

Toolkit for Immigrant Women Working with a Lawyer



The Violence **Stops** Here

A BWSS Toolkit

NOVEMBER 2010

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Engaging Immigrant Women in the Legal System
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The Violence Stops Here



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A Toolkit for Immigrant Women Working with a Lawyer

About this toolkit

This toolkit has been developed by Immigrant women for other Immigrant women going through the legal system. The women who have helped make this toolkit possible have all been where you are. They have the knowledge to develop this toolkit because they are survivors of intimate partner violence and have experienced the family law system.

This resource is for all Immigrant women who have experienced violence and are going through the legal system. Even if you have not experienced violence, but are going through the legal system, you will still find this toolkit helpful. Using this resource will help you be more prepared to work with your legal aid lawyer or any lawyer. You will also be more prepared for your legal case. The tools in this resource will help you feel more empowered and confident in communicating with legal professionals.

For some women who have experienced abuse, it can be difficult to pay attention to the details of a legal case. Because you may still be suffering from the effects of the abuse, it may be difficult to make notes, organize documents, read this toolkit, concentrate on details or pay attention to your lawyer. Feelings of guilt, anger and sadness are normal. It is also normal to feel that it is not worth it to go on with your legal case. If you are feeling this way, you can get emotional support from a counsellor. Please go to the resource section of this toolkit for information on finding a counsellor who is trained to work with a woman in your situation

How this toolkit will help you

For Immigrant women, the legal system in Canada is very different and can be intimidating. Even though you are in this country, your understanding of the legal system may be based on what you experience in your home country. This is very common for Immigrant women. If you have had, or heard of, harmful experiences in your home country with the legal system, it is even more difficult to trust and access the law in Canada.

As an Immigrant woman, you may also be experiencing language and cultural barriers. Often because of the different cultural contexts, you may not know how to speak and behave in the Canadian legal system. Knowing your rights, responsibilities and the behaviours, words and ways of acting with your lawyer will help you get the best outcome for your case.

As a woman who has experienced abuse, going through the legal system can be harder because your partner or ex partner may use the court system to continue the abuse. Some examples of how your partner may do this include: frequently changing the amount of child support, challenging custody and access orders or excessively contacting your lawyers in order to increase your legal fees.

Using this toolkit will give you more skills to communicate clearly with your lawyer. These skills will also help you communicate with other community professionals. You will also learn your rights and responsibilities when accessing the legal system.

What is abuse?

Often when we think of abuse we think of physical violence. In Canada, it is a crime to physically or sexually abuse another person. It is also illegal to make threats to harm or kill, harass and to stalk another person. Stalking is when someone is repeatedly harassing or threatening you. When someone is harassing you they may repeatedly call you, follow you, or come to your home or work when you have told them not to. Threats are when someone says they will harm you, kill you or hurt your family.

There are other ways that partners abuse women. These other ways include abuse that is: verbal, emotional, psychological and/or financial. Although these types of abuse do not show physically, the impacts can be just as traumatic as physical or sexual abuse. It is important to discuss verbal, emotional, psychological and financial abuse with your lawyer. Even though your partner will not be criminally charged for this type of abuse it is still very important to your legal case. For support, or to learn of resources in your area, you can phone the BWSS intake line at 604.687.1867.

Working with Lawyers

Usually in Immigrant communities there is a lot of respect for trained professionals. Because lawyers are educated and have legal knowledge and training, people give them a lot of power. You may believe that what your lawyer tells you is the final word. The lawyer has experience and knowledge about legal matters, but only you know your experience and the facts of your case. *You have the responsibility and power to manage your own case in your best interest.*

As a client, it is good to know what your lawyer's responsibilities to you are. It is important to know that you also have responsibilities. Learning these responsibilities will help you have the best outcome in your legal case. Knowing your lawyer's role, knowing your role, and communicating effectively will help you both to assess what can be realistically addressed with the legal aid coverage you are provided.

Your Lawyer's Responsibilities¹

- i) It is your lawyer's responsibility to provide you with an interpreter if you are not fluent in English. For meetings with your lawyer let him or her know beforehand and they will provide you with a professional interpreter. It is your right to have an interpreter. If you have legal aid, there is no charge for you to use this service; however, this may reduce your legal aid hours

REMEMBER It's your legal right to have a trained interpreter if you are not fluent in English. If you are asked to have your children or a friend interpret for you, you have the right to say no and ask for a trained interpreter at your appointments. However, if you do not have legal aid, you will have to hire and pay for your own professional interpreter. In this case you may prefer to use a friend or a community worker to help with interpretation.

¹Parts of this section have been modified from the Legal Services Society publication *What you should expect from your legal aid lawyer*

- ii) Your lawyer has a responsibility to meet with you as soon as possible once your case is accepted by legal aid. It is also your lawyer's responsibility to return your phone calls in a reasonable time. A reasonable time is different for each case. Usually, your lawyer should return your phone call in 2 -3 days. However, it is important to remember that your lawyer is busy with many cases. In reality, it can take up to 1 week for your lawyer to return your phone call. If you are having difficulties getting a hold of your lawyer, consult with your legal advocate or community worker

TIP Your lawyer is often busy with many cases. Some of your lawyer's other files may require his or her immediate attention. It can be useful for you to leave a detailed message with your lawyer's legal assistant. If your concern is not a legal question related to your file, the legal assistant may be able to provide you with an answer

- iii) Your lawyer should explain the following items to you:
- Confidentiality (your lawyer cannot talk about your case with anyone without your permission). Your lawyer may refer to confidentiality as privileged communication
 - Your role and your lawyer's role
 - The steps in the legal process
 - Your legal options
 - Your chances of getting what you want
 - If there are any risks that you face
 - The limits of your legal aid referral
 - What can be realistically addressed within your legal aid coverage
 - If you have a private lawyer, your lawyer should go over the cost of your legal retainer (a retainer is your contract with your lawyer) and what is covered under the retainer
- iv) Your lawyer needs to work with you to determine the best steps to take in your case. Ask your lawyer what your options are. It is important to listen to your lawyer's legal advice, but your lawyer needs to work with you. If your lawyer does not think your directions should be followed, he or she needs to explain to you the pros and cons of your choices
- v) Your lawyer may not be able to keep an appointment with you for various reasons. If your lawyer cannot keep an appointment with you, contact him or her or the legal assistant and schedule another appointment

TIP Lawyers are not always in their office because they go to court or meetings. A lot of the communication with your lawyer will be done through his or her legal assistant. For example, when you are calling to request an interpreter or change an appointment it may be the legal assistant that you speak to. If the reason you are calling can be done through the legal assistant it is better to do this. Because you will be speaking often to the legal assistant it is important to develop a good relationship with him or her. Your lawyer's legal assistant may be very busy and handling many cases, and he or she may take some time to get back to you

- vi) Your lawyer needs to complete the work on your case in a reasonable time. However, the legal system can be time consuming and delays regularly happen in legal cases. At times, delays happen because your lawyer is waiting for a response from your partner or ex partner's lawyer

Your responsibilities

- i) Ask your lawyer specific questions
- ii) If you are going to hire a private lawyer, discuss with your lawyer what parts of your case can be completed by others in order to keep your legal fees low. For example, there may be pieces in your case that legal advocates or family justice centres can help you with for no fee. There may also be pieces of your case that your lawyer's legal assistant can complete

REMEMBER For many Immigrant women story telling is a normal way to communicate. When you are telling your situation to a lawyer it is important to talk in point form. Point form is when you describe the issue in fewer sentences. Before your first meeting with your lawyer, fill out the information sheet in this workbook and bring it to your meeting

- iii) Be on time for your appointment. If you are going to be late or have to cancel your appointment, phone your lawyer's office and advise them of this. If you are late for your appointment your lawyer may not be able to meet with you for the same amount of time because they may have other clients booked after you. If you cancel your appointment, make a new appointment as soon as possible. Do know that lawyers are quite busy and may not be able to provide you with another appointment right away

TIP If you are uncomfortable attending your legal appointments alone, it is a good idea to bring a friend or community worker with you for support. Your support worker may have to wait in the waiting room while you have your appointment with your lawyer. If your lawyer approves for you to bring your support worker into your meeting you will be waiving your confidentiality with your lawyer for that session. When going to court it is always a good idea to have someone with you

- iv) Ask your lawyer's legal assistant if you can bring your children with you to your appointment. If he or she says no, arrange for someone to take care of your children while you are at the appointment
- v) Writing in your journal is very important. Document everything. This includes all meetings you have with your lawyer, what was said, and what the next steps will be. Go to the workbook section in this toolkit to learn how to start a journal
- vi) Continue to organize your documents. This is very important and it will save you a lot of time. Follow the steps in the workbook section of this toolkit to learn how to organize your documents

TIP Sometimes your lawyer or other legal professionals may use legal terms that are new to you. If you do not understand the legal term, please ask the person to explain. Or, you can ask them to write it down for you and you can have your community worker, legal advocate, or lawyer explain it to you at a later time

- vii) Do what your lawyer asks you to do on time
- viii) It is important to speak up with your lawyer. You may feel so grateful that you have a lawyer that you do not want to speak up, are shy, or feel bad if you make your voice heard

REMEMBER Your lawyer needs to know what you want in order to do his or her best work for you. If you are not sure of what you want it is okay to ask your lawyer about your legal options. One way to have a working relationship with your lawyer is to prepare questions before an appointment

- ix) For your first appointment ask your lawyer what papers you need to bring with you. Prepare a written statement with your community worker about your situation. Prepare a list of questions you have and bring these to your first appointment. Your legal advocate can also help you develop a list of questions

Your lawyer has a limited amount of time with you, and it is important to use this time well. For example, try not to phone your lawyer too frequently with questions. However, it is also important to call immediately if there are emergency matters related to your case

TIP During your first meeting with your lawyer discuss what issues you should call him or her with immediately. It is a good idea to develop a communication plan with your lawyer so you know that your file is on track

- xi) It is common for women working with legal aid lawyers to not know how many hours their lawyer has to work with them. Sometimes you will not know everything your lawyer is doing for your case and how long it may take. It is important to refer to the terms in your legal aid agreement or your legal retainer with your lawyer to assess what realistically can be done under your agreement
- xii) Sometimes you may want to share more of your feelings with your lawyer. Your lawyer is not counselling support for you. It is important to find a counsellor in your community for support. Refer to the resources in this toolkit to find a community organization in your area for support

WORKBOOK

In this section you will learn 3 tools to help you with your legal case.

1) Organize Your Documents: A Step By Step Guide

When you are working with the legal system you will receive many documents. You can waste a lot of time looking for papers if you are not organized. Imagine having hundreds of papers in a box and bringing them to your lawyer.

REMEMBER Keep every paper that you are given. You may need it later! If you need more information on what documents to keep, ask your lawyer or legal advocate. The following is a list of some types of documents to keep:

- Letters
 - Receipts
 - Bank statements
 - Any financial records
 - Medical receipts
 - Court papers
 - Police records
 - Original official documents, such as marriage certificates, birth certificates, immigration documents, and so on
-

It will save a lot of time with your lawyer and your advocates if you have your documents organized and you bring them organized to your appointments. Remember: time is money with a lawyer. You want to make best use of your time. Below, we will walk through step-by-step how to organize your documents.

Filing your documents

Filing is a good way to organize your documents. To begin filing you will need: folders, a filing box and a small notebook.



- 1** Buy a filing box and filing folders. You can buy these items at office supply stores



- 2** On your filing folder write what the folder is for. For example, you can have a folder for custody and access documents, documents from lawyers, documents from school. Have a folder for any paper that is important



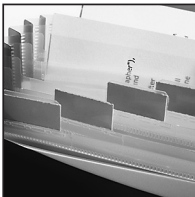
- 3** Put documents into each filing folder as you receive them



- 4** Write a number on each document you file. Put this number and the folder's name on your document list. This will help you find your document faster when you need it



- 5** After you file, use your notebook to keep a list of the documents. Use the table on next page as an example of how to document the papers you filed



- 6** When you file your papers, file them in the order you write them down in your notebook

Use the table on next page to list the documents that you have. This will help you have a physical list of your documents. It will also make it easier to find in your filing system.

Document List:

[illegible]

2) Journal of Meetings and Events

Keeping a journal is very important. It is a strong document and timeline of your situation and your case.

In your journal keep track of the following:

- Meetings and phone conversations with your lawyer
- Court appearances
- Meetings with any legal professionals
- Appointments with your community workers and legal advocates
- Interactions with your partner or ex partner
- Anything else you feel is important to document

TIP It is a good idea to ask for business cards when you meet a legal professional or community worker. This will help you to spell or remember this person's name if you ever need to do this in the future. You can staple the business card to your journal

For each journal entry use the following as an example of what to write in your journal:

Date:

Who you met:

Contact information:

Where the situation happened:

What was discussed (write in point form):

3) Information Sheet

This information sheet is for the first meeting with your lawyer. It is modified from *A Guidebook for a Successful Interview with a Lawyer* publication from the Community Legal Assistance Society.

Please Print or Type

Date: _____ Full Name: _____

Date of Birth:

Home Address:

Home Telephone or Cell Phone: _____ Claim or File Number: _____

Legal Aid

What Coverage will be Provided:

Start Date for Coverage:

Specifics on How Coverage will be Used:

Contacts, Witnesses or Others

Name	Position <i>(if this person has one)</i>	Telephone	Address

In point form, write down what happened in order. It is important to include times, dates, places and people involved. Use more paper if you need to.

Different people you work with when going through the legal system

This section describes the different people you may be working with. It describes their job, what they can do for you and where they work.



Community Worker

Many community workers work in places that help people in the community. The places they work are called agencies or organizations. Community workers do not work for the government and their job is to help support you. There are many different types of community workers. Some examples of community workers are victim service workers, counsellors, outreach workers, employment counsellors, settlement workers and ESL teachers.

All community workers do different types of work. Generally, a community worker can help you with information, support, advocacy and accompaniment to appointments. Community workers can also refer you to other community agencies.

For a list of some agencies that help women in the legal system please see the resources section in this tool kit.

TIP Sometimes people call community workers social workers. Some community workers do have training in social work, but they are not social workers. If you call your community worker a social worker your lawyer or other legal professionals may think you are talking about a Ministry of Children and Family Development (MCFD) social worker. Social workers are different from community workers. MCFD social workers work for the government and investigate families where they think children are being abused. A community worker does not do this

Family Justice Counsellors

Family justice counsellors can give you information about the law and about the family court process. Family justice counsellors are government employees who work at Family Justice Centres. Family Justice Centres are located across the province, sometimes in the local courthouse. Some of the services family justice counsellors offer include: information and referral, help filling out Family Court forms, mediation and conciliation services, and help planning a separation agreement.

Family justice counsellors are not lawyers and they do not give legal advice. The information you share with your family justice counsellor is not privileged as it is with your lawyer.



Legal Advocate

A legal advocate is a community worker who specializes in helping you with legal problems. Legal advocates work in community agencies. Legal advocates are not lawyers and do not give you legal advice.

Legal advocates provide legal information, advocacy, support, write affidavits with you and help you fill out some legal forms. Legal advocates can also refer you to lawyers, assist with legal aid applications, help you develop questions for your lawyer and help understand the legal system. Your legal advocate can also help you talk to your lawyer

Legal advocates can go with you to court appointments as support. Legal advocates are a valuable resource as lawyers hours are often limited.

REMEMBER Your lawyer, advocates and community workers are working *for you and with you*. They cannot do whatever they want to do



Interpreter

Interpreters are trained people who speak your language and English. It is an interpreter's job to help you communicate with whoever you are meeting with. Although interpreters are trained to interpret accurately, some do not. If you are feeling your interpreter is not interpreting your words accurately please let your lawyer and anyone else who is working with you know as soon as possible. An interpreter should not be giving advice to you about how to proceed with your case.

Privately Hired Lawyer

A privately hired lawyer is a lawyer you hire and pay with your own money to help you with your legal case. It is very expensive to hire a lawyer privately. If you are going to trial for your case it is even more expensive. If you can afford to hire a lawyer you can choose your own lawyer.

All lawyers have different prices. Before you hire a lawyer discuss fees over the phone. Some lawyers offer legal consultations for a reduced fee, but some do not. Ask each lawyer on the phone if they do a free or reduced fee consultation.

TIP If you have limited resources and need to hire a lawyer you can phone the Lawyer Referral Service. You can phone them Monday – Friday from 8:30 – 4:30 at 604.687.3221. You can also phone them if you need help with a particular legal situation. For \$25 you get a 30 minute consultation with a lawyer. If you want to hire the lawyer you can discuss fees with him or her during this consultation

Legal Aid Lawyer

Legal aid is a program by the government to help people who cannot afford privately hired lawyers. Legal aid is run by Legal Services Society (LSS) in BC. If you qualify, LSS will pay for your lawyer for a number of hours. LSS will provide you with a list of lawyers unless you bring a referral. When LSS gives you this list you will not know if the lawyers will understand how to work with a woman's case when she has experienced abuse. It is better to apply to legal aid with a recommendation because then you have more choice.

Sometimes Immigrant women feel they cannot instruct their lawyer in the same way as if they had a privately hired lawyer. This is not true. It is important to know that your legal aid lawyer has the same responsibilities to you as other lawyers.

If you are having trouble with your legal aid lawyer it is important to consult with your legal advocate and tell LSS as soon as possible.

TIP There are organizations, like BWSS, that has a legal advocate, who have lists of legal aid lawyers they recommend. Before phoning lawyers on the list legal aid gives you, call these organizations to give you 2-3 lawyers names and contacts. The lawyers they recommend will have an understanding of what it is like to work with a woman who has experienced abuse. Tell the lawyer about your case and ask them if they will be willing to take your case



Legal Aid Intake Worker

Legal aid intake workers work in legal aid offices, courthouse locations or on the Legal Services Society (LSS) phone. They are the people you meet when you apply to legal aid and help you with your application. When you apply to legal aid, an intake worker will ask you for complete and true information about your legal problem, income, savings and assets. They can work to determine if you are eligible or not eligible for legal aid. **Legal Aid intake workers are not community workers, social workers or legal aid lawyers.**



Mediator

Going to a mediator is one way to not go to court for divorce related issues. A mediator is a third party who is trained to help you and your partner or ex-partner discuss and resolve problems that arise from your divorce. Some of these problems can include custody and access of children, property and asset division or spousal support. The mediator does not make decisions for you, but helps both of you come up with a solution that is acceptable to both of you.

Mediation often is not appropriate for women who have experienced abuse. If you are a woman who has experienced abuse and legal aid is only paying for you to go to a mediator it is important to speak to your legal advocate and LSS as soon as possible. A mediator is not a lawyer and will not provide legal advice for you. If you use a mediator you will still need to get legal advice from a lawyer before and after mediation and before signing any documents

Family Duty Council

Family duty council lawyers work in Provincial and Supreme Courthouses. They are paid by LSS and are for people with low incomes who are dealing with family law problems. They are available by appointment or drop in. In Provincial Court they can give you advice and speak for you in court on simple issues. But they do not take your entire case or represent you in a trial.

In Supreme Court, family duty council can help you for up to 3 hours of free legal advice. Sometimes they can help you in court if the issue is simple, not opposed, or you are consenting to it.

Legal Resources for Women

Access Justice Pro Bono provides services free of charge by volunteer lawyers. They run free legal advice clinics in the community. To book an appointment at a clinic please phone their hotline.

Phone 604-878-7400

Outside Greater Vancouver 1-877-762-6664

Website www.accessjustice.ca

Court Information Program for Immigrants, Justice Education Society provides free legal information to Immigrants. The website provides a variety of information on basic legal issues, including information on: BC courts, Canadian Law, criminal law and basic family law. They have community workers in 6 languages working out of provincial courthouses in the Lower Mainland. The website provides information in English, Spanish, Punjabi, Hindi, Chinese and Vietnamese.

Chinese and Vietnamese

604-660-6087

Spanish 604-660-6090

Punjabi and Hindi 604-760- 5727

Law Students Legal Advice Program (LSLAP) is a non-profit society run by law students at the University of British Columbia. LSLAP provides free advice and representation to clients who would otherwise be unable to afford legal assistance. Clinics are located throughout the Greater Vancouver Regional District. You can phone their phone line to make an appointment.

Phone 604-822-5791

Website www.lslap.bc.ca

Legal Services Society (LSS) has a range of free services for people who have a legal problem but cannot afford a lawyer. LSS services include:

- **Legal information** outreach workers, publications in many languages and the Family Law in BC website www.familylaw.lss.bc.ca. This website is available in many different languages.
- **Legal advice** from duty counsel lawyers at most courthouses. You can also get help from family advice lawyers at several family justice centres.

Phone 604-408-2172 in the Lower Mainland
OR 1-866-577-2525 outside the Lower Mainland

- **Legal representation** from a lawyer for those who qualify and have serious family, child protection, or criminal law issues. It is also available for some immigration, mental health, and prison law matters. You can apply in person at a legal aid office, or over the phone by calling the Call Centre. If you have to call long distance to reach a legal aid office, call Enquiry BC and ask for a transfer to the office number you want (free call):

Vancouver 604-660-2421
Victoria 250-387-6121
Outside Victoria & Vancouver 1-800-663-7867

Vancouver Justice Access Centre can help assess what you need, provide information about your legal and related issues and refer you to the services that are available for your situation. Their services include self-help information, dispute resolution and mediation, legal advice and referrals to community agencies. In some cases, language interpretation is available.

Phone 604-660-2084
Toll free Call Enquiry BC at 1-800-663-7867 and ask to be connected to 604-660-2084

LEGAL ADVOCACY

The following agencies offer legal advocacy in the listed areas of law.

Atira Women's Resource Society provides legal advocacy in family, criminal, welfare, disability and tenancy law.

Phone 604-331-1407 • **Website** www.atira.bc.ca

Battered Women's Support Services provides legal advocacy in family and immigration law. Child protection and criminal law services are provided by victim service workers. Services are available in Spanish, English, Farsi and Tagalog. Interpretation is available in other languages upon request.

Phone 604-687-1867 • **Website** www.bwss.org

Mosaic provides legal advocacy in immigration, employment and poverty law. Interpretation is available in multiple languages upon request.

Phone 604-254-9626 • **Website** www.mosaicbc.com

Newton Advocacy Group provides legal advocacy in poverty law and residential tenancy law. Services are available in English, Hindi and Punjabi.

Phone 604-596-2311 • **Website** www.newtonadvocacygroup.ca

North Shore Community Resources provides legal advocacy in family, immigration and tenancy law.

Phone 604-985-7138 • **Website** www.nscr.bc.ca

South Fraser Women's Services Society provides legal advocacy in family and child protection law. Services are available in English, Punjabi and Hindi.

Phone 778-565-3638 • **Website** <http://www.sfwomensservices.com>

Vancouver & Lower Mainland Multicultural Family Support Services Society provides advocacy for and assistance to Immigrant women in their interactions with the justice systems. VLMMFSS also provides Court preparation assistance, liaison with lawyers and Crown Counsel, and supportive counselling throughout the court process. Services are available in many languages.

Phone 604-436-1025 • **Website** www.vlmfss.ca

YWCA Vancouver provides legal advocacy in family, tenancy and poverty law.

Phone 604-734-5517 • **Website** www.ywcavan.org

COMMUNITY RESOURCES

Transition House for Women and their Children in BC The BC Yukon Society of Transition Houses (BCYSTH) is a non-profit association of transition houses, safe homes, second stage houses, and other groups, which serve the needs of abused women and their children.

Toll-free 1-800-661-1040

To inquire about a transition house in your area

Website www.bcysth.ca/index.html

For services throughout BC
and the Yukon.

VictimLink is a toll-free, BC-wide 24-hour crisis line. VictimLINK provides information and referral to community agencies for all kinds of crimes including sexual assault, violence in relationships, elder abuse, and adult survivors of physical or sexual abuse. VictimLINK provides service in 130 languages and dialects, including 17 North American aboriginal languages. VictimLINK is TTY accessible and provides interpretation services for all major languages.

TTY 604-875-0885.

Collect TELUS Relay Service at 711

Toll-free 1-800-563-0808

Website www.victiminfo.ca/services/victimlink

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PHONE 604.687.1868

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