. These protocols will outline the service and response that each agency will acknowledge and agree to provide to a victim presenting at their agency. The implementation of this process will provide for accountability and reliability within the system. In addition, this protocol process will elevate the agencies "crisis mode" of operation ensuring that the process is a well thought out protocol for the agencies and the victim. Each interagency council will be tailored to the unique mix of agencies, resources, strengths and weaknesses within each of their counties.

The key to the interagency councils' success in keeping the protocol alive and viable will be their ability to be flexible and determine which roles will enable them to remain in contact with their communities and abreast of the changes that affect the victims of domestic violence. Because each community is unique, each interagency council will determine which methods are most effective given the available resources. This will be the council's opportunity to be creative in designing roles that will meet the challenges of an evolving society while using the talents and expertise of its members.

The initial training for the DVIC members will be held in March. If you would like further information on this project contact BWLAP at 612-343-9842 or [info@bwlap.org](mailto:info@bwlap.org)

## Upcoming Events

March 19  
Day of Action

### Other Upcoming Events or Notices

#### Goodbye Michelle!

It is with mixed emotions that I announce my resignation from BWLAP. I have accepted a position with a law firm in St. Paul. My last day with BWLAP will February 8<sup>th</sup>. Although I will be leaving the movement, I will carry with me all the friendships and experience that I have had in my 15 years in both the sexual assault and domestic violence movement. At this time, I would like to thank all of the programs that continue to make a positive difference in the lives of victims across the state. It has been an honor and a privilege to work beside each of you. I wish you continued success.

Michelle Hall  
Advocacy Support Program Manager

#### Welcome to Lori!

Hello! I would like to formally introduce myself as the new Program Manager for BWLAP. My name is Loreline Arevalos.

A little bit about myself...My educational background is in Public Policy, I majored in Political Science at Minnesota State University Moorhead and received my Associates Degree from North Dakota State College of Science in Wahpeton, North Dakota.

I have worked in the area of Domestic Violence in the past as the Legislative Coordinator for the Minnesota Coalition for Battered Women during the 2007 Legislative Session and as a Community Organizer for People Escaping Poverty Project in Moorhead. These experiences have taught me a lot about Domestic violence and the importance of raising community awareness and organizing communities to enhance our response to the victims within our communities.

I am excited and happy to be with BWLAP and look forward to working with all the collaborative agencies to further help ensure safety and justice for all victims of abuse. My direct phone number is 612-343-9845 and my e-mail address is [Loreline@bwlap.org](mailto:Loreline@bwlap.org).

**Congress has passed a \$1.9 billion funding shortfall for the project-based Section 8 program, which could lead to massive displacement of low-income families and the loss of hundreds of thousands of units of affordable housing if nothing is done.**

The project-based Section 8 program houses 1.3 million low-income households in the US. The program allows families to pay 30% of their income toward rent, while the government pays the difference.

Initial estimates suggest that nearly 7,000 units of affordable housing in Minnesota and 500,000 nationwide are at risk due to the funding shortfall. Minnesota housing advocates and HUD tenants are planning a Day of Action to draw attention to the crisis on March 19<sup>th</sup>.

#### Make your voice heard:

1. Come to the Day of Action on March 19<sup>th</sup>. Call HOME Line for location and details: (612) 728-5770 ext. 103
2. People need to know the stories of HUD tenants that may be affected by the funding shortfall. Fill out the tag below and send it to HOME Line. These will be presented to your senators on the Day of Action. Send HOME Line a photo with your story and we will mail your photo back to you.

## *Immigration Corner*

*Some measures we could take at the State level, while waiting for the immigration comprehensive reform. (1)*

There is no doubt that an immigration comprehensive reform needs to be passed by the new administration immediately afterward this coming election. Everybody agrees that about thirteen million people are living in this country without status or documentation. If not for basic humanitarian reasons, for the sake of the internal security, the immigration comprehensive reform needs and will be approved shortly.

In the meanwhile, we all know that every day new policies are being approved with the consequence of creating more difficulties and despair among immigration communities. It seems that combating those policies is all we can do. But, instead, we should be thinking in promoting bills and regulations aimed to facilitate the integration of immigrant communities within our larger society, making sure its members are active participants of our general growth and economical prosperity. Some States have opted for this last possibility.

Following are some of the ideas that the national Immigration Law Center, a legal organization on behalf of immigrants' rights are propelling within the fields of labor and employment, public safety, health and housing services, and English language acquisition plus adequate interpretation services.

### *I.- Enforcement and enhancement of labor and employment law protection*

Under this category, states' policies could:

1. Increase local enforcement of health safety violations
2. Increase local enforcement of minimum wages/working hours violations
3. Prohibit local employer sanctions against companies that employ undocumented immigrants
4. Ensure that enforcement of state labor, employment and civil rights statutes are respected regardless of immigration status
5. Prohibit adverse actions against workers, from employers participating in the Basic Pilot E-Verify program or based in "no match" letter from the Social Security Administration (to the maximum degree admitted by federal law)
6. Make it unlawful the common practice of retaliate against organized workers, by contacting Immigration Customs Enforcement (ICE)
7. Make it unlawful the practice of discriminate against workers based in their immigration status
8. Prohibit state labor agencies from sharing workers' immigration status information with federal immigration authorities

### *II. - Promote public safety and confidentiality*

1. Protect witnesses and victims of crimes by limiting police inquiry about immigration status
2. Approve policies to prevent racial profiling by law enforcement
3. Remove identification cards and driver licenses' immigration status checks by passing a state law rejecting REAL ID Act and state adoption of REAL ID driver's licenses and ID cards
4. Adopt policies prohibiting local law enforcement agencies from participating in ICE raids.
5. Combat identity theft or fraud by approving a state "Privacy Act" limiting the cases in which a person is required to provide his or her Social Security number.

### *III. - Promote access to health and housing services*

1. Establish state programs that provide health, food stamps, and subsistence income assistance to immigrants with Legal status, ruling out the five years waiting period
2. Promote public health coverage to children, pregnant woman and families, regardless immigration status
3. Increase funding for legal services including immigration assistance, to immigrants otherwise ineligible for assistance from programs funded by the Legal Services Corporations.

*(continued on p.5)*

## Can a Petitioner Violate Their Own Order?

I am often asked the question, “Can a petitioner violate their own order for protection?” Most agree it is common knowledge that a petitioner cannot violate her/his own order, however what is the legal basis for this belief.

Minn. Stat. § 518B.01 (the Domestic Abuse Act) states that a petitioner can seek an order for protection (OFP) if a family or household member has committed domestic abuse against the petitioner. Minn. Stat. § 518B.01, subd. 4 (a) and (b). Specifically Minn. Stat. § 518B.01, subd. 14 (i) which states, “[t]he admittance into petitioner’s dwelling of an abusing party excluded from the dwelling under an order for protection is not a violation by the petitioner of the order for protection.” Since the statute specifically and clearly addresses the issue of whether a petitioner can violate her/his OFP by inviting or allowing the respondent into her/his home, I will not address that issue in this explanation. The statute does not make an explicit statement about whether a petitioner can violate their OFP by calling the respondent, visiting the respondent’s home, etc. This issue is what I will address.

If the court finds that the petitioner meets the relationship requirement, makes a prima facie case that the respondent committed domestic abuse and shows there is an immediate and present danger of future abuse then the court shall issue an *ex parte* OFP. This *ex parte* OFP will either become final or will be set for a hearing, depending on the practice of each court or the relief requested. Minn. Stat. § 518B.01, subd. 5 (a)-(d). The statute accords the petitioner specific relief that the court can grant and remedial relief which can be requested in an “other” category. Specifically the court can 1) “restrain the abusing party from committing acts of domestic abuse.” Minn. Stat. § 518B.01, subd. 6 (a)(1) (emphasis added). 2) “[E]xclud[ed] the abusing party from the dwelling....” Minn. Stat. § 518B.01, subd. 6 (a)(2) (emphasis added). 3) “[E]xclud[ed] the abusing party from a reasonable area surrounding the dwelling or residence, ... .” Minn. Stat. § 518B.01, subd. 6 (a)(3) (emphasis added). The statute also provides for other relief as outline in subd. 6. The statute is specifically restraining the abuser (respondent) and not the non-abusing party (petitioner) as defined by statute. Therefore, the statute, on its face, shows that a petitioner cannot violate her/his own OFP because the petitioner has not been restrained from doing anything. The only person the court can restrain is the abusing party (respondent).

Minn. Stat. § 518B.01, subd. 14, Violation of an order for protection again, only applies to the respondent or the person restrained. *See* Minn. Stat. § 518B.01, subd. 14 (b) (whenever an order for protection is granted by a judge or referee ..., and the respondent or person restrained knows of the existence of the order, violation of the order for protection is a misdemeanor) (emphasis added), subd. 14 (e) ([a] peace officer shall arrest without a warrant and take into custody a person whom the peace officer has probable cause to believe has violated an order ... restraining the person or excluding the person from the residence ...)(emphasis added), subd. 14 (f) ([i]f the court finds that the respondent has violated an order for protection and that there is reason to believe that the respondent will commit a further violation of the provisions of the order restraining the respondent from committing acts of domestic abuse or excluding the respondent from the petitioner’s residence, the court may require the respondent to acknowledge an obligation to comply with the order on the record) (emphasis added), subd. 14 (g) ([u]pon the filing of an affidavit by the petitioner, any peace officer, or an interested party designated by the court, alleging that the respondent has violated any order for protection granted...) (emphasis added), and subd. 14 (h) ([i]f it is alleged that the respondent has violated an order for protection issued under subdivision 6...) (emphasis added).

In *Swenson v. Swenson*, 490 N.W.2d 668 (Minn. App. 1992) the court held that the non-abusive party (petitioner) could not be excluded from her home. The court looked to the statute and to policy reasoning for their holding. The court specifically stated:

**Do you need technical assistance with Minnesota’s current domestic violence issues?**

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Clause 9 of subdivision 6 demonstrates the remedial nature of the statute and permits the court to "order, in its discretion, other relief as it deems necessary for the protection of a family or household member." As a remedial statute, the Domestic Abuse Act receives liberal construction. *See Krause v. Merickel*, 344 N.W.2d 398 (Minn. 1984). The liberal construction accorded remedial legislation, however, is "remedial solely in favor of an injured \* \* \* person." *Leppla v. American Family Ins. Group*, 306 Minn. 478, 238 N.W.2d 592, 595 (quoting *Christensen v. Hennepin Transp. Co.*, 215 Minn. 394, 412, 10 N.W.2d 406, 416 (1943)).

The court found that the only person entitled to protection under the statute was Maria Swenson. The construction of the statute may not be expanded in a way that does not advance its remedial purpose. *See Rigwald v. Rigwald*, 423 N.W.2d 701, 705 (Minn. App. 1988) (statute does not authorize court to require abused party to maintain mortgage payments as a condition of granting her exclusive use of homestead). *Id.* at 670.

The remedial purpose of the Domestic Abuse Act is to protect domestic abuse victims from their abusers by restraining the abuser in various ways to protect the victim. A statute cannot be expanded in a way that does not advance the remedial purpose of the statute, therefore the Domestic Abuse Act and thus OFPs cannot be expanded in a way that would create a criminal (and one maybe could argue a civil) action against the petitioner if the petitioner violates the OFP.

When looking at the statutory language and the case law, there does not exist a cause of action against the petitioner for violating her/his own OFP. The statutory law only speaks of the respondent or the restrained person as a possible violator and the only case law on point states that the Domestic Abuse Act can only be expanded to protect petitioner, not the abusive party. Therefore a petitioner cannot violate their own OFP.

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(continued from p. 3)

4. Establish mandatory cultural and linguistic trainings and continuing education for health care professionals
5. Adopt legislation that prohibit cities, counties and landlords from inquiring tenant immigration status

*IV. - Increase funding for English as a second language teaching centers in order to diminish current student long waiting lists*

1. Offer state tax credits to employers paying for job-based English language courses
2. Fund English courses at community colleges and community based organizations

*V. - Increase funding for interpretation services at courts, hospitals, and public agencies*

1. Pass bills requiring public agencies to provide interpretation services
2. Establish complaint procedures and penalties for cases in which those services are denied
3. Implement and monitor high professional interpretation standards
4. Increase funding for interpretation courses at community colleges

All these measures do not need to wait for a comprehensive immigration reform. Something those policies have in common is that they are all aimed to decrease the marginalization of immigrant communities with its inherent consequence: increasing poverty levels and delinquency. More than expenditures, those policies imply investments on communities that are already part of our society, transforming its members into effective agents that will add to our economy.

(1) Based on Article published by National Immigration Law Center, Pro-Immigrant Measures Available to State of Local Governments, A Quick Menu of Affirmative Ideas.

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## *Punto de Vista Latino*

### *La Violencia Doméstica y la Inmigración en España: Dejè Vu?*

En España la Ley Integral de Violencia de Género lleva tres años de aprobada pero el balance de su eficacia para detener las muertes de las mujeres víctimas de dicha violencia es totalmente desalentador. Más desalentador aún si se cuentan las muertes de mujeres extranjeras de manos de su compañero sentimental español.

En el año 2005 murieron en España 60 mujeres, en el 2006, 68 y en el 2007 el número alcanzó la cifra record de 74 mujeres cruelmente asesinadas por sus agresores.

Algunos casos han tenido un fuerte impacto social, como el de Concepción, quemada viva en su casa luego que le comunicara a su marido su decisión de divorciarse; o Mari, muerta de un tiro en el medio de la frente por su esposo guardia civil, cuando entraba al Juzgado a pedir una orden de protección, o Svetlana, una rusa asesinada por el mismo que días antes le había propuesto con un anillo en la mano, arrodillado, que se casara con él, en un programa de televisión emitido en toda España. Ella no aceptó y cinco días más tarde el la degolló.

Este aumento en la violencia de género en España parece incontrolable pese a que la ley aprobada tres años atrás fue duramente criticada en su momento, por entender que otorgaba demasiadas garantías a las mujeres con tan sólo alegar que eran víctimas de violencia doméstica.

Pero lo que merece ser destacado y trae reminiscencias de lo que sucede en los Estados Unidos y en todos los países con fuerte afluencia inmigratoria, es el aumento de víctimas extranjeras, es decir, inmigrantes.

En España, en el año 2006 las mujeres inmigrantes asesinadas por sus parejas fueron el 29% del total, un porcentaje alto, que no ha parado de incrementarse. El año pasado, ese porcentaje llegó al 40%.

La importancia de estos porcentajes aumenta considerablemente si se tiene en cuenta que en España la población inmigrante sólo llega a un 10%.

La especial vulnerabilidad de las mujeres inmigrantes, incrementada cuando no tienen papeles es indudable y ha sido destacado por Amnistía Internacional.

Es importante destacar que en España, los agresores de mujeres inmigrantes no son extranjeros que “importan una cultura de violencia”, como se ha querido sostener, sino que por el contrario, en su gran mayoría son españoles que se ensañan con las mujeres inmigrantes.

Así, los números indican que en el último año, al menos un tercio de esas mujeres inmigrantes fueron asesinadas por su pareja española. Betsabé, por ejemplo, era una venezolana que había conocido a su marido por Internet. Dejó sus estudios de Ingeniería Industrial para irse a vivir a España con él. Se había enamorado perdidamente, según le relató a su familia. Menos de un año después de la boda, su cuerpo apareció en la maleta de un coche, asesinada de manos de su marido.

La brutalidad de la mayoría de los crímenes es infinita: en el último año 39 inmigrantes murieron por apuñalamientos, 6 por disparos, una mujer fue quemada viva, 9 estranguladas, 12 matadas a golpes, 4 degolladas, una ahogada, una asesinada a martillazos y una mujer arrojada desde un balcón. Y numerosas agresiones que sin acabar en muerte son igualmente espeluznantes como el caso del hombre que tiró de la moto en marcha a su novia, embarazada de siete meses. O como el caso de la brasileña Rita, víctima de que su marido español le pegara habitualmente, sólo porque, como solía decir, era demasiado guapa.

La lucha por la defensa de las mujeres inmigrantes es y seguirá siendo dura en todas las culturas y países y si bien en los Estados Unidos hemos logrado algunos éxitos en materia de legislación inmigratoria que protege a las víctimas a lo largo de los últimos quince años, mucho queda por hacer a nivel nacional e internacional.

## **Host a New Laws Training**

New Laws is an annual training held by BWLAP to update advocates and others about the new laws affecting battered women. While the trainings are geared towards domestic violence advocates, anyone is welcome to attend and CLE and POST credits are available. The scope of this training ranges from family to criminal law and government benefits. Each year BWLAP holds the training in six (6) locations throughout the state – two in the North, two in the South, one metro and one in central Minnesota. Last year we held trainings in Virginia, Crookston, Brainerd, Montevideo, Rochester, and Bloomington.

We need local agency hosts for the coordination of the training logistics. The host finds a local training site, makes arrangements for food, lodging and directions. BWLAP will pay for all the costs. The biggest benefit of hosting the training is you don't have to travel as the training is in your hometown! Like last year, the trainings will be held on Monday/Tuesday and Thursday/Friday and will be held in August and early September. If you would like to host a New Laws Training please e-mail Lori at [lorelina@bwlap.org](mailto:lorelina@bwlap.org) or call Lori at 612-343-9845.

Another way to provide input for New Laws is to submit ideas and scenarios that you have experienced over the past year that we could use as example exercises or training topics. Potential topics include: Hands on in advanced and basic legal advocacy (two tracks simultaneously), orders for protection, VAWA 2005, full faith and credit, guardian ad litem, custody issues, immigration, housing, and administrative policies. Please e-mail Lori at [lorelina@bwlap.org](mailto:lorelina@bwlap.org) with your comments or if your agency would like to host a training.

## **JOIN BWLAP'S LIST-SERVE FOR LEGAL ADVOCATES**

BWLAP has re-launched its list-serve for Minnesota legal advocates! The goal of this new email list is to connect advocates to each other, share new resources, and strategize about solutions to common problems. For more info call Lori at (612) 343-9845 or email to [lorelina@bwlap.org](mailto:lorelina@bwlap.org)

**TO SIGN UP:** Contact Lori at [lorelina@bwlap.org](mailto:lorelina@bwlap.org) with your preferred email address.

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BWLAP is a Minnesota-based, statewide, non-profit organization that provides legal information, consultation, training, litigation support, and policy development assistance to battered women, their advocates, civil/criminal justice, and social service systems.

## Cell Phone Donations

BWLAP is still collecting old cell phones. Many of you have old cell phones gathering dust at the bottom of a desk drawer. These phones can be put to good use and you may also be able to get a tax deduction based on the value of the phone you donate. Please consider donating cell phones that you no longer use, no matter the condition. Drop off used phones at our office or you can mail them to us.

For more information, please contact BWLAP at [info@bwlap.org](mailto:info@bwlap.org) or visit our website at [www.bwlap.org](http://www.bwlap.org).

*Thank you!*

## BWLAP extends its heartfelt gratitude to our funders:

It is only with the help of our funders that we may help others. *Thank you!*

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