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Helena attorney calls out DOJ hypocrisy on sexual assault cases

POSTED BY ALEX SAKARIASSEN ON WED, MAR 5, 2014 AT 11:30 AM

Last month, the U.S. Department of Justice released a scathing review of the Missoula County Attorney's Office's handling of sexual assault cases. The report listed a host of allegations ranging from disrespectful treatment of victims of sexual violence to "insufficient and incomplete" training necessary in investigating and prosecuting such cases effectively, and concluded that the office's lack of sensitivity compromises "the safety of all women in Missoula."

A Helena immigration attorney says the DOJ's report came off as an alarming show of hypocrisy based on how it treated one of his clients. Shahid Haque-Hausrath, founder of the Montana Immigration Justice Alliance, bases his argument on his ongoing legal representation of a Missoula woman who alleges years of domestic abuse but has instead been the subject of a DOJ criminal investigation and is now facing imminent deportation.



COURTESY SHAHID HAQUE-HAUSRATH

Helena immigration attorney Shahid Haque-Hausrath

"To the extent that the Department of Justice has been criticizing the Missoula County Attorney's Office for lack of training, lack of understanding about issues relating to violence against women—they are guilty of it as well," he says.

Haque-Hausrath first got involved in his client's case in early 2011, and has since been "appalled" by the federal government's apparent disregard for the documented abuse the woman suffered. Missoula County prosecutors may or may not have shortcomings of their own, he says. He's not in a position to challenge the DOJ's report. But he refused to stand by and let the pot call the kettle black.

"It's not so much that we're saying that the Missoula County Attorney's Office has no problems and that DOJ is off-base," Haque-Hausrath says. "But it is a counterpoint, and it illustrates that the DOJ should be looking internally as well."

The client, who Haque-Hausrath asked not be named, first came to the United States as an au pair in 1992, and afterwards obtained a student visa. She moved to Montana in 2004 with her second husband, a U.S. citizen she claims—in multiple legal proceedings—told her repeatedly throughout their five-year marriage that he'd petitioned for her permanent residency.

The two divorced in 2009 and split custody of their two children. On August 8, 2010, the client called the University of Montana's Office of Public Safety to report she'd been choked by her ex-husband. Authorities noted bruising on her neck in a subsequent crime report, and interviewed a friend who had called 911. According to municipal court records, the client's ex-husband later pleaded guilty to partner/family member assault. The client was awarded a permanent order of protection, which an investigation by the Missoula Police Department found the ex-husband violated with texts and phone calls more than 150 times in late 2011.

By then, however, U.S. Immigration and Customs Enforcement had already issued a notice of intent to deport the woman as an undocumented immigrant after allegedly getting a tip from her ex-husband. She'd also been arrested by the DOJ for fraudulent use of a green card. Haque-Hausrath says the combined legal troubles hampered his client's efforts with the county attorney's office to pursue criminal charges against her ex-husband for restraining order violations. Deputy County Attorney Suzy Boylan was particularly understanding of the dynamics at play, and Haque-Hausrath says he never got the sense that the DOJ's pursuit of criminal charges against his client had any bearing on Missoula County's desire to prosecute on her behalf.

"If there's anybody who understands complexities and competing interests, it's a prosecutor," Boylan says. "But it is certainly ironic when they're accusing us of not being responsive to victims."

The DOJ declined comment for this story.

The legal action taken against Haque-Hausrath's client by the DOJ not only derailed the county's pursuit of criminal charges against a previously convicted abuser, but it also prompted immigration officials to deny the woman's petition for residency as the battered spouse of a U.S. citizen. The county attorney's office again stepped in on the woman's behalf, with Boylan certifying a separate visa petition reserved for victims of criminal activity.

On Feb. 6 of this year, U.S. Citizenship and Immigration Services issued a notice of intent to deny the second petition. The client is now appealing the government's denial of her first visa petition in federal district court, and Haque-Hausrath continues to represent her pro bono. He attributes her difficulties in obtaining residency directly to the DOJ's actions against her, as the resulting criminal conviction has prompted immigration officials to consider her a person not of good moral character.

Perhaps the story would be different, he says, if the DOJ had displayed more understanding of how her past domestic abuse factored into her fight for legal immigrant status.

"I do think it's a miscarriage of justice to allow a domestic abuse victim to herself become the criminal, and basically never once look at and understand how the abuse factors into that whole thing," Haque-Hausrath says. "You can't take the abuse out of the situation and call her a criminal without looking at the whole picture."

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Posted by **Shahid Haque-Hausrath** on 03/05/2014 at 3:10 PM

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