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A CALL FOR CHANGE: DOING MORE TO PROTECT BLACK
AND BROWN VICTIMS OF DOMESTIC VIOLENCE

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ABSTRACT

Domestic violence (“DV”) disproportionately affects Black and Brown women. This article examines the tense history of law enforcement engagement with minority groups, which has caused a strain on that relationship, leaving minority groups more likely to choose to stay in their DV situations than seek out law enforcement help. The divide still impacts these groups today. Additionally, the article highlights several organizations that have formed to address the needs of minority individuals. Other organizations have been around, but their ties to law enforcement create an added barrier for Black and Brown women seeking protection. The article concludes by briefly examining the American Rescue Plan Act which was passed in 2020 and provides funds to create more culturally specific organizations and programs. This article specifically focuses on women, but the author acknowledges that people of all genders experience domestic violence.

INTRODUCTION

Although not exclusively perpetrated against women,¹ domestic violence² is the most common form of violence against women.³ On average, more than ten million people are physically abused by an intimate partner in the United States.⁴ Of those ten million people, Black and Brown females experience domestic violence at a rate 35% higher than that of white females.⁵ In an effort to address the plaguing issue of domestic violence, the legal system is often the default option. However, the legal system overshadows other

¹ Ravneet Kaur & Suneela Garg, *Addressing Domestic Violence Against Women: An Unfinished Agenda*, 33 INDIAN J. OF CMTY. MED. 73, 73 (2008).

² Domestic violence is the willful intimidation as part of a systematic pattern of power and control perpetrated by one intimate partner against another. *Quick Guide: What is Domestic Violence*, NAT’L COAL. AGAINST DOMESTIC VIOLENCE (Oct. 4, 2016), <https://ncadv.org/blog/posts/quick-guide-what-is-domestic-violence>. Intimate partner violence is abuse or aggression that occurs in a romantic relationship. *Fast Facts: What is Intimate Partner Violence*, CTRS. FOR DISEASE CONTROL AND PREVENTION (Oct. 11, 2022), <https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html>. These two terms are often used interchangeably, but I will be using the term “Domestic Violence” for the purpose of this article.

³ UN Women, *Frequently Asked Questions: Types of Violence Against Women and Girls*, UN WOMEN, <https://www.unwomen.org/en/what-we-do/ending-violence-against-women/faqs/types-of-violence#:~:text=Domestic%20violence,-Domestic%20violence%2C%20also&text=It%20encompasses%20all%20physical%2C%20sexual,violence%20can%20include%20the%20following> (last visited April 2, 2023).

⁴ See CTRS. FOR DISEASE CONTROL AND PREVENTION, NATIONAL INTIMATE PARTNER AND SEXUAL VIOLENCE SURVEY: 2010 SUMMARY REPORT 38 (2010), https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf.

⁵ JOYCE THOMAS, *FACTS ABOUT DOMESTIC VIOLENCE & AFRICAN AMERICAN WOMEN 2* (2015), <http://idvaac.org/wp-content/uploads/Facts%20About%20DV.pdf>.

potentially more effective strategies for addressing domestic violence.⁶ On a systemic level, the focus for the past thirty years has been on developing the legal response to domestic violence, resulting in the diversion of money, attention, and energy from other initiatives.⁷ However, a number of other promising avenues bypass the legal system and focus on prevention, rather than reaction to violence that has already occurred.⁸

Many of the available solutions for domestic violence victims are aimed at the needs of white women and are inextricably tied to law enforcement.⁹ However, real support for Black and Brown¹⁰ women would include alternative support opportunities for those who fear involving law enforcement, which would erase the barriers that make it hard for Black and Brown women to access support services. It would also involve specific training for those who interact with victims of domestic violence so that they are able to provide adequate, culturally appropriate assistance. Many battered women's advocates stress that domestic violence occurs among all races, ethnicities, religions, and classes; however, the experience is often profoundly different for women of color, battered immigrant women, and poor women—as is the impact of using the legal system to address the violence against them.¹¹

To successfully meet the needs of Black and Brown women in these communities, funding for culturally specific programs needs to come from organizations that are divested from law enforcement. This is especially true in communities where there is a strong disinterest in seeking the assistance of law enforcement because of reasonable fears and concerns due to a long history of racially disparate treatment by law enforcement.¹² When designating response programs and policies, domestic violence programs

⁶ Leigh Goodmark, *Law is the Answer? Do We Really Know That For Sure?: Questioning the Efficacy of Legal Interventions for Battered Women*, 23 ST. LOUIS U. PUB. L. REV. 7, 9 (2004).

⁷ *Id.* at 18.

⁸ *Id.* at 41-44.

⁹ Nkiru A. Nnawulezi & Chris M. Sullivan, *Oppression Within Safe Spaces: Exploring Racial Microaggressions Within Domestic Violence Shelters*, 40 J. OF BLACK PSYCH. 563, 564-5 (2014). See Robin Bleiweis & Osub Ahmed, *Ensuring Domestic Violence Survivor's Safety: The Need for Enhanced Structural Supports During and After the Coronavirus Pandemic*, CTR. FOR AM. PROGRESS (Aug. 10, 2020), <https://www.americanprogress.org/article/ensuring-domestic-violence-survivors-safety/>.

¹⁰ *Definitions*, MO. STATE UNIV.: OFF. FOR INST. EQUITY AND COMPLIANCE, <https://www.missouristate.edu/Equity/definitions.htm#b> (last visited Oct. 27, 2022) (“black” as used throughout the paper, is a nonwhite person of black descent, regardless of national origin); Kat Chow, *Ask Code Switch: Who Can Call Themselves ‘Brown’?*, NPR (Dec. 11, 2017), <https://www.npr.org/2017/12/11/569983724/ask-code-switch-who-can-call-themselves-brown> (“brown” as used throughout this paper, is a word that is sometimes used to describe people who are not white, including some people who also identify as Asian-American).

¹¹ Goodmark, *supra* note 6, at 35.

¹² See *id.* at 36-37.

must also factor in the complex life experiences that Black and Brown victims face.

The first section of this article will discuss the unique barriers that Black and Brown women experience as it relates to domestic violence. The second section will examine historical approaches to domestic violence, which have tended towards over-reliance on law enforcement.¹³ The third section will explore how the domestic violence movement has begun to address the complex history that Black and Brown communities have with law enforcement, and the correspondingly limited success of these efforts. The article will conclude with a discussion of a potential solution: funding should be allocated directly to individual organizations, divested from law enforcement, to provide culturally appropriate services to Black and Brown victims of domestic violence.

I. BRIDGING THE GAP: RESOLVING THE CONFLICT BETWEEN COMMUNITIES OF COLOR AND LAW ENFORCEMENT

Domestic violence is a global issue that transcends national boundaries as well as socio-economic, cultural, racial, and class distinctions.¹⁴ This violence can take the form of physical assault, psychological abuse, and social abuse; the abuse can be chronic or occasional.¹⁵ There are certain cultural norms, religious practices, and economic or political conditions that have all further perpetuated domestic violence.¹⁶

In an effort to address the needs of domestic violence survivors as a whole, government-funded organizations have emerged. Two well-known federal laws are the Violence Against Women Act (“VAWA”) and the Victims of Crime Act (“VOCA”). Passed by Congress in 1994, VAWA created and supported comprehensive, cost-effective responses to domestic violence, sexual assault, dating violence, and stalking.¹⁷ The long-term goal of VAWA is to “[a]ffect institutionalized system change, such that victims encounter a positive and effective response from the criminal and civil justice systems,

¹³ See *id.* at 15-16, 38 (showing how domestic violence intervention has been widely centered around white women’s experiences, a major issue for Black and Brown communities who have largely been inadequately served by law enforcement).

¹⁴ See Kaur & Garg, *supra* note 1.

¹⁵ See *id.*

¹⁶ See *id.* at 74.

¹⁷ See *Violence Against Women Act*, NAT’L. NETWORK TO END DOMESTIC VIOLENCE, <https://nnedv.org/content/violence-against-women-act/> (last visited Oct. 27, 2022).

and from community agencies offering services and support.”¹⁸ Similarly, the primary purpose of VOCA is to provide funding and support the delivery of direct services to victims of crime.¹⁹ Both VAWA and VOCA are administered by the Department of Justice (DOJ).²⁰ In Virginia, the Department of Criminal Justice Services (“DCJS”) administers the funds from both VOCA and VAWA.²¹ Thus, the funding and programming that is provided by these laws is inextricably linked to law enforcement and other systems.

These two grants, which have strong ties to law enforcement, do not amplify the needs of Black and Brown women. One of the major barriers faced by Black and Brown victims is the distrust of government agencies and law enforcement due to years and years of discrimination and mistreatment.²²

A. Black and Brown Women Experience Domestic Violence at Higher Rates

Black women are disproportionately impacted by domestic violence.²³ Specifically, many studies have shown that Black women did not always regard physical aggression perpetrated against them as violence, whereas acts of racism were uniformly experienced as such.²⁴ Black women are also killed at a rate of 4.4 per 100,000 people compared to other races, who average at one or two per 100,000 people.²⁵ Further, for women of color and their families experiencing higher rates of poverty and lower rates of financial

¹⁸ Tara Aday, Note, *The Effectiveness of the Violence Against Women Act (VAWA) in Creating System-Level Change*, 11 SPNHA REV. 5, 6 (2015).

¹⁹ VA. DEP’T. OF CRIM. JUST. SERV., VICTIMS OF CRIME ACT (VOCA) VICTIMS SERVICE GRANT PROGRAM | FISCAL YEARS 2022 AND 2023 3 (2020), <https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/grants/fy-2022-2023-victims-crime-act-voca-victims-services-grant-program/fy-2022-2023-victims-crime-act-voca-grant-guidelines.pdf>.

²⁰ *Violence Against Women Act*, supra note 17; *Victims of Crime Act (VOCA) Administrators*, OFF. FOR VICTIMS OF CRIME (Apr. 8, 2020) <https://ovc.ojp.gov/program/victims-crime-act-voca-administrators/welcome>.

²¹ See *Virginia STOP Violence Against Women Act (VSTOP)*, VA. DEP’T. OF CRIM. JUST. SERV., <https://www.dcjs.virginia.gov/victims-services/grants/violence-against-women-v-stop>; *VOCA Victim Services Grant Program*, VA. DEP’T. OF CRIM. JUST. SERV., <https://www.dcjs.virginia.gov/victims-services/grants/voca>.

²² *Abuse in the Black Community*, NAT’L. DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/resources/abuse-in-the-black-community/> (last visited Oct. 27, 2022).

²³ *Improve Access to Culturally Relevant Services for Victims From Marginalized Communities*, GA. DOMESTIC VIOLENCE FATALITY REVIEW PROJ., <http://georgiafatalityreview.com/key-goals/improve-access-to-culturally-relevant-services-for-victims-from-marginalized-communities/> (last visited Oct. 27, 2022).

²⁴ Natalie J. Sokoloff & Ida Dupont, *Domestic Violence at the Intersections of Race, Class, and Gender: Challenges and Contributions to Understanding Violence Against Marginalized Women in Diverse Communities*, 11 VIOLENCE AGAINST WOMEN 38, 42 (2005).

²⁵ Sherri Gordon, *Unique Issues Facing Black Women Dealing with Abuse*, VERYWELL MIND (Jan. 18, 2021), <https://www.verywellmind.com/unique-issues-facing-black-women-dealing-with-abuse-4173228>.

stability, even fewer options for safety exist when they are attempting to escape abuse.²⁶

The abuse that Black and Brown women face is potentially exacerbated by a number of factors. Specifically, the discrimination and mistreatment that Black people have experienced at the hands of law enforcement has led to widespread distrust in law enforcement and amplified issues for Black people when they find themselves in troubling situations and need assistance. Additionally, the unique historical experiences of Black women often lead to different experiences of domestic violence compared to white women. This first stems from the history of Black women, as Lisa Martinson laid out in her work:

Enslaved Black women performed the same tasks as their male counterparts while still fulfilling traditional female roles. Therefore, necessarily, the stereotypes for Black women were opposite those for white women, and directly correlated with the “bad girl” stereotypes... Thus, the prevailing stereotypes of Black women do not allow them to fit within the stereotype of the “good girl” or “victim,” making interactions with the justice system that much more complicated.²⁷

Black women are also often stereotyped as “strong Black women,” which creates extra barriers for them, causing a victim of domestic violence to have to demonstrate that: (1) she is a victim in general and (2) she is a victim of domestic violence.²⁸ As a result, Black women often choose not to report at all,²⁹ perhaps feeling that they have to be strong and that seeking help shows weakness.³⁰ The result of stereotyping and racism, in conjunction with the domestic violence movement’s focus on white women, has left the Black and Brown victims of domestic violence in a difficult position.³¹

The differential impact of domestic violence on Black women necessitates a shift to center the needs of this population. In the context of domestic violence, Black women—along with American Indian women—have been reported to experience more severe injuries and to have weapons used against

²⁶ Barbara Niess-May, *The Intersection of Domestic Violence and Poverty*, SAFEHOUSE CTR. (Oct. 22, 2019), <https://www.safehousecenter.org/the-intersection-of-domestic-violence-and-poverty/>.

²⁷ Zanita E. Fenton, *Domestic Violence in Black and White: Racialized Gender Stereotypes in Gender Violence*, 8 COLUM. J. GENDER & L. 1, 24-25 (1998).

²⁸ Lisa M. Martinson, *An Analysis of Racism and Resources for African-American Female Victims of Domestic Violence in Wisconsin*, 16 WIS. WOMEN’S L. J. 259, 261 (2001), <https://repository.law.wisc.edu/s/uwlaw/media/32779>.

²⁹ Gordon, *supra* note 25.

³⁰ *Id.*

³¹ Martinson, *supra* note 28, at 259.

them more often.³² Black women also reportedly experience greater mental health consequences as a result of domestic violence.³³ While few in-depth domestic violence intervention studies include women of color, knowledge of cultural, social, and economic influences on help-seeking patterns are a hint at what women of color may be experiencing.³⁴ When negative outcomes result from seeking out traditional sources of help, Black women's choices regarding intervention are affected.³⁵

As noted by the Center for American Progress (CAP), “[b]ridging the divide between communities of color and law enforcement begins by recognizing that discord is rooted in the origins of policing in America.”³⁶ The many issues that Black and Brown communities have with law enforcement originate from a system that is rooted in racism. As pointed out by CAP, “[p]olicing in America originated in colonial times and featured two primary modes—centralized municipal policing and slave patrols.”³⁷ Slave patrols primarily served to apprehend escaped slaves and instill fear in order to deter revolts and maintain discipline.³⁸ Even after slave patrols were disbanded, intimidation, violence, and murders were carried out by organizations like the Ku Klux Klan, an organization that rarely faced punishment from local police departments.³⁹ Due to disproportionate and overly aggressive policing in communities of color, people of color often have negative attitudes towards law enforcement.⁴⁰

This troubled history between law enforcement and communities of color has permeated the realm of domestic violence. The extreme distrust of government agencies and law enforcement is due in part to the fact that these agencies have been used continuously to harass Black people or to project racist stereotypes.⁴¹ Despite the fact that Black women are 30-50% more

³² Edward W. Gondolf et al., *Racial Differences Among Shelter Residents: A Comparison of Anglo, Black, and Hispanic Battered*, 3 J. FAM. VIOLENCE 39, 44–45 (1988).

³³ Harriet P. Lefley et al., *Cultural Beliefs About Rape and Victims' Response in Three Ethnic Groups*, 63 AM. J. ORTHOPSYCHIATRY 623, 630 (1993).

³⁴ Roberta K. Lee et al., *Intimate Partner Violence and Women of Color: A Call for Innovations*, 92 AM. J. OF PUB. HEALTH 530, 532 (2002).

³⁵ *Id.*

³⁶ Danyelle Solomon, *The Intersection of Policing and Race*, CTR. FOR AM. PROGRESS (Sept. 1, 2016), <https://www.americanprogress.org/article/the-intersection-of-policing-and-race/>.

³⁷ *Id.*

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*

⁴¹ *Abuse in the Black Community*, *supra* note 22.

likely to experience domestic violence than white women,⁴² Black people, including those victimized by domestic violence, are less likely to call law enforcement.

Often, this reluctance to involve law enforcement is due to a victim's fear of their partner being brutalized or killed by the police.⁴³ Minority victims particularly have a fear of subjecting themselves and their loved ones, notwithstanding the harm their loved ones have caused them, to a criminal and civil justice system that results in differential treatment depending on one's sex, race, and culture.⁴⁴ This has been coined "the trap of loyalty"⁴⁵ in which minority women do not want their male loved ones to be subjected to possible state violence, even at the expense of their own lives.⁴⁶ More specifically, black women often feel an obligation to support and assist their male domestic partner emotionally in order to preserve the family, often having to confront the difficult decision of whether to stay with their abuser. Black women do not always want the men who abuse them to be removed from the home or their families; they often just want their relationship to be fixed,⁴⁷ and law enforcement intervention does not always provide a solution in this regard.

An additional reason for the reluctance of Black and Brown women to seek help in domestic violence situations is the fear of being labeled a "snitch," or appearing "selfish" within their community.⁴⁸ Black women are often concerned that their community will be viewed negatively if they report the abuse they are experiencing.⁴⁹ Further, Black women may be ostracized within their community for contributing to racial stereotypes by reporting abuse perpetrated by a Black man.⁵⁰ The concern for racial unity is of high priority, evidenced by the uproar at sexual harassment allegations aimed at Supreme Court Justice Clarence Thomas and the rape allegations towards

⁴² STEPHANIE HARGROVE, INTIMATE PARTNER VIOLENCE IN THE BLACK COMMUNITY 1 (Oct. 2018), <https://ujimacommunity.org/wp-content/uploads/2018/12/Intimate-Partner-Violence-IPV-v9.4.pdf>.

⁴³ *Abuse in the Black Community*, *supra* note 22.

⁴⁴ Meg Aprill, *Why Domestic Violence Survivors Fear Turning to the Police*, DAY ONE (Aug. 5, 2020), <https://www.dayoney.org/blog/2020/8/5/why-domestic-violence-survivors-fearnbsp-turning-to-the-police>.

⁴⁵ Alicia Nichols & Christina Jones, *Black Women Deserve the Right to Be Free from Violence*, BATTERED WOMEN'S JUST. PROJECT (Feb. 28, 2022), <https://bwjp.org/black-women-deserve-the-right-to-be-free-from-violence/>.

⁴⁶ *Id.*

⁴⁷ Goodmark, *supra* note 6, at 20.

⁴⁸ Martinson, *supra* note 28, at 266.

⁴⁹ Gordon, *supra* note 25.

⁵⁰ Martinson, *supra* note 28, at 264.

Mike Tyson.⁵¹ The uproar arises from the concern that, oftentimes, Black women believe that the “hierarchy of interests within the Black community assigns a priority to protecting the entire community against the assaultive forces of racism.”⁵² When Black victims fear that reporting their violence will violate the “unwritten code” that “prohibits the reporting of African American male violence against African American females,”⁵³ the community where the victim may naturally look for support may no longer exist for her.⁵⁴

Additionally, Black victims of domestic violence may be re-victimized by the criminal justice system. When trying to escape abusive situations, Black women are more likely to be criminalized, prosecuted, and incarcerated.⁵⁵ This leads to many Black women refusing to involve the criminal justice system at all and seek alternative means of protecting themselves. Additionally, increasing police presence in a community does not necessarily translate to better survivor support.⁵⁶ For instance, in neighborhoods with high levels of violence, police officers are less likely to respond to situations that occur after dark.⁵⁷

Black and Brown women are also disproportionately penalized by mandatory arrest policies for domestic violence, leading to more distrust of law enforcement.⁵⁸ Many states have mandatory or pro-arrest laws for domestic violence cases,⁵⁹ which is still a requirement for VAWA funding. Mandatory arrest laws require law enforcement officers to arrest suspected batterers if there is probable cause that domestic violence has occurred.⁶⁰ As a result of

⁵¹ See generally Victoria M. Massie, *How Racism and Sexism Shaped the Clarence Thomas/ Anita Hill Hearing*, VOX (Apr. 16, 2016), <https://www.vox.com/2016/4/16/11408576/anita-hill-clarence-thomas-confirmation> (discussing how, when Clarence Thomas likened the allegations against him as a form of racial stereotyping, this “fueled ideas that Hill was somehow a ‘race traitor’”). See also Kevin Brown, *The Social Construction of a Rape Victim: Stories of African-American Males About the Rape of Desiree Washington*, 1992 UNIV. ILL. L. REV. 997, 1002 (1992).

⁵² Crystal Bennett & Marilyn Yarbrough, *Cassandra and the “Sistahs”*: *The Peculiar Treatment of African American Women in the Myth of Women as Liars*, 3 J. GENDER, RACE & JUST. 625, 643 (2000).

⁵³ *Id.* at 642.

⁵⁴ Martinson, *supra* note 28, at 265.

⁵⁵ Carolyn M. West, *“Sorry, We Have to Take You In:” Black Battered Women Arrested for Intimate Partner Violence*, 15 J. AGGRESSION, MALTREATMENT & TRAUMA 95, 97-98 (2007).

⁵⁶ Hannah Chinn, *Intersecting Issues: Supporting Domestic Violence Survivors, Defunding Police*, WHY (July 22, 2020), <https://why.org/articles/intersecting-issues-supporting-domestic-violence-survivors-defunding-police/>.

⁵⁷ NANCY K.D. LEMON, DOMESTIC VIOLENCE LAW 127 (5th ed. 2018).

⁵⁸ *Abuse in the Black Community*, *supra* note 22.

⁵⁹ *Mandatory Arrests*, BATTERED WOMEN’S JUST. PROJECT, <https://www.bwjp.org/our-work/topics/mandatory-arrests.html> (last visited Oct. 27, 2022).

⁶⁰ *Mandatory Arrest Policies*, CRIM. JUSTICE IRESEARCH NET, <http://criminal-justice.iresearch-net.com/crime/domestic-violence/mandatory-arrest-policies/> (last visited Oct. 27, 2022).

these policies, there has been an increase in arrest and detention of victims in domestic violence situations.⁶¹ Increasingly, women continue to believe that police will mistakenly arrest them as the aggressor, so they refrain from reporting domestic violence.⁶² Police are also often unsympathetic to victims, especially women of color.⁶³ Often, the law enforcement response to women of color is, at best, inadequate, and at worst, results in further victimization.

Failure-to-protect laws are an added layer of harm to victims as well. The goal of failure-to-protect laws is to encourage caretakers to report instances of childhood abuse and interpersonal violence, thereby reducing the violence to which a child is exposed.⁶⁴ Virginia's statutory language considers it to be a Class 4 felony to fail to report these instances.⁶⁵ However, failure-to-protect laws have strayed away from their statutory intent when they are used to punish victims of domestic abuse.⁶⁶ For example, in some jurisdictions, even if a mother has been the only one suffering abuse and her child witnesses the abuse, the mother can be prosecuted all the same.⁶⁷ Additionally, when women are abused, evidence of their abuse is often used against them in their trial as part of a failure-to-protect prosecution.⁶⁸ In contrast, white women's relationship to the criminal justice system is ambivalent because the patriarchal law serves to both oppress and protect white women.⁶⁹ Mandatory arrest laws as they are, inevitably result in increased prosecution and increased oppression for Black men and women in the criminal justice system.⁷⁰ This presents yet another barrier faced when it comes to domestic violence.

The unique challenges and barriers that Black and Brown people face as a result of domestic violence can be further examined in relation to their white counterparts. In the past twenty years, domestic violence has garnered more

⁶¹ *Id.*

⁶² Robert Peralta & Meghan Novisky, *Mandatory Arrest Laws May Hurt Domestic Violence Victims*, UNIV. OF AKRON (Mar. 26, 2015), <https://www.uakron.edu/im/news/mandatory-arrest-laws-may-hurt-domestic-violence-victims#:~:text=Unintended%20consequences&text=Another%20rea-son%20is%20that%20a,of%20the%20support%20they%20need>.

⁶³ *Centering Justice & Safety*, WOMEN AGAINST ABUSE, <https://www.womenagainstabuse.org/about-us/racial-justice/domestic-violence-policing-and-racial-justice> (last visited Oct. 27, 2022).

⁶⁴ Brenda M. Ewen, *Failure to Protect Laws: Protecting Children or Punishing Mothers?* 3 J. FORENSIC NURSING 84, 84-85.

⁶⁵ VA. CODE § 18.2-371.1(A) (2022).

⁶⁶ Amanda Mahoney, *How Failure to Protect Laws Punish the Vulnerable*, 29 HEALTH MATRIX 429, 431 (2019).

⁶⁷ *Id.* at 450.

⁶⁸ Jacqueline Mabtah, *Blaming the Victim? The Intersections of Race, Domestic Violence, and Child Neglect Laws*, 8 GEO. J.L. & MOD. CRITICAL RACE PERSP. 355, 362-363 (2016).

⁶⁹ Miriam H. Ruttenberg, *A Feminist Critique of Mandatory Arrest: An Analysis of Race and Gender in Domestic Violence Policy*, 2 J. GENDER & LAW 171, 178 (1994).

⁷⁰ *Id.* at 179.

attention.⁷¹ Efforts to address domestic violence did not arise until it was realized that this issue *also* affects and is a problem for white, middle, and upper-class women.⁷² After this realization, the focus became solely on the white community, providing new methods and tools to fight domestic violence, but ultimately failing to treat all victims equally.⁷³

Many women of color, for example, are burdened by poverty, childcare responsibilities, and the lack of job skills...Where systems of race, gender, and class domination converge, as they do in the experiences of battered women of color, intervention strategies based solely on the experiences of women who do not share the same class or race backgrounds will be of limited help to women who because of race and class face different obstacles.⁷⁴

Minimal research has gone into learning and understanding the disproportionate treatment to which Black and Brown women are subjected. In recognition of Black History Month, the Battered Women's Justice Project provided insight on the current issues that have yet to be handled or discussed.⁷⁵ They base their support on three premises. First, more funding needs to be provided for research around firearms violence and Black women in order to understand strategies and solutions.⁷⁶ This research could potentially shed light on the root cause of violence and allow a shift in focus to prevention work.⁷⁷ Second, the stigma surrounding the Black community and mental health services has to be addressed and their services have to be made more accessible.⁷⁸ Lastly, and perhaps most importantly, more Black advocates must be hired and trained for gender-based violence work.⁷⁹

In recent years, many movements have started to amplify the voices of both domestic violence victims and people of color. The "Defund the Police" movement became a popular, widespread approach, calling to allocate less money to law enforcement and reallocate resources to non-policing forms of public safety and community support, such as social services, youth services,

⁷¹ Roberta K. Lee et al., *Intimate Partner Violence and Women of Color: A Call for Innovations*, 92 AM. J. OF PUB. HEALTH 530, 530 (2002).

⁷² *Id.*

⁷³ *Id.*

⁷⁴ Kimberle Crenshaw, *Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color*, 43 STAN. L. REV. 1241, 1245-46 (1991).

⁷⁵ Alicia Nichols & Christina Jones, *Black Women Deserve the Right to be Free From Violence*, BATTERED WOMEN'S JUST. PROJECT (Feb. 2022), <https://bwjp.org/black-women-deserve-the-right-to-be-free-from-violence/>.

⁷⁶ *Id.*

⁷⁷ *Id.*

⁷⁸ *Id.*

⁷⁹ *Id.*

housing, education, healthcare, and other community resources.⁸⁰ The more money that is put into police, the less money that is being invested into community programming and education services that would dismantle harmful stereotypes and reduce violence against women.⁸¹ Police do not currently respond to sexual and gender-based violence in an adequate fashion, and often do not understand the sensitivities and complexities of these situations to be able to properly serve minority groups.⁸²

The “Black Lives Matter” movement also sparked a call for change. Its mission is to eradicate white supremacy and build local power to intervene in violence inflicted on Black communities by both the State and vigilantes.⁸³ In June 2020, as a recognition of the countless Black lives that had been stolen at the hands and knees of police, several sexual assault and domestic violence state coalitions signed a document specifically calling for reform.⁸⁴ Much of the leadership within these movements comes from white voices, who repeatedly fail Black, Indigenous, and people of color (BIPOC) survivors, leaders, organizations, and movements.⁸⁵ They repeatedly fail by promoting false solutions of community-based reforming systems and failing to listen to their colleagues of color who have warned about the consequences of increased policing and prosecution.⁸⁶ This same issue can be seen in scholarly work. Many scholars have now taken the approach of taking women from the margins to the center of their research by endeavoring to tell their stories.⁸⁷ This raises the issue of whether “outsiders” should be telling these difficult domestic violence stories as opposed to the ones actually living it.⁸⁸

The funding of more culturally specific organizations would seek to address the issues that Black and Brown women face when attempting to seek help from their abusers, but racism must be fought within the domestic violence movement and in the legal system in order to successfully help all victims of domestic violence.⁸⁹

⁸⁰ Paula Ethans, *Want to Make Women Safer? Defund the Police*, THE TYEE (Aug. 26, 2020), <https://thetyee.ca/Analysis/2020/08/26/Women-Safer-Defund-Police/>.

⁸¹ *Id.*

⁸² *Id.*

⁸³ *About*, BLACK LIVES MATTER <https://blacklivesmatter.com/about/> (last visited Oct. 27, 2022).

⁸⁴ Letter of Commitment affirmed by State Coalitions, *Moment of Truth* (June 2020) (on file at https://1311bb21-2007-e958-d518-813a659f70e7.filesusr.com/ugd/88018b_917d5ba321d34656b6381fa1255fd38.pdf).

⁸⁵ *Id.*

⁸⁶ *Id.*

⁸⁷ See NATALIE J. SOKOLOFF & CHRISTINA PRATT, DOMESTIC VIOLENCE AT THE MARGINS: READINGS ON RACE, CLASS, GENDER, AND CULTURE 294 (2005).

⁸⁸ *See id.* at 297.

⁸⁹ LEMON, *supra* note 57.

B. Inadequate Current Programming and Funding to Address Minority Needs

In its current state, programming and funding for domestic violence victims is not adequate to protect women of color. Many organizations providing support for domestic violence survivors still rely on state and local police departments.⁹⁰ While VAWA and VOCA do not explicitly require ties with law enforcement, the funds are funneled through the DOJ or law enforcement which disadvantages women in these communities who do not wish to have ties with law enforcement.

Another issue that plagues the domestic violence world is the issue between accountability and punishment. Oftentimes, victims do not want their abusers to be punished; rather, they just want the abuse to stop. As discussed *supra*, this is one reason that Black and Brown women are more likely to be hesitant in seeking out law enforcement help.⁹¹ The issue of repair and restoration is rarely, if ever, addressed in incarceration; the focus is on retribution.⁹²

An alternative model to retribution, accountability is based on the premise that when a harm is done, the harm creates an obligation to the person harmed.⁹³ This allows for the person who was harmed to be an active participant in the accountability process along with the person who committed the harm.⁹⁴ Accountability requires five key elements: (1) acknowledging responsibility for one's actions; (2) acknowledging the impact of one's actions on others; (3) expressing genuine remorse; (4) taking actions to repair the harm to the degree possible; and (5) no longer committing similar harm.⁹⁵ Allowing Black and Brown women to seek out accountability rather than engaging law enforcement is a safer alternative for many. This can be done through transformative justice practices that use community-based strategies to respond to and prevent harm instead of retributive systems like the criminal legal system.⁹⁶

Programs and funds like VAWA and VOCA were created to address the issues that domestic violence poses, but both fall short in addressing the particular issues of Black and Brown women. VAWA emphasizes the

⁹⁰ Chinn, *supra* note 56.

⁹¹ *Abuse in the Black Community*, *supra* note 22.

⁹² *Punishment is Not Accountability*, VA. SEXUAL AND DOMESTIC VIOLENCE ALL., (Nov. 15, 2020), https://vsdvalliance.org/press_release/punishment-is-not-accountability/.

⁹³ *Id.*

⁹⁴ *Id.*

⁹⁵ *Id.*

⁹⁶ *Id.*

development of coordinated community care among law enforcement, prosecutors, victims' services, and attorneys.⁹⁷ However, some victims may be reluctant to approach professional systems which often perpetuate the discrimination they have experienced.⁹⁸ Organizations that are administered through the DOJ or other law enforcement agencies, will unequivocally have a "law enforcement-centered" approach. When a group of people has such a problematic history with law enforcement, a law enforcement-centered approach falls short. VAWA also falls flat because of its limited reach, since VAWA-funded initiatives are limited by the amount of money that the federal budget allocates.⁹⁹

In contrast, VOCA provides direct services to victims.¹⁰⁰ This is true regardless of victims' immigration status or whether they are incarcerated.¹⁰¹ Direct services include a variety of different options to victims: (1) crisis intervention services; (2) transportation to court, short-term child care services, and temporary housing and security measures; (3) assistance to victims to understand and participate in the criminal justice system; and (4) payment of reasonable costs for medical examinations.¹⁰² For white Americans dealing with domestic violence issues, this may be the ideal helpline, but for Black and Brown women who are constantly battling with the widespread distrust of helplines connected to the criminal justice system, this is more of a deterrence. It is especially seen as a deterrence because VOCA funds are sometimes used to pay for VAWA or other expenses,¹⁰³ resulting in less money funneled to actual victims in need. The funding overlaps even though VAWA and VOCA have different purposes and different eligible recipients.¹⁰⁴

In the years between 2015 and 2018, Congress was able to release

⁹⁷ Monica N. Nodi, *The Role of Violence Against Women Act in Addressing Intimate Partner Violence: A Public Health Issue*, 23 J. OF WOMEN'S HEALTH 253, 254 (2014).

⁹⁸ *Improve Access to Culturally Relevant Services for Victims from Marginalized Communities*, GA. DOMESTIC VIOLENCE FATALITY REV. PROJECT, <http://georgiafatalityreview.com/key-goals/improve-access-to-culturally-relevant-services-for-victims-from-marginalized-communities/> (last visited Oct. 27, 2022).

⁹⁹ *Why Increasing Federal Funding to Domestic Violence Programs Matters*, NAT'L COAL. AGAINST DOMESTIC VIOLENCE (Jan. 17, 2017), <https://ncadv.org/blog/posts/why-increasing-federal-funding-to-domestic-violence-programs-matters>.

¹⁰⁰ *Victims of Crime Act (VOCA) Victims Service Grant Program*, VA. DEP'T OF CRIM. JUST. SERVS.3 (Nov. 13, 2020) <https://www.dcjs.virginia.gov/sites/dcjs.virginia.gov/files/grants/fy-2022-2023-victims-crime-act-voca-victims-services-grant-program/fy-2022-2023-victims-crime-act-voca-grant-guide-lines.pdf>.

¹⁰¹ *Victims of Crime Act Definitions, Allowable and Unallowable Costs and Services*, OR. DEP'T OF JUST. 1, <https://www.doj.state.or.us/wp-content/uploads/2017/09/VOCA-Allowable-and-Unallowable-Costs-and-Services-Guidance-04.2021.pdf> (last updated Apr. 2021).

¹⁰² See 42 U.S.C. § 10603(d)(2).

¹⁰³ *Why Increasing Federal Funding to Domestic Violence Programs Matters*, *supra* note 99.

¹⁰⁴ *Id.*

substantially larger sums to assist millions of victims each year.¹⁰⁵ However, since 2019, the VOCA funds that are released annually have declined due to shrinking deposits and declines in the Crime Victims Fund (CVF).¹⁰⁶ In July of 2021, President Biden signed the “VOCA Fix to Sustain the Crime Victims Fund Act of 2021,” which is designed to secure billions in victims services.¹⁰⁷ Without this Act, VOCA, and the CVF, are in jeopardy.¹⁰⁸

II. CREATION OF CULTURALLY SPECIFIC DOMESTIC VIOLENCE ORGANIZATIONS

In some parts of the United States, efforts have started to address domestic violence in culturally specific ways. In Washington, D.C., the Asian/Pacific Islander Domestic Violence Resource Project (“DVRP”) exists to address, prevent, and end domestic violence and sexual assault in Asian/Pacific Islander communities.¹⁰⁹ The organization is both survivor-created and survivor-driven, and has helped to serve over 1,300 survivors in the Washington, D.C., Maryland, and Virginia areas.¹¹⁰ Addressing the fact that some women dealing with domestic violence are unable to leave due to lack of financial resources, this culturally specific organization provides an array of services to assist them including transportation, financial assistance, grocery delivery, translation services, and various other direct services.¹¹¹ This type of assistance can go a long way for individuals who have no other way out and no one else to turn to.

Many government-funded organizations lack the specific training needed to be able to provide culturally appropriate services. At DVRP, they take the time to train their staff to be able to provide cultural humility training and offer technical assistance and consultation on working with immigrant survivors or Asian/Pacific Islander survivors.¹¹² Training is an integral part in providing support to domestic violence victims. Those who wish to serve as mentors or are staffed at places where victims come must be able to provide

¹⁰⁵ *Victims of Crime Act*, NAT’L NETWORK TO END DOMESTIC VIOLENCE, <https://nnev.org/content/victims-of-crime-act/> (last visited Oct. 27, 2022).

¹⁰⁶ *Id.*

¹⁰⁷ *Id.*

¹⁰⁸ *Id.*

¹⁰⁹ *About Us: Our Mission*, DOMESTIC VIOLENCE RESOURCE PROJECT, <https://www.dvrp.org/about-us> (last visited Oct. 27, 2022).

¹¹⁰ *Id.*

¹¹¹ *Id.*

¹¹² *About Us: Our Mission*, *supra* note 109.

adequate assistance to people in marginalized communities. The creation of culturally specific organizations ensures that those attempting to help victims of domestic violence will be equipped with the necessary training.

Another exemplar organization, Caminar Latino was created in Georgia to organize safe spaces for family members to transition towards non-violence and to center the Latino experience in efforts to transform the social conditions that give rise to violence.¹¹³ The organization provides four different types of support, including resources for whole families, survivors, youth, and individuals.¹¹⁴ To survivors of domestic violence, they provide support and reflection groups; safety planning; access to shelter, legal services, and counseling services; and crisis intervention and advocacy.¹¹⁵

More recently founded, the Empowered Survivor program was created to reach more survivors of domestic violence in Houston's minority communities.¹¹⁶ Many people are not aware of the fact that help exists outside of police agencies, and this organization takes steps to help survivors access legal services, food, clothing, housing, and jobs, among other things, in order to achieve stable living on their own.¹¹⁷ Interestingly, this organization was created by a former District Attorney, Carvana Cloud, who worked in the Special Victims Bureau.¹¹⁸ However, the founder also grew up in the "hood," and experienced domestic violence as a child, so she often shares her experience with the survivors in an effort to gain their trust.¹¹⁹

These three organizations are examples of how culturally specific programs operate. They promote a sense of acceptance and unity because they are primarily staffed and led by members of that same community. By potentially allocating more funds to these types of services, the needs of people in these marginalized communities can be better met.

¹¹³ *About Us: What We Do*, CAMINAR LATINO, <https://caminarlatino.org/about-us/what-we-do/> (last visited Oct. 27, 2022).

¹¹⁴ *Id.*

¹¹⁵ *Programs, For Individuals and Families*, CAMINAR LATINO, <https://caminarlatino.org/programs/for-individuals-and-families/> (last visited Oct. 27, 2022).

¹¹⁶ Robert Arnold, *New Non-profit Focuses on Reaching Survivors of Domestic Violence in Houston's Minority Communities*, CLICK 2 HOUSTON (Aug. 20, 2020), <https://www.click2houston.com/news/investigates/2020/08/20/new-non-profit-focuses-on-reaching-survivors-of-domestic-violence-in-houstons-minority-communities/>.

¹¹⁷ *Id.*

¹¹⁸ *Id.*

¹¹⁹ *Id.*

III. FUNDING DIVESTED FROM LAW ENFORCEMENT IS NECESSARY TO PROVIDE CULTURALLY APPROPRIATE SERVICES

Funding has begun to address the needs of victims, but more work remains to be done. To best meet the needs of Black and Brown women who reach out for services and support, mainstream domestic violence programs must be culturally responsive.¹²⁰ Mainstream domestic violence programs have to factor in the complex life experiences of Black and Brown victims when designing response programs and policies to successfully provide supportive interventions.¹²¹

An example of a recent positive development is the American Rescue Plan Act (“ARPA”), which was created to provide relief to address the continued impact of COVID-19.¹²² This included relief due to the impact on the economy, public health, state and local governments, individuals, and businesses.¹²³ In relation to domestic violence, this Act contained broad provisions that would not only increase safety and well-being for survivors and their families, but also would provide funding for the critical programs that serve them.¹²⁴

In an effort to provide emergency funding for victim’s services, the Act specifically provided an additional \$180 million for domestic violence prevention services and \$198 for sexual violence services, including shelters, counseling, supporting services, and more.¹²⁵ Additionally, \$18 million was also provided for Tribal specific responses to gender-based violence.¹²⁶ The most beneficial part about the Act, however, is that \$49.5 million was allocated for a new culturally specific program to address the needs of domestic violence and sexual assault survivors.¹²⁷

In Virginia, the ARPA funds were distributed to Virginia’s DCJS, which

¹²⁰ *Improve Access to Culturally Relevant Services for Victims from Marginalized Communities, supra* note 23.

¹²¹ *Id.*

¹²² American Rescue Plan Act of 2021, H.R. 1319, 117th Cong. (2022).

¹²³ *Id.*

¹²⁴ *National Domestic Violence Hotline Applauds Passage of American Rescue Plan of 2021*, NAT’L DOMESTIC VIOLENCE HOTLINE, <https://www.thehotline.org/news/national-domestic-violence-hotline-applauds-passage-of-american-rescue-plan-of-2021> (last visited Oct 27, 2022).

¹²⁵ *The American Rescue Plan: Domestic & Sexual Violence*, VA. POVERTY LAW CENTER, <https://vplc.org/wp-content/uploads/2021/04/ARPA-DVSV.pdf> (last visited Oct 27, 2022).

¹²⁶ *National Domestic Violence Hotline Applauds Passage of American Rescue Plan of 2021, supra* note 124.

¹²⁷ *Id.*

was responsible for their allocation.¹²⁸ However, the DCJS is connected to law enforcement which makes it less suitable for members of the Black and Brown communities. Funding does not necessarily need to go directly to these culturally specific organizations, but it is ineffective to give the sole power to law enforcement to distribute the funds. Programs like ARPA should continue to be funded, but other organizations should be created such that the money does not get funneled through the DCJS.

The American Rescue Plan provides much needed relief for survivors across the country,¹²⁹ but it is only a small step in the right direction. More work with Congress on continued legislative efforts that ensure survivors and their families have what they need for a long-lasting solution to their healing is the next, and most important step.¹³⁰ ARPA will expire soon, but the need for culturally specific programs will remain. Thus, more funding should be provided and divested from law enforcement to include Black and Brown cultures and address their needs.

CONCLUSION

Domestic violence adversely affects people of color and makes it hard for them to seek help, due in part to a system that is perpetuated by racism and continuously ignores the needs of Black and Brown women. Black people have a horrific past with law enforcement, and many victims will not seek out their help because of this history. There are many funding avenues in place now, but they are inadequate to address Black and Brown women's needs. ARPA, which was enacted in 2021, begins to address these needs by prioritizing culturally specific organizations. However, if the funding continues to be funneled through the DCJS, a law enforcement agency, then culturally specific organizations will not be as effective as they could be. Organizations such as DVRP, Caminar Latino, and the Empowered Survivor have already shown that having safe spaces for marginalized community members serves to be beneficial, and including organizations specifically for Black and Brown women will continue to bridge the gap to achieving accessible services for survivors of domestic violence.

¹²⁸ *American Rescue Plan Act (ARPA) Funding for Victims Services*, VA. DEP'T OF CRIM. JUST. SERVS., <https://www.dcjs.virginia.gov/victims-services/grants/american-rescue-plan-act-arpa-funding-victims-services> (last visited Oct. 27, 2022).

¹²⁹ *National Domestic Violence Hotline Applauds Passage of American Rescue Plan of 2021*, *supra* note 124.

¹³⁰ *Id.*