



Lessons from the Field: Talking about Mass Incarceration, Racial Justice, and Alternatives to Reliance on the Criminal Legal System

by

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N | C | D | B | W NATIONAL CLEARINGHOUSE FOR
THE DEFENSE OF BATTERED WOMEN

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Lessons from the Field: Talking about Mass Incarceration, Racial Justice, and Alternatives to Reliance on the Criminal Legal System

Between December 2016 and March 2019, the National Clearinghouse for the Defense of Battered Women held over two dozen conversations with advocates from anti-domestic and sexual violence state coalitions, national resource centers, and community-based organizations.¹ We wanted to learn more about how these advocacy organizations were talking about and paying attention to issues of mass incarceration, racial justice, and alternatives to reliance on the criminal legal system as a core response to gender-based violence. The discussions were in addition to an eight-part webinar series exploring these same issues. We reached out primarily (though not exclusively) to people in statewide coalitions who we learned had already begun to examine and seek alternatives to the reliance on the criminal legal system that has characterized mainstream anti-domestic violence and sexual assault programs. We wanted to hear about what they were doing, the lessons they had learned, and what they could share with advocates seeking a similar path.

Ending Mass Incarceration, Centralizing Racial Justice, and Developing Alternatives: The Role of Anti-Domestic Violence and Sexual Assault Programs

An 8-part webinar series by the National Clearinghouse for the Defense of Battered Women

Our conversations identified different approaches used by coalitions and other organizations as they questioned use of the criminal legal system as a primary response and moved toward decarceration and restorative and transformative justice. Across our conversations we heard common themes about how to launch and sustain such shifts in organizational positions and practices.

From these broad conversations we collected and organized key themes, grounding philosophies, and approaches. We did not find any single guaranteed prescription for change. We heard how anti-violence organizations and the communities they live and work in are at many different places in beginning or continuing to examine issues of gender-based violence and the criminal legal system. In a member-based statewide coalition, for example, coalition staff may be in one place, the board and/or leadership in another, and local member programs still another. Similarly, the leadership, staff, and board of a local anti-domestic violence or sexual assault organization may not agree about whether or how to proceed, be unclear about how to proceed, and may seek different levels of engagement. We talked with people who said that as staff to a member-based organization they went ahead and expected the membership to catch up. And we talked with people who said that as staff they wanted to secure a level of membership agreement before moving very far ahead.

What counts, as we heard repeatedly, is that *someone* starts and pushes the questions. Among the many questions: How can we keep vulnerable individuals safe from battering and sexual violence and hold those causing the harm accountable without creating additional harms? Does the structural racism of the criminal legal system make it impossible to utilize the system without further damage to communities of color? What of the criminal legal system, if anything, do we want to maintain? If we believe that the criminal legal system is not one of the answers to gender-based violence, what should replace it?

¹ See a list of the conversations at the conclusion of *Lessons from the Field*.

We learned that there is no single template or toolkit about how to question current assumptions and structures of the criminal legal system that works for every organization. There is no one approach for opening discussions of gender-based violence in the context of racial justice and decarceration—or for acting as a result of such exploration. The people we spoke with shared examples of what they have tried, such as in-depth interviews with survivors/partners of men sent to prison where every woman said no when asked if sending him to prison increased their safety; approaching decriminalization through the lens of immigrant detention centers; crafting and promoting new mission and value statements about dismantling oppression and promoting equity; moving to repeal mandatory arrest laws; and withholding support or actively opposing legislation that enhances penalties and contributes to racial disparities.

We offer this information and these considerations to stimulate discussion, suggest strategies, and link to tools that may be helpful to the many advocates and organizations seeking well-being and safety for survivors of gender-based violence in ways that do not perpetuate racial injustice and state violence.

Audience . . .

Anti-gender-violence state coalitions and local advocacy programs—and advocates leading and working within such organizations—are the main audience for *Lessons from the Field*. Historically—and today—leadership of these organizations has been predominantly white. Therefore, this discussion primarily addresses that leadership and anyone questioning reliance on the criminal legal system to prevent or intervene in gender-based violence.

We were finishing *Lessons from the Field* at a time of widespread questioning about the role of police in reinforcing structures of racism in the United States. Over a few short weeks, the writing coincided with the murders of Breonna Taylor, George Floyd, and Ahmed Arbery and calls for a fundamental rethinking of the role of policing and the criminal legal system. The list of names kept growing as new killings by police occurred or were recalled: Natosha “Tony” McDade, Dreasjon (Sean) Reed, Rayshard Brooks, Atatania Jefferson, Dion Johnson, David McAtee, Sean Monterrosa The writing also coincided with the COVID-19 pandemic and examination of the ways in which structures of racism contribute to massively disparate impacts and harms to communities of color. Among those we spoke with as part of this project, many were affiliated with organizations that had already been exploring issues of mass incarceration, racial justice, and alternatives to the criminal legal system as a primary response to gender-based violence. We saw how that groundwork required listening to and learning from survivors and advocates of color and activist scholars who for decades have questioned reliance on the criminal legal system. We saw how that groundwork, in turn, provided and continues to provide a foundation of values and clear direction that make it possible for an organization to act quickly to challenge racism and other oppressions.

GROUNDWORK

- Recognize that there is no single starting point or approach or strategy that will work for every organization and its members and constituency. While seeking a critical mass for change, begin exploring transformative justice and alternatives to the criminal legal system without first assembling a magic number of interested people.
- Learn from survivors and acknowledge what we know: i.e., many if not most survivors of gender-based violence do not want criminal legal system intervention and the system does not work well for most who do get involved. Most who get involved do not find accountability, justice, compensation, restoration, or healing. Recognize that many if not most survivors turn to the criminal legal system only because there are no alternatives. Survivors of color and their communities face the impacts of over-policing *and/or* under-protection.² Lifting up the stories and voices of survivors of color can help shape a new paradigm.
- Build a robust structure for survivor and community consultation—and use it. Seek survivor leadership and learn from survivors and their communities about their needs and their experiences with and ideas for the criminal legal system.
- Start with close attention to learning, seeing, and applying the principle of intersectionality. Imbue everyday meetings and what you talk about with understanding of the interconnections of marginalization and oppression in people’s lives.
- Acknowledge that talking about prison abolition—or talking about separating from law enforcement and the criminal legal system in any substantive way—is difficult for many advocates for at least two different reasons: 1) for some, these conversations (and actions) feel long overdue given all the harms those systems have caused; 2) others struggle with what to do with those who have done great harm to survivors and others. Be willing to challenge assumptions and examine the deep costs of incarceration and how resources might be

Ideas – Approaches – Strategies Action

We offer this information and these considerations to stimulate discussion and suggest strategies.

While there’s no single template, toolkit, directive, or prescription, what we heard repeatedly was to *start somewhere, do something, get beyond words.*

² For discussions of the ways in which survivors from marginalized communities are over-policed and/or under-protected—and subject to criminalization and police violence—see Andrea J. Ritchie, *Invisible No More: Police Violence Against Black Women and Women of Color* (2017); Beth E. Richie, *Arrested Justice: Black Women, Violence, and American’s Prison Nation* (2012); publications of the African American Policy Forum at <https://aapf.org/2020>; Survived and Punished, <https://survivedandpunished.org/>; and the National Coalition of Anti-Violence Programs’ work on violence against LGBTQ+ communities, <https://avp.org/ncavp/>. The experiences of Native survivors shows how “an unworkable, race-based criminal jurisdictional scheme created by the United States has limited the ability of Indian nations to protect Native women from violence and to provide them with meaningful remedies,” (Indian Law Resource Center, <https://indianlaw.org/issue/ending-violence-against-native-women>).

otherwise used to respond to and prevent harm.

- Acknowledge and address the fears of some advocates that moving away from criminal legal system interventions will undo advances that have been made in responding to gender-based violence. Understand how difficult it can be to acknowledge that what was built over decades isn't working for many, many survivors. Ultimately, we must get to the heart of the question—i.e., if not prison/police, what about the person who does the most horrific harm imagined? We do not need to have the answer to this question, however, to begin to question the status quo and seek alternatives to the criminal legal system.
- Center racial justice at the core of your organization's mission and principles; make it integral to all decision-making, strategic planning, and daily work. Keep checking your progress: where are we at on the continuum of grounding our work in racial justice?
- Bring together those in the organization (whether staff and board and/or member programs) who are skeptical or uncomfortable with the possibility of moving away from the criminal legal system. We don't have to have all the answers to think through new responses, strategies, and solutions but we need different voices and perspectives to help figure out where and how to proceed. Seek to build a critical mass while realizing that not everyone is ready to come along at the same moment in time or in the same way.

"While [exploring transformative and restorative justice] may be a new conversation for the mainstream domestic violence movement, women and gender non-conforming organizers in abolitionist and anti-racist feminist spaces have been doing this work for a long time."

Laura Chow Reeve, Youth Engagement Manager with the Virginia Sexual & Domestic Violence Action Alliance – [VAWnet Resources on Transformative Justice](#)

RELATIONSHIPS

- Start with building a leadership and staff knowledge base and cohesion around the issues and the direction of change, then expand to the broader membership base or organization. Staff carry the message day to day and are ultimately central to moving the organization forward. Acknowledge the long-term nature of the work and change involved.
- Focus on building new kinds of allyship—genuine allyship—with racial and social justice organizations in the community. Mainstream anti-violence organizations must learn how to step back from trying to be "The" expert voice and let the needs of other organizations determine how to best be helpful. New alliances with what may have historically been non-traditional partners for many anti-violence organizations might include the ACLU, immigrant and refugee advocacy, organizations resisting anti-sanctuary cities legislation, advocacy for incarcerated persons, advocates for restorative and transformative justice, reproductive health advocates, organizations advocating for youth of color, LGBTQ+ communities, Latinx community organizations, Native and Indigenous peoples' coalitions, voting rights campaigns, and advocacy

for low-wage workers. If a member-based coalition or other structure, you might expand membership to organizations focused on antiracism and anti-oppression work even when their primary organizing work isn't specific to gender-based violence.

- Infuse the shift in thinking and practice throughout the organization. Anti-racism and reimagining safety and justice can't be freestanding, stand-apart "programs."
- Build from the member programs and/or advocates who have energy, interest, and excitement to do things differently. Rather than primarily bringing executive director or other management level positions together, go out to member programs with multiple groups and events. Connect with advocates and others who are doing the closest day-to-day work with survivors.
- As shifts in thinking and practice and new relationships develop, position the organization to act in wider and deeper ways on issues related to decarceration and restorative/transformational justice. Coalitions offer examples of how a commitment to racial justice and questioning the criminal legal system status quo led to actions they might have avoided in the past or stayed on the sidelines, such as opposing Marsy's Law, opposing sentencing enhancements and mandatory minimums, supporting bail reforms, reconsidering mandatory arrest laws and policies, signing on to calls for decarceration and other actions related to the Covid-19 pandemic, speaking out against police violence, supporting community control of police, and calling for divestment from police and the broader criminal legal system and reinvesting in community supports and resources.
- Partner with one or more community-based advocacy organizations that share a broad common mission for social justice (regardless of a specific role to address gender-based violence) and engage a skilled facilitator who has experience supporting people through a process of education and change around issues of racial and social justice. Avoid working in isolation and use the opportunity to build new relationships and alliances.

Anti-Racism as Violence Prevention

See, for example, *Voices from Our Movement*, a 3-part video series on "ending racism and oppression as the heart of our anti-violence movement."

From Futures Without Violence.

POLICY AND PRACTICE

- Center racial justice and intersectionality in your organization's structures, missions, and actions. This includes staff and board composition; staff and board orientation and training; every image, photo, and message; leadership, speaking and training roles; conference planning; hotline services. Everything.
- Build the necessary time for learning, discussion, and action into people's jobs and work. People need time and space to learn from survivors and their communities and dig into what it means

to centralize racial justice and to move away from and find alternatives to a criminalized response to gender-based violence.

- Define the framework and values that will guide policy and legislative decisions and help determine who's impacted, who gets incarcerated (or not), the possible unintended consequences, who you need to talk with, and how an issue connects with racial justice and decriminalization. Be prepared to frame and explain opposition to over-

***Anti-Racism Tools and Resources for
Domestic Violence and Sexual Assault
Survivors, Advocates, and Allies***

See, for example, these resources compiled by the Arizona Coalition to End Sexual and Domestic Violence

criminalization. For example, be prepared to explain how enhanced penalties have historically been used unfairly against people of color and defendants with fewer resources, without producing support and protection for survivors and children.

- Examine every decision of programming and governance for possible intended and unintended consequences for people of color and other marginalized communities.
- Be strategic in how and when to be visible about shifts in thinking and practice. You might not necessarily promote them on the organization's website, at least not early on.
- Build explicit support for advancing and implementing new directions and theory of change into contracts and evaluation processes for the organization's leadership.
- Shift your organization's gaze from the individual level to the structural level in order to support movement building and social change work. This might require hard decisions to do less in trying to serve all individuals in order to free up time and resources for structural change work.
- Use policy planning tools and processes—what some call a theory of change—that require attention to racial justice, ending mass incarceration, and alternatives to the criminal legal system.
- Prepare to answer questions and speak knowledgeably about alternatives to the criminal legal system. Effective opposition to criminalization as a primary response requires data, research, and alternative frameworks. This information may not be easy to find but sources, strategies, and examples of how to find and organize data as community-based investigators are growing, in addition to more traditional journalism and academic-based sources.³

³ See Jane Sadusky, *The Criminal Legal System Response to Domestic Violence: Questions and Debate* (February 2020), National Clearinghouse for the Defense of Battered Women, at <https://www.ncdbw.org/publications>.

- Know that there is no single approach or style of leadership that applies to all advocacy organizations seeking to shift away from reliance on the criminal legal system. In some member-based organizations, leadership, inspiration, and movement toward a wider vision will be anchored more in the staff and/or a board. In others, discussion and change will move from members to the staff/board. Regardless of where the push for change is anchored initially, you will likely be navigating different opinions and levels of engagement.
- Whatever you try, you will need to follow up. This may include frequent check-ins with the people involved both in and out of the organization to review actions and progress. When you reflect on the approach and actions taken, you can better understand which messages and strategies are most effective. You will find out how people's understanding and actions are changing—or not changing—and what has been most influential in the process. To not follow up is to risk getting stuck in a cycle of starting and stopping or reinventing the wheel as the individuals in the organization change.

VAWnet Resource

How can advocates better understand Transformative Justice and its connection to gender-based violence intervention and prevention work?

STRATEGIES AND TOOLS

- Establish a consistent and staff-wide (if not organization-wide) study practice to examine and challenge issues of racial inequity, hyper/mass incarceration, gender-based violence, and alternatives to the criminal legal system. The methods can vary, such as a reading group, formal curriculum, or facilitated discussions. Whatever method you use, you'll be more effective if you understand that for many reasons (e.g., long work hours or literacy challenges), most people will have not completely prepared ahead of time, whether by finishing readings or watching videos. If a reading or watch assignment is involved, you can begin with a recap of key themes covered in the pre-discussion material. Any study practice will most effective and less likely to be dismissed as nice-but-unessential if the preparation and practice are part of people's work time.
- Figure out an approach that best fits the organization and its members or other constituencies. For some this might be a small core of well-prepared organizers who can carry the discussion and message out into the organization; others might use the model of a learning community that invites everyone in, regardless of how they understand their own readiness and history.
- On an individual and on a systems level, build and apply knowledge of the interconnection between racial justice and trauma work in advocacy. Privilege and oppression shape access to health and safety. Advocacy is impeded when we can't see variations in how people get justice and safety and help depending upon how much privilege they hold and how oppression shapes their lives.
- Prepare and support people to be okay with discomfort. Because race has been used to divide people, we cannot have conversations about race without discomfort. It's painful and

uncomfortable to confront the realities of racism, oppression, and mass incarceration.

- Seek ideas and practices from those who have been challenging and creating alternatives to the criminal legal system status quo in order to help frame self-examination and find a way forward. For example (*but in no way limited to*): [Move to End Violence](#), [Creative Interventions](#), [Just Beginnings Collaborative](#), [Impact Justice Restorative Justice Project](#), [INCITE! Women of Color Against Violence](#), [Survived and Punished](#), [Just Practice Collaborative](#), and the [African American Policy Forum](#) and [#SayHerName](#). [Anti-Racism as Violence Prevention](#) is a set of videos, discussion guides, and other resources compiled by Futures Without Violence to help domestic and sexual violence advocates and activists “spark conversations on the ways that racism and oppression have shaped our anti-violence movements and how we can dismantle racism in our organizations and communities.” The online resource library VAWnet provides discussion and tools about transformative justice: [How can advocates better understand Transformative Justice and its connection to gender-based violence intervention and prevention work?](#)
- Build knowledge and skills for addressing opposition, which will be inevitable and will likely challenge an advocacy organization’s commitment to survivors’ well-being and safety. Difficult conversations and deep examination of racism and historical trauma and oppression require skilled facilitators who can bring out the tension and address people’s discomfort and often conflicting beliefs and opinions.
- Use the familiar power and trauma analysis in anti-gender violence work to look at structural inequities and racism. Advocates and others can build from familiar knowledge of power and control and trauma to examine the harms of racism as analogous to other forms of coercion and trauma.
- Start with a focus on advocacy on behalf of incarcerated/formerly incarcerated survivors and the ways in which survivors are criminalized, then move outward to alternatives to incarceration and reliance on criminal legal system response.
- Before your organization is pushed to take a stand on specific legislation, be vocal about the move away from support for increasing criminalization so that historic allies and partners (e.g., coordinated community response partners, multi-disciplinary team members, advocacy organizations, legislators) get used to hearing your new stance and expect to see more of it. As they began to educate their memberships and legislators, some coalitions decided to stay neutral on legislation that would have resulted in increased prosecution and sentencing enhancements rather than oppose it, particularly if it was legislation that partners assumed they

Alliance in Action

A blog by the Virginia Sexual & Domestic Violence Action Alliance

“Statement on Police Brutality and Working for Racial Justice” – 6/18/20

“We Need More Than Words” – 6/1/20

“Solidarity Calls for More than Outrage on Social Media” – 5/29/20

would support.

- Emphasize how shifting away from a highly criminalized response can shift resources to support more underserved and marginalized survivors and their communities and strengthen prevention (e.g., added resources for housing, transportation, legal advocacy; support for restorative justice alternatives to incarceration and probation; increased support for services to those causing harm).
- Partner staff with specific member programs or regions to build stronger connections and opportunities for ongoing dialogue and action. Member meetings can be a forum for intentional conversations about issues related to mass incarceration, racial justice, and alternatives to the criminal legal system.
- Grow the organization and/or its membership to include social justice organizations that encounter survivors on a regular basis but whose primary purpose is not to provide services and help to gender violence survivors, such as organizations working with people after incarceration or seeking economic justice and fair wages for domestic and other low wage workers.
- Use changes in the organization's mission and guiding principles to support changes in policy and how to talk about support or opposition to legislation in ways that challenge oppression and promote equity.

In reflecting on the more than two dozen conversations that contributed to *Lessons from the Field*, a clear and overarching lesson is the need to act: to do something and to get beyond words. What counts, as we heard repeatedly, is that *someone* starts and pushes the questions—and then *acts* in the answering of those questions. *Knowledge into Action: Resources & Tools for Change* is the companion to these lessons that helps move intentions into action. It draws from the large and dynamic body of resources and tools related to ending mass incarceration, centering racial justice in communities and institutions, and creating alternatives to the criminal legal system. Along with attention to building blocks, critiques, and new approaches, *Knowledge into Action* offers examples of coalitions in action: challenging police brutality, interrupting racism and oppression, and reckoning with racism and inequities in the movement—action that is ongoing and utterly urgent and necessary.

Lessons from the Field: Talking about Mass Incarceration, Racial Justice, and Alternatives to Reliance on the Criminal Legal System was based on conversations with the people listed below—mostly during 2017 and 2018—and with others the authors, Jane Sadusky and Sue Osthoff, have talked with and learned from over the years.

People were extremely generous with their time. We truly appreciate their willingness to share with us some of their hopes and dreams, what they were working on at the time, what they had tried that worked well, and what didn't work so well. We thank them for their vision, bravery, and willingness to share what for most was "work in progress."

We have listed people in the order we spoke with them and with their affiliation at the time of our conversation.

- **Laurie Schipper**, Executive Director, Iowa Coalition Against Domestic Violence
- **Beth Barnhill**, Executive Director, Iowa Coalition Against Sexual Assault
- **Mary Ingham**, Executive Director, Crisis Intervention Service (Mason City, IA)
- **Kristi Van Audenhove** (Executive Director) & **Kate McCord** (Movement Strategy & Communications Director), Virginia Sexual & Domestic Violence Action Alliance
- **Kathy Moore** (Executive Director) & **Jacquie Marroquin** (Director of Programs), California Partnership to End Domestic Violence
- **Sandra Henriquez** (Chief Executive Officer) & **Emily Austin** (Director of Advocacy Services), California Coalition Against Sexual Assault
- **Nan Stoops**, Executive Director, Washington State Coalition Against Domestic Violence
- **Jacquelyn Boggess**, Executive Director, The Center for Family Policy and Practice (Madison, WI)
- **Kelly Miller**, Executive Director, Idaho Coalition Against Domestic and Sexual Violence
- **Mimi Kim**, Executive Director and Founder of Creative Interventions (Oakland, CA) and Assistant Professor, of Social Work at California State University, Long Beach.
- **Debra Robbin**, Executive Director, Jane Doe, Inc., the Massachusetts Coalition Against Sexual Assault and Domestic Violence
- **Sujata Warriar**, Training & Technical Assistance Director, Battered Women's Justice Project
- **Sandi Tibbetts Murphy**, Legal Policy Advisor, Battered Women's Justice Project
- **Denise Gamache**, Executive Director, Battered Women's Justice Project
- **Liz Richards** (Executive Director), **Becky Smith** (Communications Program Manager), Safia Khan (Systems Program Manager) & Leticia Floyd (Office Administrator), Minnesota Advocates for Battered Women (now Violence Free Minnesota)
- **Allie Bones**, Chief Executive Officer, Arizona Coalition to End Sexual and Domestic Violence
- **Megan Clarke**, Director of Statewide Capacity, North Carolina Coalition Against Sexual Assault
- **Beth Meeks**, Capacity Technical Assistance Program Director, National Network to End Domestic Violence
- **Vanessa Timmons**, Executive Director, Oregon Coalition Against Domestic Violence
- **Patti Seger**, Executive Director, End Domestic Abuse Wisconsin
- **Sara Barber**, Executive Director, South Carolina Coalition Against Domestic Violence and Sexual Assault
- **Sally MacNichol**, Co-Executive Director, CONNECT (NYC)
- **Shari Silberstein**, Executive Director, Equal Justice USA (NYC)