

## **PROVINCIAL BRIEFING DOCUMENT 7**

### **Coordination of Responses to Immigrant, Refugee, and Non-status Women who are Victims of Violence in BC**

Coordination among those who respond to abused immigrant, refugee, and non-status women and their children is key to their safety. Coordination is necessary regarding policies, practices, and the provision of accurate and consistent information to women. Cross-sector bodies, joint initiatives, inter-agency protocols, information-sharing, and cross-training are some of the ways in which coordination can be facilitated.

#### **Recommendations**

##### ***Immediate***

1. BC's inter-ministry body responsible for violence against women should consult with Citizenship and Immigration Canada (CIC) and Department of Justice on the proposed *Balanced Refugee Reform Act* to ensure that safety of abused refugee women is considered a priority. This is particularly important regarding the concept of "safe countries of origin", the proposal to hold hearings within two months, and a proposed bar on claimants receiving Humanitarian and Compassionate (H&C) consideration.
2. As part of the Province's *Domestic Violence Action Plan*, in the review and updating of the *Violence Against Women in Relationships Policy*, Ministry of Public Safety and Solicitor General (MPSSG) and Ministry of Attorney General should work with police and CIC to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women.
3. Government ministries and police responsible for developing a police domestic violence investigation policy and developing and implementing training on a provincial standard risk assessment tool as part of the *Domestic Violence Action Plan*, should consult with immigrant-serving ministries and agencies.
4. Ministry of Children and Family Development (MCFD) should work closely with immigrant-serving ministries and agencies in the updating of its *Best Practice Approaches: Child Protection and Violence Against Women* guidelines and subsequent training.
5. MCFD should take steps to ensure coordination and risk related information-sharing with CIC to make sure that both authorities are aware of the concerns and actions of the other in order to protect Canadian-born children whose mothers face removal from Canada.
6. MPSSG should include Immigration and WelcomeBC Branch on any inter-ministry bodies responsible for developing and implementing a response to violence against women. (ongoing)
7. MPSSG, as the lead ministry in responding to violence against women, should proactively reach out to other involved ministries, levels of government, institutions, and community-based organizations on an ongoing basis in order to coordinate policies and practices and share information as appropriate to ensure the safety of abused immigrant, refugee, and non-status women and their children. (ongoing)
8. All inter-ministry bodies responsible for developing and implementing a response to violence against women in BC should consult closely with community-based immigrant-serving organizations. (ongoing)

##### ***Medium-term***

9. A formal relationship should be established between the inter-ministry body charged with ongoing development and coordination of the BC Government's response to violence against women and the Community Coordination for Women's Safety Program Provincial Working Group.

## **PROVINCIAL BRIEFING DOCUMENT 7**

### **Coordination of Responses to Immigrant, Refugee, and Non-status Women<sup>1</sup> Who are Victims of Violence in BC**

**ISSUE:** Coordination among those who respond to abused immigrant, refugee, and non-status women is key to the safety of these women and their children.

#### **KEY POINTS**

- Lack of coordination may leave abused immigrant, refugee, and non-status women and their children vulnerable to further abuse. Coordination is essential among the criminal and family justice systems, the child protection system, settlement services, language services, health care services, BC Housing, the child care subsidy program, schools, labour and employment programs, community-based support and advocacy services, the private bar, and Citizenship and Immigration Canada (CIC). Coordination is necessary in relation to policies, practices, and the provision of accurate and consistent information to women about immigration and refugee issues, including their rights, obligations, and options.
- Cross-sector bodies, joint initiatives, inter-agency protocols, information-sharing, and cross-training are some of the ways in which coordination can be facilitated.
- As Government develops and implements its new *Domestic Violence Action Plan*, it is critical that it links on an ongoing basis with existing operational and coordinating initiatives in the community at both the provincial and local levels.
- It is essential that those responding to abused immigrant, refugee, and non-status women and their children understand that, while coordination and risk related information-sharing are key to women and children's safety, they must be undertaken with an appreciation of:
  - the importance of having appropriate risk management mechanisms in place in order to ensure that information-sharing between agencies does not place women and their children at greater risk;
  - the importance of understanding federal and provincial privacy legislation, particularly regarding the potential use of statutory exceptions which allow information to be shared in the public interest or for health and safety reasons in domestic violence cases.
- Women's access to provincial services such as essential health and dental care, subsidized child care, and subsidized housing while engaged in and awaiting the result of

<sup>1</sup> For purposes of this document, immigrant women may include participants in temporary foreign worker programs such as the Seasonal Agricultural Worker Program or the Live-in Caregiver Program.

an H&C application varies with the specific status of immigrant or refugee women. Not only is the situation not straightforward, but it includes inconsistencies. For example, lack of coordination between the Federal and Provincial Governments may result in a temporary resident's eligibility to apply for a work permit, but inability to access subsidized child care in order to take employment.

- Lack of coordination between CIC and the family justice system regarding non-status women who have unresolved custody issues involving Canadian-born children may result in a woman being removed from Canada while a custody case is still in progress, thus leaving her children in the custody of a father who has been violent towards their mother. Such a situation may compromise the “best interests of the child.” It may also put the mother at risk as she may choose to stay in the abusive relationship rather than risk having to leave her children.
- Lack of coordination between CIC and provincial child protection authorities may result in a lack of information-sharing about the risks facing Canadian-born children if their mother is removed from Canada.
- There is a need for coordination between CIC and provincial Legal Aid in cases involving abused non-status women. Cases such as those involving potential removal from Canada and those involving child custody issues are complex, with serious results for both women and their children. Yet Legal Aid is increasingly difficult or impossible to access in these situations.
- There is a need for coordination between CIC and the police, provincial justice ministries, provincial health ministries, and other provincial services such as health authorities, hospitals, or transition houses regarding the handling of domestic violence cases involving non-status women. The threat of deportation will prevent many women from reporting the abuse or seeking safe shelter, essential health care, or other services, thus putting them and their children at risk by causing them to remain in an unsafe situation.
- While there are federal policies that control some elements of circumstances that may impact so-called ‘mail-order brides’<sup>2</sup> - women who met their foreign spouse through an international introduction or ‘pen-pal’ agency - there is no coordinated federal-provincial approach or legislative framework to regulate the ‘mail-order bride’ industry.
- The Community Coordination for Women’s Safety (CCWS) cross-sector Provincial Working Group could play a key role in linking Government coordinating bodies with coordination initiatives already operating in the community. The Working Group could provide Government coordinating bodies with information, suggestions, and feedback from the field. The Government coordinating body could, in turn, provide information updates to the Working Group. In such a way, a dynamic relationship of consultation and information-sharing could inform the work of both the Government and CCWS.

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<sup>2</sup> The controversy around the use of the term ‘mail-order brides’ is acknowledged. In the absence of another more ‘neutral’ term, the term ‘mail-order bride’ is used in this document. However, there is no intent to stereotype or stigmatize immigrant women who have married a Canadian as a result of an introduction or ‘pen-pal’ agency

## THE CONTEXT

- The need for coordination of responses to domestic violence has been highlighted as a key safety factor in many research, government, and coroner's reports in recent years (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003; BC Coroner's Service, 2009; Critical Components Project Team, 2008; Light, 2007; Representative for Children and Youth, 2009).
- The Ad Hoc Federal-Provincial-Territorial Working Group examining domestic violence responses in Canadian provinces and territories cited the "key lesson learned" in the three-year review process as the "need for comprehensive and co-ordinated strategies to address...spousal abuse" (Ad Hoc Federal-Provincial-Territorial Working Group Reviewing Spousal Abuse Policies and Legislation, 2003, p. 83).
- The Jury Recommendations arising from the Coroner's Inquest into the deaths of the Lee and Park Families in Oak Bay approached the issue of coordination from a number of perspectives. The jury recommended that:
  - All police departments work across jurisdictional boundaries as one unit;
  - Special domestic violence units be set up regionally and coordinated with all stakeholders;
  - All updated "K" file information be shared across all jurisdictional lines immediately and with all agencies;
  - Develop a single domestic violence unit across all provincial jurisdictional lines and include all agencies and services.

(British Columbia Coroner's Service, 2009).

- The Representative for Children and Youth in her report investigating the death of Christian Lee in Oak Bay recommended:

That the Ministry of Public Safety and Solicitor General take the lead in a special initiative that focuses on the issue of safety of children and youth in domestic violence situations, by ensuring a coordinated, effective and responsive system in Greater Victoria and throughout British Columbia.

She goes on to say that such a coordinated approach:

...will require the participation of the Ministry of Attorney General, Crown Counsel, Counsel, MCFD and representatives of the RCMP and municipal police forces.

and that such an approach should include, among other things:

Provisions to ensure the system is accessible and understandable to people outside of mainstream culture and language.

(Representative for Children and Youth, 2009).

- The Community Coordination for Women's Safety (CCWS) Program of the Ending Violence Association of BC (EVA BC), funded by MPSSG, works with communities across BC to

support the development of coordinated, cross-sector responses to violence against women. EVA and CCWS are the lead partners in the Safety for Immigrant, Refugee, and Non-Status Women Project of which this Briefing Document is a part. The CCWS cross-sector Provincial Working Group utilizes a solutions-based model to address the challenges of policy and program implementation and resolve systemic issues in the area of domestic and sexual violence in BC. The Working Group is composed of key representatives of a wide range of organizations charged with responding to violence against women and their children in the Province, including police, government ministries, community-based agencies, hospital and educational institutions, and the private bar.

- Examples of cross-sector approaches to this issue exist in other jurisdictions. In the US, for example, the *Violence Against Women Act* (VAWA) 1994 advocated for a multi-pronged approach that encouraged systems to work together to protect abused women, including specific provisions for abused immigrant women.
- Lack of coordination among front-line responders regarding abused immigrant, refugee, and non-status women is more than simply a matter of efficiency or convenience for the woman. It is a matter of safety, as any factor that results in a woman staying longer in a violent relationship or that prevents her from knowing what services and options are available to her puts her and her children at further risk.
- Front-line workers have reported cases where women without status have called the police about domestic violence, were reported by the police to CIC for being without status, and were subsequently removed from Canada.
- Front-line workers have described cases of non-status women being threatened with criminal charges if they leave the country with their children before a custody matter has been resolved.
- There have been incidents reported in BC and Ontario where CBSA officials have contacted a transition house, waited outside a transition house to apprehend a non-status resident, entered a transition house in search of a non-status woman, or arrived at a hospital after having been alerted that a non-status woman was a patient.
- BC is engaged in a number of senior level coordination initiatives:
  - a Senior Officials Task Force to provide an action plan within 60 days in response to the recommendations of the Coroner's Jury and the Representative for Children and Youth reporting on the Lee/Park deaths in Oak Bay in 2007;
  - the Violence Against Women Steering Team which consists of representatives from the Ministries of Attorney General (MAG), Public Safety and Solicitor General (MPSSG), Children and Family Development (MCFD), Healthy Living and Sport, Health Services, and BC Housing, and which is currently developing its terms of reference;
  - A secretariat whose mandate is to oversee the development of the BC Government's *Domestic Violence Action Plan*.
- A *Domestic Violence Action Plan* currently being developed by Government includes a number of important initiatives: a domestic violence police investigation policy; a

standardized set of bail conditions and terms for high-risk domestic violence offenders; a provincial standard domestic violence risk-assessment tool for first responders; review and updating of the *Violence Against Women in Relationships Policy*; advanced police training; updating of MCFD's *Best Practice Approaches: Child Protection and Violence Against Women Guidelines*; and advanced risk-assessment training for MCFD staff.

- Canadian Council for Refugees has put forward a number of concerns about the proposed *Balanced Refugee Reform Act* (Bill C-11) which have particular relevance for refugees who have suffered gender-based violence. (Canadian Council for Refugees, 2010).
- Assurance of public consultation on Bill C -11 is welcome, but it must utilize a coordinated federal-provincial-territorial approach including lawyers, community agencies and provincial organizations addressing needs of immigrant, refugee, and non-status women who are victims of violence. The input of these groups is particularly important in relation to:
  - Consideration of the concept of “safe countries of origin” or “democratic countries with robust human rights records” for purposes of fast-tracking the return of failed asylum claimants, as countries otherwise considered “democratic” or “safe” may have poor records in terms of gender-based crimes;
  - The proposal to hold hearings within two months, which may be problematic for refugees who require time to build trust before they can testify freely, such as traumatized women who have been victims of sexual assault or sexual torture;
  - A proposed bar on claimants receiving H&C consideration, which is an important avenue for abused women whose circumstances are not adequately addressed in the refugee system.

## RECOMMENDATIONS

1. Ministry of Public Safety and Solicitor General (MPSSG), as the lead ministry in responding to violence against women, should proactively reach out to other involved ministries, levels of government, institutions, and community-based organizations on an ongoing basis in order to coordinate policies and practices and share information as appropriate to ensure the safety of abused immigrant, refugee, and non-status women and their children.
2. Where appropriate, coordination strategies should be formalized in policy, protocols, and guidelines.
3. To ensure a specific focus on the needs of immigrant, refugee, and non-status women, MPSSG should include Immigration and WelcomeBC Branch on any inter-ministry bodies responsible for developing and implementing a response to violence against women.
4. In order to ensure federal-provincial coordination on matters relating to the safety of abused immigrant, refugee, and non-status women, all inter-ministry bodies responsible for developing and implementing a response to violence against women in BC should consult closely with Citizenship and Immigration Canada (CIC).
5. BC's inter-ministry body responsible for violence against women should consult closely with CIC and Department of Justice on the proposed *Balanced Refugee Reform Act* to ensure

that safety of abused refugee women is considered a priority. This is particularly important regarding the concept of “safe countries of origin”, the proposal to hold hearings within two months, and a proposed bar on claimants receiving Humanitarian and Compassionate (H&C) consideration.

6. To ensure that community voices are heard and community expertise is utilized, all inter-ministry bodies responsible for developing and implementing a response to violence against women in BC should consult closely with community-based immigrant-serving organizations.
7. To utilize the experience and expertise of community-based organizations and professionals working in the area of violence against women, including violence against immigrant, refugee, and non-status women, a formal relationship should be established between the inter-ministry body charged with ongoing development and coordination of Government’s response to violence against women and the Community Coordination for Women’s Safety Program Provincial Working Group.
8. To ensure that needs of abused immigrant, refugee, and non-status women are taken into account, Government ministries and police responsible for developing a police domestic violence investigation policy and developing and training on a provincial standard risk assessment tool, as part of the *Domestic Violence Action Plan*, should consult with immigrant-serving ministries and agencies.
9. To ensure that the needs of abused immigrant, refugee, and non-status women and their children are taken into account, Ministry of Children and Family Development (MCFD) should work closely with immigrant-serving ministries and agencies in the updating of its *Best Practice Approaches: Child Protection and Violence Against Women* guidelines and subsequent training.
10. MCFD should take steps to ensure coordination and risk related information-sharing with CIC to make sure that both authorities are aware of the concerns and actions of the other in order to protect Canadian-born children whose mothers face removal from Canada.
11. MPSSG, MCFD, Ministry of Housing and Construction Standards, BC Housing, police, hospitals, health authorities, and other provincial services providing protection, assistance, and support to abused non-status women should coordinate with the CIC branch that deals with admission to Canada and CBSA to ensure that abused non-status women who seek help are not apprehended by CBSA and removed from Canada.
12. MPSSG and BC Housing should coordinate with CIC to ensure that abused non-status women receive the protection and assistance they need to apply for both temporary and permanent status through an expedited temporary resident permit (TRP) and H&C process.
13. The BC Government should work with CIC and other federal departments to ensure that abused women and their children have access to services such as essential health care and subsidized child care while engaged in and awaiting the result of an H&C application.

14. Legal Aid and the Ministry of Attorney General should work with CIC to ensure that Legal Aid and other legal advocacy services are provided to abused non-status women facing removal from Canada, especially while a child custody matter is still before the courts.
15. As part of the Province's *Domestic Violence Action Plan*, in the review and updating of the *Violence Against Women in Relationships Policy*, MPSSG and MAG should work with police and CIC to develop policy or protocols to address situations where domestic violence is perpetrated against non-status women.
16. MPSSG should ensure that all its contracted victim-serving agencies receive adequate training on the importance of coordination and risk related information-sharing with CIC and immigrant-serving ministries and agencies and on federal and provincial privacy legislation, while appreciating that the safety of women and children must be the overriding concern.
17. The BC Government should cooperate with CIC and the Department of Justice to develop a coordinated approach to protecting so-called 'mail-order brides', including legislation and policy to regulate the operations of international introduction agencies.
18. The BC Government should work with CIC to help ensure that accurate, complete, and consistent information in their own language is provided to immigrant, refugee, and non-status women, including participants or prospective participants in temporary foreign worker programs, about their rights, responsibilities, and options, both before they come to Canada and immediately upon their arrival.

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## LEGAL CASE CITED

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