

## Reimagining policing - Report of the International Independent Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement

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The Advocates for Human Rights (“The Advocates”) welcomes the call for inputs issued by the Expert Mechanism to Advance Racial Justice and Equality in Law Enforcement.

Police in Minnesota and the United States systematically fail to adequately support victims of sexual assault and domestic violence. The current policing response is antithetical to building trust because it is not victim-centered, i.e. positions the victim’s rights, needs and desires as a priority. The absence of a victim-centered approach gives rise to a lack of trust in the system since victims’ needs are not met, or victims are even harmed further. As discussed below, police response to domestic violence cases often harms Black women victims. We propose to reimagine policing to be victim-centered, so when victims encounter systems actors in their efforts to reestablish their safety, responders are able to effectively make victims feel and be safe.

The Advocates is well-positioned to comment on the systems that victims of domestic violence and sexual assault face. The Advocates has published reports on violence against women as a human rights issue; provided consultation and commentary of draft laws on domestic violence; participated in Expert Group Meetings at the invitation of the UN Special Rapporteur on Violence against women, and; trained lawyers, police, prosecutors, judges, and other stakeholders to effectively implement new and existing laws on domestic violence.

### **I. Policing fails to be victim-centered in cases of sexual assault and domestic violence.**

*Law enforcement does not adequately respond to victims of sexual assault and domestic violence, especially when the victims are Black women.*

In Minnesota, due to racial profiling, Black women and girls “are fully aware that if they report crimes to law enforcement or other sources, they are likely to be met with disbelief or disdain.”<sup>1</sup> In order to understand the high rate of unreported crimes – such as domestic violence and sexual assaults – it is necessary to investigate factors such as “the impact of negative stereotypes and histories of state violence” that discourage Black women from reporting.<sup>2</sup>

Black women who are victims of domestic violence are also more likely to be charged with crimes themselves. Police and other systems actors are more likely to treat Black women as culpable for

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<sup>1</sup>Office of Justice Programs, *Missing And Murdered African American Women Task Force*, (consulted on Feb. 10, 2023), p. 29. Available at: <https://dps.mn.gov/divisions/ojp/Pages/missing-murdered-african-american-women-task-force.aspx>

<sup>2</sup>Office of Justice Programs, *Missing And Murdered African American Women Task Force*, (consulted on Feb. 10, 2023), p. 29. Available at: <https://dps.mn.gov/divisions/ojp/Pages/missing-murdered-african-american-women-task-force.aspx>

the violence alongside their abuser;<sup>3</sup> this response stands in contrast to system perceptions of white women, who they frequently view and treat as survivors.<sup>4</sup>

Police violence against Black people also deters Black women from reporting domestic violence. The director of strategic initiatives at the Domestic Violence Network notes that “I have been told personally [by a survivor] they can’t get help because they don’t want their partner to become a statistic... There’s a genuine and legitimate fear that if they call the police, their partner could be killed or they, as the survivor, could be killed.”<sup>5</sup>

*Not all victims of domestic violence and sexual assault consistently trust in the police when choosing whether to seek help.*

Calling 911 for law enforcement is not always the safest and optimal option for victims of color. Victims must tell their stories to a stranger with whom they may not be comfortable sharing personal information.<sup>6</sup> Not only do survivors have to disclose intimate details about their lives, they may also be injured, in shock, or experiencing mental distress. Victims may also experience re-traumatization in the process of telling their stories to an officer. Specifically, victims may feel unsafe and re-traumatized in the presence of officers due to longstanding, intergenerational violence by law enforcement against Black communities. Black victims of domestic and sexual violence may not see law enforcement officers as trusted advocates who represent victims’ best interests. One interviewee stated that victims may lie to police because “they are afraid, or they don’t trust you [the police officer].”<sup>7</sup>

Even when victims do trust law enforcement officers, police may not always act in a way that prioritizes victims’ safety or may even be guided by their personal views rather than best practices. In cases of domestic violence, an abuser’s access to a firearm increases the risk of femicide and murder.<sup>8</sup> Best practices call for police to ask if a gun was used against the victim and pursue getting a warrant to confiscate it. A police officer shared that, despite trainings on best practices, some officers resisted asking if the perpetrator used a gun because it violated the officers’ belief in the right to bear arms.<sup>9</sup> When institutional cultures prioritize firearm rights over a woman’s right to safety and security, it perpetrates further harm against victims.

*The current response to domestic violence and sexual assault is not centered around victims’ overall well-being, including their financial circumstances.*

Throughout the criminal justice process, the financial, emotional, and mental health needs of victims is not sufficiently taken into account. As one interviewee articulated, “The crime happens

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<sup>3</sup>Police should consistently conduct a primary aggressor assessment in domestic violence cases to evaluate which party poses the “most serious, ongoing threat, which may not necessarily be the initial aggressor in a specific incident.” International Association of Chiefs of Police, Intimate Partner Violence Response Policy and Training Content Guidelines 6 (2017).

<sup>4</sup>National Coalition Against Domestic Violence, “Domestic Violence and the Black Community,” (2020) Accessed 19 May 2023. [https://assets.speakcdn.com/assets/2497/dv\\_in\\_the\\_black\\_community.pdf](https://assets.speakcdn.com/assets/2497/dv_in_the_black_community.pdf).

<sup>5</sup>Coburn Place, “A Layered Look at Domestic Violence in the Black Community,” Accessed 19 May, 2023, <https://coburnplace.org/stories/a-layered-look-at-domestic-violence-in-the-black-community/>.

<sup>6</sup>Interview on file with The Advocates.

<sup>7</sup>Interview on file with The Advocates.

<sup>8</sup>National Coalition Against Domestic Violence, “Domestic Violence and Firearms,” (2022), [https://assets.speakcdn.com/assets/2497/guns\\_and\\_dv0.pdf](https://assets.speakcdn.com/assets/2497/guns_and_dv0.pdf)

<sup>9</sup>Interview on file with The Advocates.

to the victim, and then the system happens to the victim, and then everybody walks away. There is no aftercare.”<sup>10</sup> It is common to feel like the system “happens” to victims, rather than being a system of justice and safety for victims.

The arrest and prosecution of offenders does not consider the long-term social and economic impact on victims. Many victims do not come forward or are dissatisfied with the outcome of their cases because they do not want their abuser to go to jail. Some may be concerned about their shared children seeing a parent in jail. Others may depend on the abuser financially. Some victims are financially entwined with the offender and may have to pay for the offender’s lawyer or bail. Minnesota does have a reparations board; while most states have some form of financial support for victims, it is not clear if victims receive information about support programs.<sup>11</sup> The Minnesota reparations program for victims of violent crimes requires that claimants file a police report within 30 days of the crime, and the claim must be filed within three years.<sup>12</sup> Victims may not be fully aware of these requirements and therefore miss their window to secure reparations.

Government entities are also not tracking how victims are supported throughout and after their cases. One interviewee stated that civil society organizations are filling this data gap, and NGOs, not governments, are the leading actors documenting the key necessities of victims and the effectiveness of the support and remedies provided to victims.<sup>11</sup> They note the absence of monitoring to assess program effectiveness, explaining “We are not tracking how successful victims are with what we are offering them.”<sup>12</sup>

## **II. Recommendations, best practices, and promising initiatives to reimagine policing must be victim-centered.**

**The agency (or agencies) which responds to domestic violence or sexual assault calls must have a victim-centered mindset, cultivated by the agency’s culture, mandate, and leadership.** Victims need specialists among the first responder team who prioritize their rights, safety, comprehension, confidentiality, and agency. Police agencies historically are the only members of the first responder team. Lawmakers can develop, authorize, and fund agencies which specialize in responding to crimes involving violence against women.

**Mandate regular trainings for first-responder agencies led by or conducted in consultation with NGOs that serve diverse victims.** The trainings must include information on the dynamics of domestic and sexual violence and employ a victim-centered, trauma-informed approach. Mandate regular trainings for first responders to make a determination of the predominant aggressor in all cases of domestic violence.

**Prioritize and meaningfully partner with victim advocate agencies when responding to domestic violence.** When victims of domestic violence make a 911 call, victims need to be able to trust the agency that responds. Victim advocacy programs have been successful in supporting victims in criminal justice proceedings. It is possible to have victim advocates be first responders to reports of domestic violence. Advocates partner with victims to make meaningful choices, including informing victims about their rights, maintaining victim privacy, facilitating the process

<sup>10</sup>Interview on file with The Advocates.

<sup>11</sup>Interview on file with The Advocates.

<sup>12</sup>Minnesota Department of Public Safety, “Minnesota Crime Victims Reparations Board: financial help for crime victims,” Accessed 19 May, 2023. <https://dps.mn.gov/divisions/ojp/help-for-crime-victims/Pages/crime-victims-reparations.aspx>.

of contacting different service providers, and offering other emotional support. Victim advocacy programs should be expanded and could accompany the agency that responds to 911 calls. Minneapolis created a victim advocate position in response to sex crimes.<sup>13</sup> Other law enforcement agencies have hired a victim advocate to accompany police in response to 911 calls in which the victim may be traumatized, including violent crimes.<sup>14</sup>

**Increase the leadership and number of women, people of color, and LGBTIQ+ people who respond to domestic violence calls.** Stakeholders have noted positive outcomes when first responder authorities reflect the population of the community and victims' demographics.<sup>15</sup> Women police officers tend to communicate more effectively and pay more attention to crimes with women victims.<sup>16</sup> Increasing the number of women, people of color, and LGBTIQ+ people who respond to domestic violence calls is essential.

**Amend legislation to keep victims safe from firearms.** Laws should require that responders in domestic violence cases inquire if there is a gun in the household, or if the offender has access to a gun elsewhere. If a gun was used against the victim at any point, the responding agency must pursue a warrant to confiscate the gun. Efforts to change police culture to advocate for victims rather than the right to bear arms must be a priority. In cases in which a judge has ordered that an offender transfer a gun to police or sell it, ensure that police consistently implement and enforce existing laws on firearm relinquishment within the scope of their response to domestic and sexual violence.

**Financial, emotional, and mental-health support must be holistic, accessible, and culturally relevant.** Review reparations programs to ensure that all victims of domestic violence and sexual assault can effectively access reparations. Conduct a review to identify any barriers, particularly for women of color, in accessing and securing reparations in cases of violence against women with a view to removing those obstacles. Systems actors must consistently provide information to victims about their right to reparations and the procedures to file such a claim. Victims must receive information about financial support programs in a way they can effectively understand, including in languages other than English, and at an appropriate time in which they can absorb the information.

Further, data collection about the well-being, including financial well-being, of victims must be formalized. One interviewee suggested having agencies such as the city attorney's office support this data collection.<sup>17</sup> These actions will positively impact domestic violence cases, as those need to be evaluated with a long-term view.

Promising initiatives also include non-governmental organizations (NGOs), which provide culturally-responsive victim services. For example, Ujima Inc., The National Center on Violence

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<sup>13</sup>Libor Janey, "Minneapolis police to hire full-time victim advocate to work with sex crimes investigators," Star Tribune, Accessed 19 May 2023, <https://www.startribune.com/minneapolis-police-to-hire-full-time-victim-advocate-to-work-with-sex-crimes-investigators/491557021/>.

<sup>14</sup>Luis de Lyon, CU Police Department officers bring victim advocate with them for certain crimes, 9 News, Accessed 19 May 2023, <https://www.9news.com/article/news/education/cu-police-victim-advocate/73-6e835840-e69a-4de5-b82a-e72515b558a8>.

<sup>15</sup>Interview on file with The Advocates.

<sup>16</sup>Interview on file with The Advocates.

<sup>17</sup>Interview on file with The Advocates.

Against Women in the Black Community,<sup>18</sup> addresses the lack of access which Black women have to victim services, including reparations programs.

**Promising initiatives and good practices must include prevention and accountability measures.** Historical, intergenerational trauma caused by policing and the criminal justice system impedes victims' trust in the systems available and authorized to help their cases. In addition to the promising initiatives outlined above, we strongly urge prevention and accountability measures.

Minnesota lawmakers passed a broad police accountability package following the murder of George Floyd in 2020.<sup>19</sup> This package includes bans on neck restraints, chokeholds, and other measures to promote police accountability, such as requirements for officers to intercede when they see a colleague using excessive force. The package also creates an advisory council for the state board that licenses officers.<sup>20</sup> The Minnesota Police Accountability Act of 2020 was also created by House democrats with the intentions of reclaiming community oversight and reimagining public safety.<sup>21</sup> Monitoring is essential to evaluate the effectiveness of these measures and to identify any amendments that are required to ensure full accountability.

In March 2023, the Minneapolis City Council approved a court-enforceable settlement agreement, which outlines a framework for non-discriminatory policing in Minneapolis. The agreement has 13 parts, including training, use of force, non-discriminatory policing, and accountability and oversight.<sup>22</sup>

State agencies, such as the Minnesota Department of Human Rights (MDHR), have also taken measures to enforce police accountability by filing charges against the City of Minneapolis and the Minneapolis Police Department. The charges are based on “racially-discriminatory policing in violation of the Minnesota Human Rights Act.”<sup>23</sup>

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<sup>18</sup>Ibrahim, Mohamed, “Minnesota governor signs police accountability bill into law,” (23 July, 2020), <https://www.pbs.org/newshour/nation/watch-minnesota-governor-signs-police-accountability-bill-into-law>.

<sup>19</sup>Karnowski, Steve, “Minnesota Lawmakers Pass Police Accountability Package,” (22 July, 2020), <https://apnews.com/article/police-reform-police-health-us-news-bills-6ae40d92363db59a112bf6e96eaeef8da>

<sup>20</sup>Karnowski, Steve, “Minnesota Lawmakers Pass Police Accountability Package,” (22 July, 2020), <https://apnews.com/article/police-reform-police-health-us-news-bills-6ae40d92363db59a112bf6e96eaeef8da>

<sup>21</sup>Ibrahim, Mohamed, “Minnesota governor signs police accountability bill into law,” (23 July, 2020), <https://www.pbs.org/newshour/nation/watch-minnesota-governor-signs-police-accountability-bill-into-law>

<sup>22</sup>Ibrahim, Mohamed, “What to Know about Minneapolis’ Court-Enforceable Police Reform Agreement,” (March 31, 2023), <https://www.minnpost.com/public-safety/2023/03/what-you-need-to-know-about-minneapolis-court-enforceable-police-reform-agreement/>

<sup>23</sup>City of Minneapolis, “Minnesota Department of Human Rights investigation,” (23 March, 2023) <https://www.minneapolismn.gov/resident-services/public-safety/police-public-safety/investigations-settlement-agreement/investigations/mdhr/>