



## Double risk: Immigrant mothers, domestic violence and public child welfare services in New York City

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### ABSTRACT

This paper examines the experiences of Mexican immigrant mothers living in New York City who become involved with public child welfare services because of domestic violence and makes recommendations for evaluation of program services to immigrant mothers. A case study and the results of a focus group interview will be presented to illustrate the often conflicting cultural, social and political issues confronted by immigrant mothers as they negotiate the organization of services designed to address specific forms of domestic violence, i.e., the protection of children and the protection of women. Emergent themes point to the double risk faced by immigrant women—first at the hands of their partners and then by service providers who do not understand the cultural issues that surround domestic violence nor the implications that immigration status has for victims of abuse. After intervention, participants in this research study describe feeling both like 'bad mothers' who fail to protect their children and 'bad women' who turn family members over for deportation. Evaluation of services to immigrant mothers requires consideration not only of cultural and social issues that affect program outcomes but must also consider the larger implications that immigration status has on utilization of services by immigrant women. Immigrant women often face multiple risks when seeking help for family problems.

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### 1. Introduction

Immigration status, more than cultural issues or language barriers, is emerging as the most significant factor in determining how, or even if, domestic violence is addressed when it occurs in immigrant families. Immigrant women are doubly at risk – not only at the hands of their intimate partners, but they also risk multiple sanctions by the state should it intervene – these can range from the denial of services based on their status to separation from family members upon whom they depend economically to the loss of their children because they are perceived as having failed, as a parent, to adequately protect them. This paper examines the experiences of several Mexican immigrant mothers living in New York City who encountered state intervention into their lives in the form of public child welfare services. Their voices, as presented here, speak to the multiple and conflicting cultural, social and political issues that they confront as they negotiate the organization of services designed to address family violence. They also speak to the overall lack of awareness by most formal services providers of how

immigration status impacts access to services for immigrant families and their children.

What emerges is not only the need to understand how multiple identities affect individuals who interact with systems of care, but also the need to examine social policies through the lens of intersectionality, i.e., how do we resolve competing mandates in addressing highly complex and interrelated social problems? Nowhere is this more evident than in addressing violence within the family—one set of laws, mandates and services are designed to protect children; another to address the violence between partners. How do you protect children when there is violence between their parents? And how do you address violence between parents in the context of child welfare? And lastly, how do you address family violence when the political climate now demands that undocumented immigrants, once identified, be turned over to immigration authorities? Do we look for one answer or are there multiple solutions that are acceptable on a continuum of care framework that do not violate social norms or undermine our sense of social justice and equal protection? Recommendations examine the use of collaborative partnerships between public child welfare services and community-based organizations to address family violence and the emphasis on developing protocols and staff training. Evaluation of the effectiveness of such programs and protocols also requires taking into consideration

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the cultural and political considerations involved in domestic violence.

## 2. The immigration debate—a focus on restricting access to benefits and services by immigrants

As the debate on immigration intensifies in the United States, the response in the political arena has placed emphasis on passing increasingly stringent controls on access to social benefits based on immigration status—a sort of negative immigrant policy whose intended outcome is, presumably, to make it difficult for immigrants, specifically the undocumented, to stay and hopefully, make them go back to wherever they came from. The problem with this policy paradigm is that it makes a huge assumption that most immigrants are single individuals. They may start out that way but it is quite clear that immigrants, like most adults, do form families. In fact there is ample evidence that immigrants are more likely to form families at an earlier age and have more children than the native born (Capps, Passel, Perez-Lopez, & Fix, 2003). Demographic data in the U.S. now indicates that one out of five children have parents who are foreign-born; and 85% of immigrant children reside in mixed status families, i.e., one or more parent is a non-citizen; one or more sibling are not citizens. For immigrant families as a whole, the unintended consequences of decreasing access to social benefits are legion and include increasing economic hardship, inadequate food, lack of access to health care and stress (Capps et al., 2002). These are the very risk factors often identified as correlating with increases in family violence.

Despite ample evidence that immigrants, whether documented or not, underutilize government benefits the legislative trend has been to increasingly curtail access to public benefits and services by the foreign-born (Hernandez, 1999). In 1996 the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) which largely targeted single mothers dependent on public assistance, also included language that for the first time spelled out restrictions on access to government benefits and services based on immigration status. This federal law created categories of ‘qualified’ aliens and established waiting periods of up to 7 years before eligible foreign-born aliens could access certain services. The effect of PRWORA has been linked to creating a ‘chilling’ effect on immigrants accessing any type of government benefits and services. In recent studies by the Urban Institute (Capps et al., 2002; Passel, Capps, & Fix, 2004) it was clear that immigrant populations, despite eligibility and need, did not access services that would ameliorate problems such as lack of access to food and health care. In families, this could effectively place children at risk and bring the attention of public child welfare services. While PRWORA applies only to federal benefits including Food Stamps, Medicaid and Social Security, similar initiatives at the state level are seeking to restrict immigrants’ access to state-funded benefits and services. This type of legislation could effectively restrict immigrant women’s access to such basic domestic violence services such as shelters and counseling.

## 3. Domestic violence and child welfare

Domestic violence is of considerable concern in the field of child welfare. Studies have attempted to document the connection between spousal abuse and child abuse and the effects that exposure to domestic violence has on children, yet there is little agreement in the literature (Edleson, 1999). However, these correlations are important to consider for several reasons, most notably for the impact they have on policymakers determining the direction and focus of government funded interventions designed to address family violence. Historically, child welfare and domestic violence services have differed fundamentally in philosophy and

preferred approach in dealing with violence in the home. In child welfare the primary focus has been, and remains, on assessing risk to the child and taking steps to ensure child safety and well-being. Within that framework, if a mother remains in contact with her abuser she may be charged with “failure to protect” her children and risks having them taken from her by the state (Postmus, 2005).

In contrast, domestic violence services providers often approach practice from an empowerment and harm reduction perspective that focuses on encouraging victims to work towards their goals. Service providers are keen to support victims as they struggle with the process of leaving their abuser, which is often time consuming and difficult. There is widespread recognition that while leaving an abuser is optimal, it may also not be feasible given economic constraints and the fact that mothers with children often have no place to go when they do leave (Child Welfare Watch, 2003).

The debate on best practices in addressing family violence is best placed in relationship to funding—domestic violence is a relatively new field, provides services on a voluntary basis, lacks adequate funding and consequently has few service options to offer clients. Child welfare services, on the other hand, are mandated by federal and state laws; practitioners have considerable legal clout to intervene and require clients to follow through with service plans. In this context beliefs about the risks to children from domestic violence carry considerable weight and determine how, what types of services are provided and to whom. Of particular concern then are assumptions prevalent within the field of child welfare that place the primary responsibility for addressing domestic violence on mothers involved with abusive partners (Aron & Olson, 1997). In effect, creating a scenario where it is easy to perceive mothers who are victims of abuse as also being ‘bad’ mothers. Examples (as cited in Postmus, 2005) include beliefs that victimized mothers are more likely to abuse or neglect their children (Kaufman & Little, 2003), that domestic violence is a form of child maltreatment (Mills et al., 2000), that children who witness domestic violence are more likely to become either perpetrators or victims (O’Keefe, 1995) and that the only way to keep children safe is for the battered mother to leave the abusive relationship (Child Welfare Watch, 2003).

Concern about the risks to children in families where there is domestic violence has led several states to pass legislation requiring child welfare services to become involved with these families. In many other states there are mandatory prosecution laws, i.e., even if the battered spouse does not pursue legal action, the state can. With little training, few guidelines or protocols and perhaps out of fear or frustration in dealing with the dynamics of abusive families, child welfare caseworkers began to routinely remove children from homes where there were reports of domestic violence. By 1999 in New York City one in four children were separated from parents and kin based on reports of domestic violence (Child Welfare Watch, 2003).

The practice of removing children from homes where they were exposed to domestic violence was sharply repudiated in 2002 as a result of a landmark class action lawsuit, *Nicholson vs. Scopetta*. The court ruled that “government may not penalize a mother, not otherwise unfit, who is battered by her partner, by separating her from her children; nor may children be separated from the mother, in effect visiting upon them the sins of their mother’s batterer” (Postmus, 2005). The effect of this lawsuit resulted in many states re-examining their procedures and protocols in handling family violence when children were in the home and developing strategies on how to develop alternative practices that would meet the criteria for ensuring child safety and at the same time not penalize the mother (Child Welfare Watch, 2003).

While these developments were hailed by advocates, there was little attention paid to what the unintended consequences were when child welfare caseworkers now embarked on practices to

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