

Improving Child Protection Practice for Immigrant Families Experiencing Domestic Violence

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Learning Objectives

As a result of this training, participants will be able to:

- understand the dynamics of domestic violence and the unique challenges it poses for immigrant families;
- recognize how involvement with the child welfare system and the courts create additional barriers for immigrant victims of domestic violence;
- identify legal remedies available to immigrant families and victims of domestic violence; and
- discern how reasonable efforts may look different for immigrant families experiencing domestic violence.

What is an immigrant?

What does it mean to be:

- A citizen?
- A lawful permanent resident (LPR)?
- Deportable?
- Removable?
- Inadmissible?

What is an illegal alien?



A more appropriate and less offensive term is “non-citizen” or “immigrant”

*There is a misalignment
between the immigration
laws and the systems that
strive to protect victims of
abuse and neglect in the
United States*

The Washington Post

‘This is really
unprecedented’: ICE detains
woman seeking domestic
abuse protection at Texas
courthouse

By [Katie Mettler](#) February 16

Domestic Violence and Immigration Status

- **1 in 3** Women; **1 in 4** Men (Nationally) are victims of domestic violence

(Source: Nat'l Intimate Partner & Sexual Violence Survey, 2010 Report)

- **Immigrant women (non-citizens) – 30-50%**

(Source: “Battered Immigrants and U.S. Citizen Spouses” by Giselle Aguilar Hass, Psy.D., Nawal Ammar, Ph.D., and Leslye Orloff, J.D. (Legal Momentum, April 24, 2006)

Abuse Rates Rise When U.S. Citizen Marries Immigrant Woman

U.S. Citizen spouse/former spouse
abuse rate rises to **59.5%**

(See: “Battered Immigrants and U.S. Citizen Spouses” by Giselle Aguilar Hass, Psy.D., Nawal Ammar, Ph.D., and Leslye Orloff, J.D. (Legal Momentum, April 24, 2006)

Domestic violence and young children

- Children under 3 are disproportionately represented in homes where domestic violence occurs
- Children under five are most likely to be exposed to multiple incidents of violence
- Children as young as two have called 911

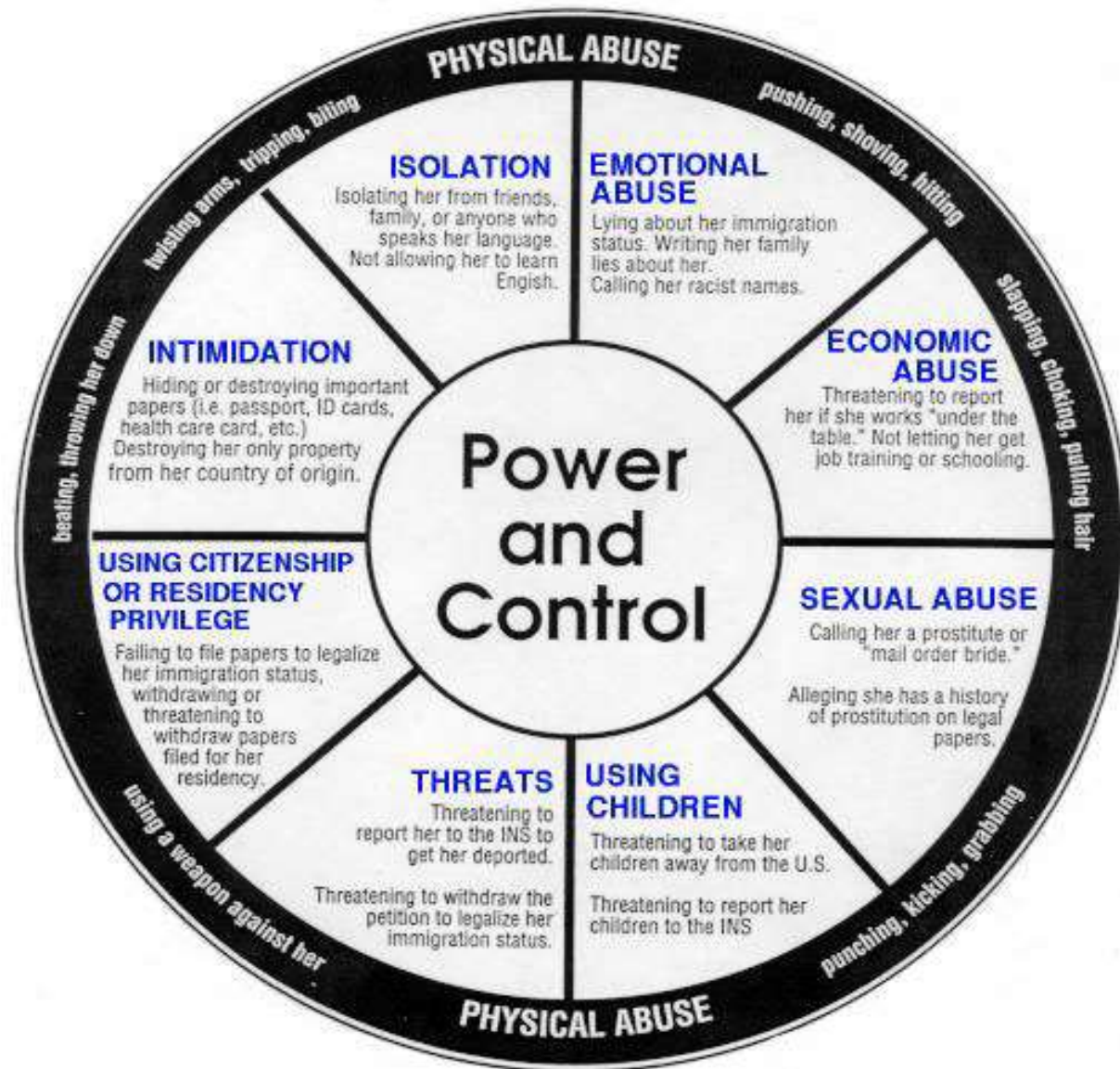
Domestic Violence and Child Maltreatment

- **30-50%** of families involved with child protective services also experience domestic violence

(Source: U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2014))

- Only **15%** of caseworkers properly identify domestic violence in child welfare cases

(Source: Kelleher, K., Gardner, W., Coben, J., Barth, R., Edleson, A., & Hazen, A. "Co – Occurring Intimate Partner Violence and Child Maltreatment: Local Policies/Practices and Relationships to Child Placement, Family Services, and Residence," NIJ #213503.)





Emotional Abuse

- Lying about her immigration status
- Telling her family lies about her
- Calling her racist names
- Belittling and embarrassing her in front of family and friends
- Causing her to lose face
- Telling her that he has abandoned her culture and become “white,” or “American”
- Preventing her from visiting sick or dying relatives
- Lying about his ability to have the immigration status of his lawful permanent resident abuse victims changed

Economic Abuse

- Forcing her to work “illegally” when she does not have a work permit
- Threatening to report her to Immigration and Customs Enforcement (ICE) if she works “under the table”
- Not letting her get job training or schooling
- Taking the money her family back home depends on her sending to them
- Forcing her to sign papers in English that she does not understand – court papers, IRS forms, immigration papers
- Harassing her at the only job she can work at legally in the U.S., so that she loses that job and is forced to work “illegally”

Sexual Abuse

- Calling her a prostitute or a “mail order bride”
- Accusing her of trying to attract other men when she puts on make-up to go to work
- Accusing her of sleeping with other men
- Alleging that she has a history of prostitution on legal papers
- Telling her that “as a matter of law” in the United States, she must continue to have sex with him whenever he wants until they are divorced

Using Coercion and Threats

- Threatening to report her to the ICE and get her deported
- Threatening that he will not file immigration papers to legalize her immigration status
- Threatening to withdraw the petition he filed to legalize her immigration status
- Telling her that he will harm someone in her family
- Telling her that he will have someone harm her family members
- Threatening to harm or harass her employer or co-workers

Using Children

- Threatening to remove her children from the United States
- Threatening to report her children to the Immigration and Customs Enforcement (ICE)
- Taking the money she was to send to support her children in her home country
- Telling her he will have her deported and he will keep the children with him in the U.S.
- Convincing her that if she seeks help from the courts or the police the U.S. legal system will give him custody of the children. (In many countries men are given legal control over the children and he convinces her that the same thing will occur here.)

Using Citizenship or Residency Privilege

- Failing to file papers to legalize her immigration status or lying about filing papers
- Withdrawing or threatening to withdraw immigration papers filed for her residency
- Controlling her ability to work
- Using the fact of her undocumented immigration status to keep her from reporting abuse or leaving with the children
- Telling her that the police will arrest her for being undocumented if she calls the police for help
- Keeping or destroying identification documents
- Hiding notices to appear in immigration court
- Misinforming or lying to victim about immigration laws

Intimidation

- Hiding or destroying important papers (i.e. her passport, her children's passports, ID cards, health care cards, etc.)
- Destroying the only property that she brought with her from her home country
- Destroying photographs of her family members
- Threatening individuals who serve as a her source of support
- Threatening to do or say something that will shame her family or cause them to lose face
- Threatening to divulge family secrets
- Threatening to report victim to immigration authorities or the police

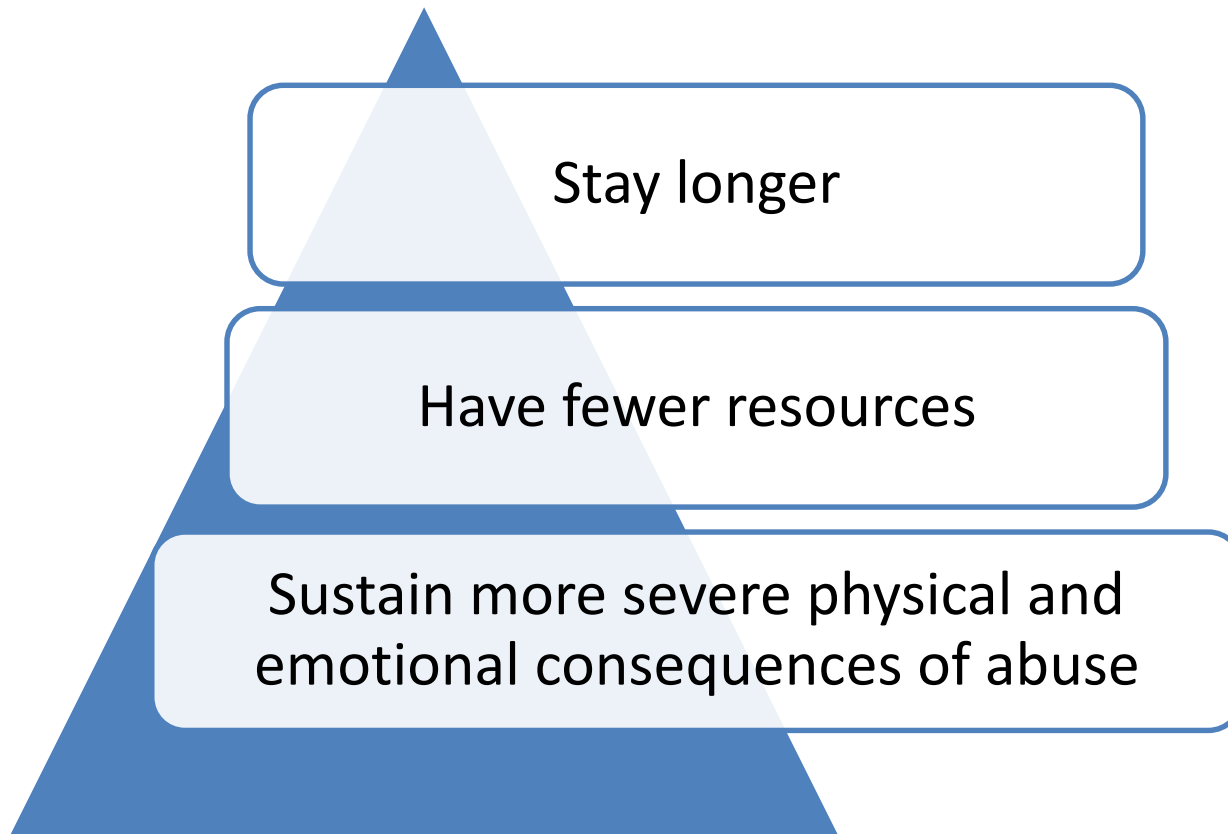
Isolation

- Isolating her from friends, or family members
- Isolating her from persons who speak her language
- Not allowing her to learn English or not allowing her to communicate in a language she is fluent in
- Being the only person through whom she can communicate
- Reading her mail and not allowing her to use the telephone
- Strictly timing all her grocery trips and other travel times
- Not allowing her to continue to meet with social workers and other support persons
- Cutting off her subscriptions to or destroying newspapers and other support magazines
- Not allowing her to meet with people who speak her language or who are from her community, culture, or country

Minimizing, Denying, Blaming

- Convincing her that his violent actions are not criminal unless they occur in public
- Telling her that he is allowed to physically punish her because he is the "man"
- Blaming her for the breakup of the family, if she leaves him because of the violence
- Telling her that she is responsible for the violence because she did not do as he wished

Research shows that immigrant victims:



Why?

Non-Immigrant Victims of Domestic Violence



Immigrant Victims of Domestic Violence

- **Fear**: of retaliation; of being killed (75% of DV related homicides occur upon separation; there is a 75% increase in violence in the first two years of separation)
- **Children**: some abusers threaten to harm the children if the victim leaves; custody concerns (abusers obtain custody 50% of the time)
- **Isolation**: abusers often try to cut off survivors from support networks as part of their mechanism of control

- **Fear**: The **#1** reason that non-citizens stay is out of fear that they will be deported!
- **Children**: abusers threaten to have her deported and obtain custody of the children; they may also take the money she earns to send to her children in another country
- **Isolation**: Non-citizen survivors are prevented from learning English, are cut off from families in their home countries, and are kept from others who speak her language

Non-immigrant Victims of Domestic Violence



Immigrant Victims of Domestic Violence

- **Threats**: abusers often threaten to commit suicide, take or harm the children, pets or other loved ones
- **Financial dependence**: abusive partners may control the finances as part of their pattern of coercion and control; the abuser may have destroyed the survivor's line of credit or forced joint bank accounts

- **Threats**: abusers may threaten to call ICE and have the survivor deported if they leave or report the abuse; they may also threaten to report her children to ICE
- **Financial dependence**: non-citizens that do not have a work permit are often dependent on their spouse's income and are not in a position to support themselves by obtaining legal employment

PARADIGM SHIFT

A change from
one way of
thinking to
another.



How do the dependency courts and child welfare systems inadvertently add to challenges faced by immigrant victims of domestic violence?

Case plan requirements that fail to take into account the realities of an immigrant's legal status or culture can do more harm than good

- Parenting classes required of a Spanish speaking parent but only offered in English
- AA/NA requirements for immigrants who do not ascribe to a Christian based faith
- Requirements that non-citizen parents obtain “legal gainful employment”

Court orders and findings can also have serious consequences for immigrants

- E.g., Protective orders that are related to domestic violence can be grounds for removal.

What can we do to improve outcomes for immigrant victims of domestic violence that are involved with child welfare and the dependency courts?

Reasonable Efforts...

Child protection workers should recognize and refer eligible **IMMIGRATION CASES** to immigration attorneys, help victims compile documentation, and provide supporting documents to the court

Immigration Relief for Victims of Domestic Violence

- **VAWA Self-Petition** for certain categories of abused spouses, children, and parents
- **Battered Spouse Waiver** for abused spouses with conditional LPR status
- **U-Visa** for certain victims of crime
- **Special Immigrant Juveniles Status (SIJS)** for juveniles found to be abused, neglected, or abandoned by one or both parents.
- **Asylum** for persons with well-founded fear of persecution if returned to home country
- **T-Visa** for trafficking victims

*Empowering immigrant
victims of domestic violence
improves outcomes for
young children*

VAWA Self-Petitions

- Victims of domestic violence who are the child, parent, or current/former spouse of a United States citizen or a lawful permanent resident (green card holder) and who have been abused by the citizen or permanent resident may be eligible to apply for their own green card (self-petition) without needing the abuser's assistance with the application.
- Form I-360

VAWA Self-Petitions

- Victims must establish that they:
 - Have or had a qualifying spousal relationship with the abuser or are the parent or child of the abuser,
 - Have resided with the abuser,
 - Are a person of good moral character, and
 - Suffered battery or extreme cruelty by the U.S. citizen or permanent resident abuser.

Battered Spouse Waivers

- 2 year conditional residence status starts on the day an immigrant is lawfully admitted to the United States on an immigrant visa or the day an immigrant's status is adjusted to permanent residence
- During that 2 year period, an immigrant must prove that the marriage was not entered into to evade the immigration laws of the United States
- Conditions on permanent residence may be removed if an immigrant entered into marriage in good faith but she or her child was then battered or subjected to extreme hardship by the U.S. citizen or lawful permanent resident spouse.

Battered Spouse Waivers

- Applicant must:
 - File Form I-751
 - Prove that:
 - Removal from the United States would result in extreme hardship,
 - The marriage was entered into in good faith,
 - During the marriage, the spouse or the spouse's child was battered by or subjected to extreme cruelty committed by U.S. citizen or permanent residence, and
 - The applicant was not at fault in failing to file a joint petition and request waiver of joint filing requirement

U-Visas: Eligibility

- (1) Applicant is the victim of qualifying criminal activity;
- (2) Applicant has suffered severe physical or mental abuse as a result of being a victim of that criminal activity;
- (3) Applicant has information about the criminal activity;
- (4) Applicant has been, is being, or is likely to be helpful in the investigation or prosecution of the criminal activity;
- (5) The crime occurred in or violated the laws of the United States; and
- (6) Applicant is admissible or qualifies for an inadmissibility waiver.

U-Visa eligible crimes

- Qualifying criminal activity for U Visa: rape; torture; trafficking; incest; domestic violence; sexual assault; abusive sexual contact; prostitution; sexual exploitation; stalking; female genital mutilation; being held hostage; peonage; involuntary servitude; slave trade; kidnapping; abduction; unlawful criminal restraint; false imprisonment; blackmail; extortion; manslaughter; murder; felonious assault; witness tampering; obstruction of justice; perjury; and fraud in foreign labor contracting
- Includes attempt, conspiracy, or solicitation to commit any of the above mentioned crimes

U-Visa: Certifying agencies

- U-Visa applicants must submit a law enforcement certification (Form I-918B) completed by:
 - Federal, State and Local law enforcement agencies;
 - Federal, State and Local prosecutor's offices;
 - Federal, State and Local Judges;
 - Federal, State and Local Family Protective Services;
 - Equal Employment Opportunity Commission
 - Federal and State Departments of Labor; or
 - Other investigative agencies.

“Any Credible Evidence”

- Most liberal evidentiary standard in immigration law
- Acknowledges victims experiences and challenges in providing “primary” evidence
- Applies to immigration benefits under VAWA (Self-Petition, VAWA Cancellation, Battered Spouse Waiver, U and T Visas)

Reasonable Efforts...

What can we do in case plans to improve outcomes for immigrant families that are involved with child welfare and the dependency courts?

Case plans should always consider:

- LANGUAGE
- IMMIGRATION STATUS
- CULTURAL CONTEXT
- THERAPEUTIC TREATMENT FOR
MONOLINGUAL CHILDREN UNDER 3

Reasonable Efforts...

Workers should familiarize themselves with national and local **RESOURCES** available to immigrant victims of domestic violence and make appropriate referrals

Legal Resources

- National Immigration Law Center: <https://www.nilc.org>
- Immigrant Legal Resource Center: <https://www.ilrc.org>
- ASISTA: www.asistahelp.org
- Directories of Legal Services Providers:
 - www.immigrationlawhelp.org
 - <https://www.immigrationadvocates.org/nonprofit/legaldirectory>
 - <https://www.justice.gov/eoir/list-pro-bono-legal-esrvices-providers-map>

Resources to help prepare for possible deportation

- Protecting Assets and Child Custody in the Face of Deportation
<http://www.appleseednetwork.org/wp-content/uploads/2017/03/Custody.first-draft-from-firm.3.8.17-KC-final.pdf>
- Guide for Practitioners Assisting Immigrant Families
<http://www.aecf.org/resources/protecting-assets-and-child-custody-in-the-face-of-deportation>
- Sample Family Preparedness Plan
https://www.ilrc.org/sites/default/files/resources/family_preparedness_plan.pdf

Resources for Immigrants

- Online resources for immigrants and professionals:
 - <https://www.informedimmigrant.com>
 - <https://www.nilc.org/issues/immigration-enforcement/everyone-has-certain-basic-rights/>

Culturally Specific Resource Centers for Domestic Violence Survivors

– Casa de Esperanza:

<https://casadeesperanza.org>

– Asian Pacific Institute on Gender Based Violence:

<http://www.api-gbv.org>

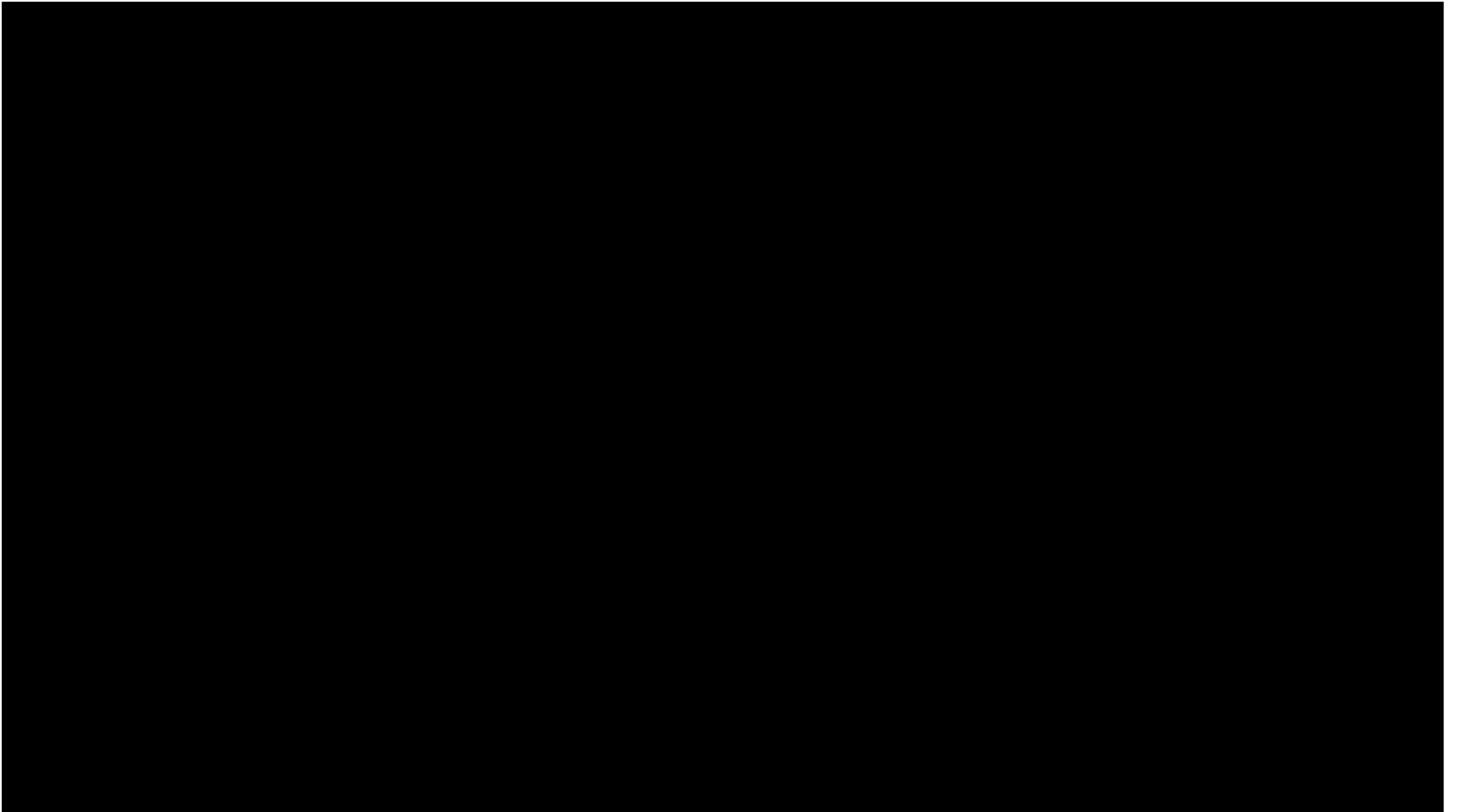
– Tahirih Justice Center:

<http://www.tahirih.org/what-we-do>

Resources on Domestic Violence

- National Domestic Violence Hotline
1-800-799-7233
- Domestic Violence Resource Network
www.nrcdv.org/dvrn/
- Resource Center on Domestic Violence: Child Protection and Custody
www.rcdvcpc.org
1-800-527-3223

The Hamilton Mixtape: Immigrants



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