

POLICE VIOLENCE & DOMESTIC VIOLENCE

Often when we think of law enforcement and violence against women of color and trans people of color, we're either talking about training officers to "better" respond to gender-based violence, or we're talking about the high incidence of male police officers who commit domestic violence.¹ What is less frequently discussed is the fact that in an alarming number of cases, law enforcement officers also commit violence against the very people they are supposed to be protecting.

When those who are supposed to protect us harm us...it's time to rethink our strategy around domestic violence and sexual assault...

⇒ LAW ENFORCEMENT-BASED RESPONSES TO VIOLENCE AGAINST WOMEN

While mainstream anti-sexual/domestic violence movements have been critical in breaking the silence around violence against women, and providing critically needed services to survivors of sexual/domestic violence, their almost exclusive reliance on law-enforcement based responses and criminal legal approaches to violence against women - such as mandatory arrest policies, "no-drop" prosecution policies, and enhanced access to and enforcement of civil and criminal orders of protection — has proven inadequate to address gender-based violence in general, and particularly violence against women of color.

A twenty-year study of 48 cities found that greater access to criminal legal remedies for survivors of domestic violence led to fewer men being killed by their wives, as women who might otherwise have killed to escape violence were offered alternatives. However women receiving legal support were no less likely to be killed by their intimate partners, and were exposed to additional retaliatory violence.²

Despite an exponential increase in the number of men in prisons, women are not any safer -- national rates of sexual assault and domestic violence have not decreased significantly.³ According to the U.S. Department of Justice, "[i]ntimate partner violence is pervasive in U.S. society... approximately 4.9 million intimate partner rapes and physical assaults are perpetrated against U.S. women annually..."⁴ One in 5 women, and 1 in 3 Native women living in the United States will be raped in their lifetime.⁵ These profoundly disturbing official statistics don't even provide the full picture of violence against women: for instance, reporting rates for rape and sexual assault continue to hover around 30%.⁶

Additionally, the use of violence against women to advance "law and order" agendas and to justify the direction of increased resources to law enforcement has had the effect of strengthening, rather than opposing state violence experienced by women of color and trans people of color, thus increasing our vulnerability to law enforcement violence.

"[A]s a woman of color and a lesbian, I really don't want to take this to the police if I can handle it myself."⁷



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⇒ MANDATORY ARREST POLICIES

Mandatory arrest policies — which require police to make an arrest when they respond to domestic violence calls — have led to arbitrary arrests of *survivors* of domestic violence, rather than their abusers, in many cases. Such arrests subject women to further violence from the criminal justice system, including use of force during arrest, threats to remove and removal of children into state custody,⁸ strip searches, and other violent and degrading conditions of confinement. As one survivor who was subject to a mandatory arrest described it: “[I] [g]ot arrested like *two* times... That’s traumatizing...the police officer...He *pushed me* inside the car! He *pushed* me inside, ‘Tell that to the judge!’ He sees me *crying* and *trembling* and stuff. He just *pushed* me ... ‘*Shut up back there!!*’ And I was crying, I said, ‘it’s not fair’... ‘Shut up!!’...He pulled me out of the car...he pushed me against [a desk].”⁹ Such retraumatization of survivors, immediately following an incident of domestic violence so severe as to prompt someone to seek law enforcement intervention, is unfortunately commonplace across jurisdictions.

One researcher reported in 2001 that in some cities, over 20% of those arrested for domestic violence are women, and concluded: “An arrest policy intended to protect battered women as victims is being misapplied and used against them. Battered women have become female offenders.”¹⁰

The Family Violence Program of the Urban Justice Center in New York City found that survivors of domestic violence had been arrested in 27% of cases received through their hotline over a two-and-a-half year period.¹¹ 85% of survivors arrested had a prior documented history of being subjected to domestic violence, and 85% were injured during the incident that led to their arrest.¹²

Women of color and low income women are disproportionately affected by mandatory arrests: of survivors in the New York City study who had been arrested along with their abusers (dual arrest cases) or arrested as a result of a complaint lodged by their abuser (retaliatory arrest cases), 66% were African American or Latina, 43% were living below the poverty line, and 19% percent were receiving public assistance at the time.¹³

Police responses to violence against women of color and trans people of color are informed by racialized notions of gender, which dictate who is a legitimate survivor of domestic violence, and how a survivor is supposed to behave. These norms also determine who police deem “worthy” of protection, and who is likely to be perceived as a perpetrator of violence, and therefore arrested regardless of the actual circumstances.

Women and trans people of color who deviate from racialized gender norms or who are criminalized, such as transgender and gender nonconforming women, lesbians, sex workers, people who use alcohol or controlled substances, and formerly incarcerated women and trans people of color, are often not believed, are treated as unworthy of protection, or worse yet, are arrested by law enforcement officers responding to violence against them.¹⁴ For instance, the Family Violence Project study found that women who experienced dual arrests in the context of mandatory arrest policies tended to be using drugs or alcohol “thus deviating from gender-role prescriptions of appropriate female behavior.”¹⁵ According to HIPS, a DC sex workers’ organization, women perceived to be departing from gendered norms of acceptable behavior by engaging in sex work are almost universally subject to dual arrest when police respond to domestic violence against them. This also appears to be the case where lesbians are concerned: as one survivor interviewed by the Family Violence Project said, police “already have th[ese] predetermined thoughts about women, what they should be, and the women who aren’t what you think about them, how could it not affect what you’re gonna do?...[They] show up and ...are like...dykes, damn it...God, they deserve this...”¹⁶



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Transgender survivors of domestic violence are particularly poorly treated by responding police, and are frequently arrested or detained for mental health evaluations. Advocates and survivors alike report that once a transgender woman's gender identity is discovered by law enforcement officers or disclosed to them by an abuser, she is treated as if she has deceived the police, and often subjected to verbal abuse, arrest, and violence by law enforcement officers. For instance:

A young African American transgender woman living in Los Angeles reports that she called the police for help on many occasions because her boyfriend was abusive, but they never investigated or took any action. However, one morning, following her most recent call, two undercover officers knocked on her door and arrested her, pursuant to an old warrant for solicitation.

In the winter of 2002 in the District of Columbia, a transgender woman was choked by her male partner and chased through their apartment as she tried to defend herself. She managed to get him out of the apartment and call the police, who responded by arresting her, handcuffing her, and forcing her down the stairs. Her abuser was not arrested. She reports that as soon as officers saw her identification, they began referring to her by male pronouns, calling her "mister." She was detained for seven or eight hours at the police station, and was charged with assault against her abuser. The charges against her were eventually dismissed.¹⁸

⇒ POLICE ABUSE OF SURVIVORS

Racialized notions of gender also inform who police are likely to see as posing a threat to law enforcement officers' safety, which must be met with force no matter the circumstances or how vulnerable a survivor of violence may be.

An African American woman testified at an Amnesty International hearing on police brutality that officers responding to a "family quarrel" beat her in her home while her children were locked outside, powerless to answer their mother's cries for help.¹⁹ The woman reported that she was subsequently gagged with a rag by officers and beaten until she fainted, at which point they dragged her across her yard to their police car.²⁰

In December 2004, a Chicago police officer responding to a domestic violence call threw an African American transgender woman against a wall and to the floor, breaking her wrist. Although the officer was aware that the woman's wrist was injured, he twisted her hands in order to place them in handcuffs. She was denied medical treatment for her injury while she was in police custody.

Police responses to violence against women can not only turn violent, they can be deadly: In June 1994, Rebecca Miller, a 22-year-old Black woman, was shot at close range in the hallway of her apartment and killed with her two-year old son at her side, after police were called to intervene in a fight with her boyfriend.²¹ On September 10, 1997, Oakland police responding to a neighbor's domestic disturbance call proceeded to shoot Venus Renee Baird in the chest in front of her family.²¹



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⇒ LACK OF PROTECTION

For many women of color, calling the police for protection from violence is simply not an option, leaving them isolated and vulnerable to gender-based violence. For instance:

Many undocumented women have reported cases of sexual and domestic violence, only to find themselves deported after being arrested pursuant to mandatory arrest statutes or being asked about their immigration status by responding police.²² Many more undocumented women are afraid to call the police, particularly in border states such as California, Texas and Arizona, because local law enforcement agents often ride with Border Patrol, or have signed agreements to enforce federal immigration laws.

Native women living on reservations remain almost completely unprotected from violence due to laws which prevent tribal law enforcement from acting on complaints in felony cases or cases involving non-Natives, leaving pursuit of abusers to federal law enforcement agencies who fail to adequately investigate and prosecute crimes against Native women.²³

Arab, Arab-American, and Muslim women have been turned away from domestic violence shelters because “they spell trouble” as they might attract police attention as a result of stereotypes inherent in the “war on terror.”

Many LGBT people would not contact the police in a domestic violence situation for fear of disclosure of their sexual orientation or that of their partner, or of inappropriate response, mistreatment or non-response by law enforcement officers.²⁴ Fear of contacting the police is particularly high among transgender women, LGBT immigrants, and LGBT survivors with prior criminal convictions.

⇒ RESPONSES TO VIOLENCE WITHOUT LAW ENFORCEMENT VIOLENCE

The experiences of women of color and trans people of color with law-enforcement based responses to violence demand that we go beyond reform of state institutions to developing community based responses to violence that do not rely on the violent mechanisms of the state, but instead require us to build and transform our communities, prioritizing 1) women’s safety from violence, 2) community responsibility for creating and enabling the conditions which permit violence to take place, and 3) transformation of private and public relations of power. This means, an initial step, that the anti-violence movement must be as concerned with challenging law and order agendas, police brutality, and criminal justice policies such as the war on drugs “quality of life policing,” the “war on terror,” and the militarization of the border, among others, as it is with ending interpersonal and community violence. It also means that anti-police brutality organizers must not only identify and challenge the specific impacts of these policies on women of color, they must also be concerned with and invested in developing responses to violence that are not law enforcement based. Only then can we really build towards safety for all women of color and trans people of color.

For more information on increasing women of color and trans people of color’s safety from violence without relying on law enforcement see the resources on Organizing for Community Accountability in this toolkit and on the Resource CD that comes with it, including: INCITE! Working Document: Community Accountability Principles/Concerns/Strategies/Models; Community Accountability Within People Of Color Progressive Movements; Taking Risks: Implementing Grassroots Community Accountability Strategies; The Community Engagement Continuum: Outreach, Mobilization, Organizing, and Accountability to Address Violence Against Women in the Asian and Pacific Islander Communities.



Please visit www.incite-national.org for more info!

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⇒ ENDNOTES

¹ Two studies have found that *at least 40%* of police officer families experience domestic violence, in contrast to 10% of families in the general population. P.H. Neidig, H.E. Russell, & A.F. Seng, Interspousal aggression in law enforcement families: A preliminary investigation. *Police Studies*, Vol. 15 (1), p. 30-38 (1992); L.B. Johnson, *On the front lines: Police stress and family well-being*. Hearing before the Select Committee on Children, Youth, and Families House of Representatives: 102 Congress First Session May 20 (p. 32-48). Washington DC: US Government Printing Office (1991); M. Straus & R. Gelles, *Physical violence in American families - risk factors and adaptations to violence in 8,145 families*. New Brunswick, NJ: Transaction Publishers (1990). A third study of older and more experienced officers found a rate of 24%, indicating that domestic violence is 2-4 times more common among police families than American families in general. P.H. Neidig, A.F. Seng, and H.E. Russell, "Interspousal Aggression in Law Enforcement Personnel Attending the FOP Biennial Conference," *National FOP Journal*. Fall/Winter 1992, 25-28. Similarly disproportionately high rates of DV occur in military households.

² L. Dugan, D. S. Nagin and R. Rosenfeld, *Exposure Reduction or Retaliation? The Effects of Domestic Violence Resources on Intimate-Partner Homicide*, *Law & Society Review*, vol. 37:1(2003).

³ In 1994, the Bureau of Justice Statistics reported that while rates of violent crime against men had decreased since 1973, rates of violence against women had remained relatively constant. Bureau of Justice Statistics, National Crime Victimization Survey Report: "Violence Against Women", NCJ 145325, 1994. More recent statistics indicate that rates of violence against women have declined since 1993, however, they have declined at slower rates than violence against men, particularly where intimate partner homicide is concerned. Rates of violence against Black women continue to be higher than rates of violence against white women. S. Castalano, *Intimate Partner Violence in the United States*, BJS, available at: <http://www.ojp.usdoj.gov/bjs/pub/pdf/ipvus.pdf>.

⁴ Patricia Tjaden and Nancy Thoennes, *Extent, Nature, and Consequences of Intimate Partner Violence: Findings From the National Violence Against Women Survey*, July 2000, NCJ 181867.

⁵ *Maze of Injustice: The Failure to Protect Indigenous Women from Violence* at: <http://www.amnesty.org/en/report/info/AMR51/035/2007>; Patricia Tjaden & Nancy Thoennes, US Department of Justice, Full Report of the Prevalence, Incidence, and Consequences of Violence Against Women, 2000

⁶ C.M. Rennison, *Rape and Sexual Assault: Reporting to Police Attention 1992-2000*, August 2002, NCJ 194530.

⁷ National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual and Transgender Domestic Violence in 2000*, 2001 Preliminary Edition.

⁸ Haviland, M., V. Frye, V. Rajah, J. Thukral and M. Trinity, *The Family Protection and Domestic Violence Intervention Act of 1995: Examining the Effects of Mandatory Arrest in New York City* 64 (Family Violence Project, Urban Justice Center 2001)

⁹ *Id.*

¹⁰ Miller, Susan. "The Paradox of Women Arrested for Domestic Violence", *Violence Against Women*, Dec 2001, Vol. 7, Iss. 12.

¹¹ Haviland, M., V. Frye, V. Rajah, J. Thukral and M. Trinity, *The Family Protection and Domestic Violence Intervention Act of 1995: Examining the Effects of Mandatory Arrest in New York City* (Family Violence Project, Urban Justice Center 2001)

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Id.*



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⇒ ENDNOTES CONTINUED

¹⁸ Kwame Dixon and Patricia E. Allard, *Police Brutality and International Human Rights in the United States: The Report on Hearings Held in Los Angeles, California, Chicago, Illinois, and Pittsburgh, Pennsylvania, Fall 1999*, Amnesty International U.S.A. [hereinafter “Police Brutality”] 18 (February 2000).

¹⁹ *Id.*

²⁰ STOLEN LIVES: KILLED BY LAW ENFORCEMENT 41, *The Stolen Lives Project* (2nd ed. 1999) 76 [hereinafter “Stolen Lives”]. Police alleged that Ms. Miller wouldn’t drop the knives she had in her hand at the time she was shot. *Id.*

²¹ *Stolen Lives*, p 97.

²² Women’s dependent or undocumented status is often manipulated by batterers, who use the threat of deportation as part of a matrix of domination and control. Although the Violence Against Women Act (VAWA 1994 and 2000) introduced visas for battered immigrant women, many women do not know about the act’s provisions or are unable to meet evidenciary requirements. Since the Illegal Immigration Reform and Immigrant Responsibility Act made domestic violence grounds for deportation, women may also be reluctant to subject a legal permanent resident spouse to potential deportation proceedings by reporting him to the police. In addition, women arrested under mandatory arrest laws could themselves face deportation. See Raj, Anita and Jay Silverman. “Violence Against Immigrant Women: The Role of Culture, Context and Legal Immigrant Status on Intimate Partner Violence”, *Violence Against Women*, Vol. 8. No. 3. March 2002, 367-398. Jang, Deena, Len Marin and Gail Pendleton. *Domestic Violence in Immigrant and Refugee Communities: Assessing the Rights of Battered Women*, 2nd Edition, 1997, San Francisco: Family Violence Prevention Fund.

²³ *Maze of Injustice: The Failure to Protect Indigenous Women from Violence* at: <http://www.amnesty.org/en/report/info/AMR51/035/2007>.

²⁴ See, e.g., National Coalition of Anti-Violence Programs, *Lesbian, Gay, Bisexual and Transgender Domestic Violence in 2002*, 2002 preliminary edition; see also San Antonio Express News, May 18, 2003.

