

# Toolkit for Lawyers

## Best Practices in Working with Battered Immigrant Women



The Violence **Stops** Here

A BWSS Toolkit

NOVEMBER 2010

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# Best Practices in Working with Battered Immigrant Women: A Toolkit for Lawyers

**A BWSS Toolkit**

NOVEMBER - 2010



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Engaging Immigrant Women in the Legal System  
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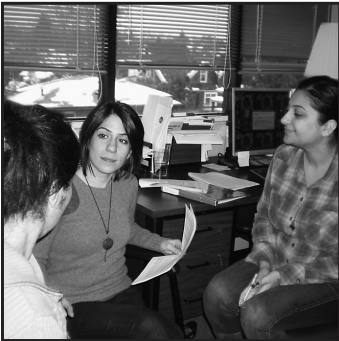


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# Best Practices in Working with Battered Immigrant Women: A Toolkit for Lawyers



## About the Toolkit

For over 30 years Battered Women's Support Services has supported Immigrant women who experience violence in their intimate relationships. This toolkit grows out of the legal barriers Immigrant women share with us again and again. Hearing their experiences, combined with our knowledge of systemic barriers, unveil a legal system that is based on a colonial and patriarchal worldview. As a result, this system is largely inaccessible to marginalized Immigrant women experiencing violence in intimate relationships.

Lawyers, front-line workers and legal advocates play a key role in assuring successful interventions, addressing the needs of battered Immigrant women and bringing abusers to justice. In recognition of the importance of our shared social and professional responsibilities, this guide is intended to further strengthen the collaboration between lawyers, legal advocates and front-line workers to work towards ending violence against women in our community. This toolkit addresses some of the common challenges faced by lawyers working with battered Immigrant women, and provides tools and strategies that enhance effective communication with, and legal representation of women.

## What is abuse?

Often when we think of abuse we think of physical violence. We know that 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. Other ways that partners abuse women include: verbal, emotional, psychological and/or financial abuse. Although these types of abuse do not show physically, the impacts can be just as traumatic as physical or sexual abuse. As a lawyer, it is important to discuss verbal, emotional, psychological and financial abuse with an Immigrant woman. She herself may think of abuse as physical or sexual abuse and may not realize other types of abuse exist in her relationship. Although her partner will not be criminally charged for this type of abuse it may still be relevant to her legal case.

## Challenges in working with Battered Immigrant Women:

*“Women are never just women, but have multiple cross-cutting identities revolving around race, ethnicity, class, sexual orientation, age, ability, [religion] and citizenship status.”*

**Alexandra Dobrowsky**

*“Immigrant women, Equality and Diversity in Canada”*

Violence against women has psychological, physical, social and economic impacts on women, their families and society. The impact of abuse, migration and discrimination on Immigrant women’s lives make women particularly vulnerable to further victimization. As a professional, your awareness of the special circumstances that affect a battered Immigrant woman’s life will alleviate the common challenges faced when working with Immigrant women and create ease in the work process.

The following example provides an illustration of some common challenges in working with battered Immigrant women:

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**Y**ou are meeting Minoo, your new client, for the first time. She came to Canada 4 years ago with her husband and two children. She fled from home to a transition house with her two children after being threatened and beaten by her husband. She tells you that she has been thinking about leaving her abusive husband for 3 years. She is afraid that her family will denounce her for “breaking her family” if she leaves her abusive husband.

During your interview you have asked her to tell you details about the events that led to and followed the latest violent incident. She tells you that she can’t remember. She has difficulty focusing on the questions and her answers are not consistent. She is telling you details that are not relevant to the information you need. She becomes enraged, cries and suddenly keeps silent for few minutes. She is vigilant and tense.

You are getting impatient and frustrated. You are questioning the reliability of her answers. You need to know the factual details of the case; instead, her narrative is focused on irrelevant details and her emotional experiences.

Why doesn’t Minoo tell you her full, detailed story?

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This is a crucial moment in Minoo’s life. Despite the psychological, social, and financial barriers she faces, she has made a courageous decision to reach out to you and seek legal help. Minoo, like many other battered Immigrant women may not be able to disclose the details of abuse right away. Recalling and narrating the details of her abuse causes her to relive all her traumatic experiences. In fact, suppressing memories of trauma is a well-documented coping strategy for dealing with these experiences.

She is afraid that you will not believe her or will minimize her experiences. She may be worried that you will discuss her case with others, especially if you share the same cultural or national background.

Furthermore, women may not know where to turn for emotional support. She believes that as an expert you are able to meet all her needs. You may be the first person she is trusting with her story. She may not clearly differentiate her emotions from the incidents; the incidents of abuse and the emotions that arise are all part of how she remembers the event. **For many Immigrant women, lawyers are often the first and the last hope.**

### The Impact of Abuse:



Abuse is a systematic pattern of tactics used to gain or maintain power and control over another. As a result of abuse, a woman lives her life in fear and repeatedly alters her thoughts, feelings, and behaviour, and denies her needs, to avoid further abuse or to cope with the trauma.

The impact of abuse on women is varied and complex; however, most survivors experience a combination of physical, emotional and cognitive responses. The following common responses are normal reactions to abnormal events:

#### *Common Response to Abuse:*

- Minimizing the experience
- Emotional swings
- Being constantly on guard
- Difficulty remembering and concentrating
- Fear
- Flashbacks- feeling like the trauma is happenings now
- Feelings of helplessness, panic and loss of control
- Shock and disbelief
- Grief, disorientation, denial
- Hyper-alertness or hyper-vigilance
- Irritability, restlessness, outburst, anger and rage
- Feelings of self-blame
- Shattered self-esteem
- Distrust

As is illustrated in the case of Minoo, the process of collecting details to draft her affidavit and describing the abuse she faced, in particular, can stimulate a range of psychological and physical reactions.

Persistent avoidance of situations or activities associated with the trauma, numbing of general responsiveness and increased arousal are among the common reactions to traumatic events. These reactions can be triggered by persons, places, or other factors associated with her experience of abuse.

The inherent power difference between Immigrant women and lawyers, combined with the stress of recollecting the details of the traumatic experiences can trigger a combination of these responses.



## The Impact of Immigration:

For battered Immigrant women, the impacts of migration place women in particularly vulnerable situations. Immigrant women are usually at a greater disadvantage than other women. Some of the unique impacts of immigration can include:

### Non-Status Women:

A battered women's ability to obtain or maintain immigration status may depend on her relationship with her abusive partner. For battered non-status women, fear of being reported to the immigration office is a primary reason for remaining in an abusive relationship. An abuser's control over her immigration status and refusal to file immigration papers or threats of withdrawing sponsorship are very powerful and real tools to prevent battered women from seeking legal help.

### Dependency:

Canadian immigration policy often determines the entry status of women by devaluing women's work, both paid and unpaid. For the most part, women's roles are limited to the domestic sphere and women's access to education and training is limited in the home country. As a result, men rather than women, are often able to meet immigration requirements as the main applicants. Thus, migrant women often enter into Canada as "dependents". The immigration policies which too often subsume a women's identity to her husband, require and reinforce unequal power dynamics which increases vulnerability of Immigrant women.

The systemic devaluation of domestic work, embedded in immigration policy, is one of the gender-based discriminations which creates and sustains unequal power relations.

Many non-status women are also in abusive relationships with men who have permanent status in Canada; the abusive partner is either in the process of sponsoring her or has promised to do so. With no status of their own, Immigrant women are incredibly vulnerable to abuse by their partners, who often use the promise of status as a means to control and manipulate

### Isolation:

Resettlement can be a life crisis. The feeling of being devalued arises not only from experiencing abuse, but also from the definition of self that is constructed in dealing with the migration experience. Immigration often results in a disconnection with one's social network. Although often taken for granted, one's social network is a major means for information gathering and support. Being uprooted from one's homeland and losing well-established social support systems frequently leads to isolation, feelings of loneliness and despair. Lack of support makes a woman more susceptible to staying in an abusive relationship.



## Communication Barriers:

Language barriers play a key role in preventing women from accessing help, but language is not the only communication means. Immigrant women may not have been socialized to Western forms of navigating through formal institutions. Possessing the norms and values of the dominant culture is a crucial aspect of navigating the legal system. Further, not behaving according to the status quo often leads to further marginalization and victimization of Immigrant women.

## Interconnection of Discriminations:

*“Barriers to equality are rooted in long-standing attitudes and traditions not only about women, but also about race, age, sexual orientation, disability, colour, etc. In particular, the life situations of women outside the dominant culture—women with disabilities, Aboriginal women, women from visible minorities, elderly women, lesbians, lone mothers, women in poverty—are quite different from the mainstream.”*

**Statistics Canada 2006b**

Sexism, racism, classism, ableism and homophobia, interconnected with the effects of abuse, immigration and displacement creates a complex matrix of systemic oppression that impact battered Immigrant women’s lives. To achieve true equality, actions must be taken that adjust for the differences in experiences and situations between women and men, as well as among women, and that correct the systemic nature of inequality.

Immigrant women experience inequality, discrimination, stereotyping, prejudice, sexism, racism and classism directly or indirectly during their journey to Canada, in their settlement process and as an established Immigrant.

Two women in a relationship do not automatically guarantee equality. Relationship struggles are never equal if abuse is involved. Homophobia and transphobia intersects with all other forms of oppressions and discrimination to further marginalize LGBTQTS (Lesbian, Gay, Bisexual, Transgender, Queer and Two-Spirit) communities. Hatred and fear of homosexuality is still prevalent in Canadian society. In same-sex relationships, there may be additional fears of losing the relationship which confirms one’s sexual orientation; fears of not being believed about the abuse and fears of losing friends and support within LGBTQTS communities.

The internalization of homophobia and transphobia can result in further shame, isolation and self-blame in battered LGTBTQTS Immigrant women. Moreover, LGTBTQTS women have anxieties about disclosure of sexual orientation, which may be based on real fears of discrimination and its effects on child custody, family support, job security, and/or deportation. Choices about disclosure of orientation and same-sex relationships are those of your client’s and theirs alone.

## Continuation of Abuse after Separation:

### The Cycle of Abuse: A case study

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**A**fter two years of going through the legal system, Seema has finally divorced her abusive husband. She is given custody of her 3 year old son. Seema works part time and relies on child support to make ends meet. Her former husband refuses to make regular child support payments. Seema is never sure how much child support she will get if any! Thus, she is unable to have a stable financial plan. This unpredictability is an enormous source of stress. She is struggling to maintain stable and affordable housing for herself and her son. She has been told by friends, family and even her son's school teacher and social workers that her former husband has contacted them expressing his concern about Seema's parenting style. He has blamed Seema for not being able to provide a stable living condition for his son! During his visit, her son's father threatens to call the Ministry of Child and Family Development and ask them to launch an investigation.

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When women leave abusive relationships, the expectation is that the abuse will subsequently stop; however, for many women the abuse continues long after the separation. Abusive men often use the legal system, particularly in regards to custody of or access to the children, as a way of getting back at the women who leave them.

#### Some ways they may do this include:

- Using the Family Court system to maintain or increase their power and control over their children's lives
- Threatening to take the children out of the country
- Threatening to have the mother deported without the children
- Questioning and criticizing the way that their children's mother takes care of the children and using visits with the children to undermine the routines she has established for them
- Putting down or making derogatory comments about their children's mother in front of the children (E.g. "Your mother is stupid, your mother is fat, your mother is lazy" etc.)
- Not showing up for visits or showing up only when he feels like it
- Threatening to punish her if she engages in romantic relationships
- Showing up at her workplace or school to threaten her

- Calling her family and friends to tarnish her image
- Calling the Ministry of Children and Family Development to complain about her parenting style during or after the legal proceedings
- Talking to her landlord to possibly have her evicted
- Making inconsistent and unpredictable child or spousal support payments
- Not returning the children on time or demanding that the mother give him gas money or transit fare to return the children
- Exposing the children to further violence or gender stereotyping during visits
- Threatening to ruin her reputation in the community or among family and friends
- Calling their children's mother to talk about the children and then using the time to harass and demean her or using drop-offs and pick-ups of the children to assault her verbally or physically

These are some of the ways in which the abuse continues. Although these forms of abuse may be regarded as “subtle” or “covert”, the psychological, social and financial effects of dealing with this ongoing abuse after separation is extremely stressful and severe.

# Tools for Your Mutual Success

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Immigrant women often hand over power to lawyers to make decisions for them. Further, some women may perceive you as the all-knowing expert. Women may expect you to act as a counsellor or provide her with emotional support. Although these expectations may be frustrating, it is important that you empathize with her. Provide her with or direct her towards specific resources that address her non-legal needs, i.e. counselling or victim assistance support. Directing women towards other services and organizations that are able to address her non-legal needs enables you to address her legal needs more effectively. Hence, it is important that you develop a working relationship with women's organizations for effective and efficient referrals

Provide her with the **BWSS** pamphlet **Violence Against Women and the Law** and encourage her to contact women organizations that provide services that meet her particular need.

## Some Crucial Steps:

**Assess women's English language skills.** If she has difficulty communicating with you in English, direct her toward resources that provide her with the relevant written legal information in her language. You could arrange for a translator/ interpreter for her. However, often the budget that is spent on hiring an interpreter would reduce women's legal aid hours. If this is an issue, the best option would be to contact organizations that have bi-lingual legal advocates. If there is minimal or no legal information available in her language, you can ask the interpreter to translate the resources. **NEVER** use her children as interpreters or translators.

**Actively listen to women's stories.** Women survivors of abuse and violence are particularly sensitive to signs of indifference and frustration conveyed through body language; as a survival mechanism, they have had to be on the watch for these signs in the abuser's body language to protect and prepare themselves. Attending to her - in a non-interrogative way - indicates that you are listening to her. It keeps her focus on her interaction with you. Also, it will assist you in picking up cues about her attentiveness and psychological state and respond and redirect aptly.

**Take her concerns seriously.** Assess and address safety concerns. Ensure that a comprehensive risk assessment by a woman service organization is completed to determine the degree to which the woman and her children are at risk of further harm. Follow the results of the assessment and seek orders to protect her and her children.

**Assist her to determine her immigration status.** If the woman does not know her immigration status or needs to apply for refugee status, refer her to BWSS or other organizations that provides legal advocacy and legal help. Also, for non-status women, it is important that she consults with an Immigration lawyer who is able to assess her options for remaining in Canada. It is important that her Immigration lawyer and Family Law lawyer work together and be aware of the proceedings in the different areas.

**Assist women in identifying legal issues.** Listen to her concerns. Ask her specific questions. Ask if she needs more clarification, if so, rephrase your question. Help her to prioritize her legal needs. Work with her towards building a strategy for addressing those needs.

**Explain your role and responsibilities as her lawyer.** Discuss the following at your first meeting:

- Lawyer-Client privileged communication
- Your education and experience
- Involvement, roles and responsibility of other helping professionals
- If she is on legal aid, your legal aid retainer and the terms of your agreement to represent her
- The limits of her legal aid referral
- Your policy around phone calls

**Explain *all* of her legal options to her.** Describe the step by step procedures as well as her legal rights and responsibilities, particularly in regards to:

- Getting a Restraining Order
- Starting a Court Application
- Sole vs. Joint Custody
- Guardianship
- Access
- Child support
- Limiting and structuring access
- Division of Property
- Spousal Support

**Guide her to make efficient use of appointment times.** Give the woman a list of documents, evidence and information, etc. that she will need to keep and bring to future meetings with you. These can include:

- Diaries or journals that document dates and times of abusive incidents
- Financial records
- Medical and police reports
- Receipts
- Photographs
- Telephone logs that document harassing phone calls or “hang-ups.”
- Third party statements

**Make note of the relevant culturally specific communication patterns or styles.** Include explanations in affidavits of any cultural or religious practices that may have an influence on court proceedings. Women in some communities, for instance, will not say, “I know” but “I believe” because in their faith only God can know. If a woman says, “I believe” without an explanation, she leaves herself open to being challenged.

**Provide a jargon-free explanation of the court procedure.** While explaining the legal procedure, ask women if there are terminologies and words that need further explanation. Many families, for example, may be asked to undergo mediation, a Family Case Conference and/or a Judicial Case Conference to develop mutual plans. Explain what these procedures are. Many women may not know that at a Judicial Case Conference consent orders can be made – meaning both parties must agree to the terms of the order being made. Women facing abuse should be informed that they can apply to be exempt from this process.

**Refer her to Legal Advocates.** Referring women to a legal advocate for legal information and support will maximize the efficiency and effectiveness of your work on her case. Legal advocates provide legal support and information about the law, the legal system and information about legal and community resources. Legal advocates can assist women by:

- Providing emotional support and court accompaniment
- Helping with document gathering for her case
- Drafting affidavits and filling out legal forms

**Respond to her using an empowering approach.** The wheel on the following page attempts to illustrate the ways in which a lawyer can respond to successfully meet the comprehensive needs of battered Immigrant women:

# Lawyers Responses that Empower Battered Immigrant Women



The above illustration and information has been adapted from the National Centre on Domestic and Sexual Violence, Judicial Responses That Empower Battered Women

## Other Important considerations:

**Fear of the Police.** Immigrant women are often reluctant to report abuse and violence to the police. Women's prior negative experience with the police and the justice system in their home countries is one of the factors that may result in Immigrant women's hesitation to involve the police. Regarding abuse as a private matter and the fear of losing her children may be other factors for her unwillingness to contact the authorities.

**Storytelling and Narrative Communication Style.** Memorizing and recalling events in a chronological, context-free manner is a modern and Western way of relating to the world. For many Immigrant women, memorizing and narrating life events, putting events in the context of other circumstances, emotions and events is a way of making sense of what has gone on.

## Conclusion:

Working together, lawyers, front-line workers and legal advocates can form a strategic alliance to reduce the barriers battered Immigrant women experience when accessing the judicial system. Lawyers form a key component in ensuring just access of the legal system. Increasing knowledge of Immigrant women's experiences, lived realities, and barriers in accessing justice can help lawyers to better support Immigrant women.

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# Legal Resources for Women

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**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](http://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](http://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](http://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

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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](http://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, Tagalog and Farsi. Interpretation is also available in other languages upon request.

**Phone** 604-687-1868

**Website** [www.bwss.org](http://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](http://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](http://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](http://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>

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

**Phone** 604-734-5517

**Website** [www.ywcavan.org](http://www.ywcavan.org)

## COMMUNITY RESOURCES

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**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](http://www.bcysth.ca/index.html)

For services throughout BC  
and the Yukon.

**Vancouver & Lower Mainland Multicultural Family Support Services Society  
Burnaby, BC** The society offers advocacy for and assistance to women in their interactions with the social and justice systems. It provides Court advocacy and assistance for Immigrant women who are attempting to access the justice system. This service includes court preparation assistance, liaison with lawyers and Crown Counsel, and on-going supportive counselling throughout the court process.

**Phone** 604-436-1025

**Website** [www.vlmfss.ca](http://www.vlmfss.ca)

**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](http://www.victiminfo.ca/services/victimlink)



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PHONE 604.687.1867

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