

The ACCOUNTABILITY DIALOGUES



Executive Summary

Sixteen years ago, Futures Without Violence partnered with a number of anti-violence organizations¹ led by and for people of color to create the Activist Dialogues, a project that explored how domestic violence and child welfare systems impacted women of color and their communities. The Activist Dialogues identified central concerns at the intersection of domestic violence and the child welfare system, many of which continue to cause harm to families. Family separation and surveillance by state child welfare systems perpetuate disproportionate harm and trauma on Black, Native, and Latinx children and families. Fifty-three percent of African American children will be investigated by

1. Asian and Pacific Islander Institute on Domestic Violence, Incite! Women of Color Against Violence, Institute on Domestic Violence in the African American Community, National Latino Alliance for the Elimination of Domestic Violence (Alianza), National Network to End Violence Against Immigrant Women and Women of Color Network. “Activist Dialogues,” 2005.

the child welfare system before their 18th birthday.² American Indian and Alaska Native children are two times more likely to be investigated, two times more likely to have substantiated allegations of abuse, and four times more likely to be placed in foster care than white children.³ Hispanic/Latino children, although not overrepresented nationally, are disproportionately represented in foster care in 21 states.⁴ Lesbian, gay, bisexual, and questioning youth are more than seven times more likely than straight youth to be placed in a group or foster home.⁵ Further, child welfare involvement greatly increases a child's risk of entry into other punitive carceral systems and leaves many mothers without real safety and healing.

A desperate need for system change paired with the devastating impact of the COVID-19 pandemic, especially on marginalized communities, led advocates at Futures Without Violence, Ujima, Inc., the National Center on Violence Against Women in the Black Community, Latinos United for Peace and Equity (LUPE), and Women Transforming Families: Rising to End Violence, Oppression and the Legacy of Trauma (a project of Ujima) to collaborate and create the Accountability Dialogues. In this series of online discussions, survivors and policymakers came together to co-create survivor centered policy strategies that would promote child and family wellbeing. With decades of expertise and commitment to supporting children and families of color devastated by the existing child welfare system, leaders from these organizations worked to imagine alternatives that center the safety of adult and child survivors. Driven by anger at the system and hope for survivors, the group gathered weekly for nearly eighteen months to explore what was needed to elevate the recurring conversations within their communities. They recognized that there were countless personal testimonies and that there is no shortage of information on what families need to transform their circumstances.

2. Kim, H., Wildeman, C., et al. "Lifetime Prevalence of Investigating Child Maltreatment Among US Children." *American Journal of Public Health* 107, no. 2 (2017): 274-280. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5227926/>.
3. The National Indian Child Welfare Association (NICWA). "Disproportionality in Child Welfare Fact Sheet." A publication of the National Indian Child Welfare Association. NICWA, 2019. <https://www.nicwa.org/wp-content/uploads/2019/10/2019-AIAN-Disproportionality-in-Child-Welfare-FINAL.pdf>.
4. Puzanchera, C., Taylor, M., Kang, W., & Smith, J. Disproportionality Rates for Children of Color in Foster Care Dashboard (2010-2020). National Council of Juvenile and Family Court Judges, 2020. https://ncjj.org/AFCARS/Disproportionality_Dashboard.asp.
5. Irvine, A. & Canfield, A. "The Overrepresentation of Lesbian, Gay, Bisexual, Questioning, Gender Nonconforming and Transgender Youth Within the Child Welfare to Juvenile Justice Crossover Population." *Journal of Gender, Social Policy & the Law* 24, no. 2 (2016): 244-261. <https://digitalcommons.wcl.american.edu/cgi/viewcontent.cgi?article=1679&context=jgspl>.

Simply put, today's punitive approaches are draconian, dangerous, and cruel and do not meet the needs of families. Policy strategy was also missing critical discussions and actions, including: institutional accountability for a system that has caused great harm to Indigenous, Black and Latinx families and communities, a real commitment to support families and meet them where they are with the resources and services they need, and new policies and practices that both center the voices of survivors and strengthen families and help them heal.

The Accountability Dialogues were designed to elevate and amplify the voices of survivors of domestic violence who had also been harmed by the child welfare system.

The series endeavored to engage policymakers in co-designing policy changes that could prevent harm and create safety for mothers and children impacted by domestic violence. In early planning discussions, Ann Haines Holy Eagle, an advocate at the Indian Child Welfare Act (ICWA) Law Center, stated plainly, "Accountability is justice. There is no way forward without accountability." This inspired the framing for the series around system accountability and justice, as well as the titles for the sessions: Justice is Truth, Justice is Accountability, and Justice is Prevention. The goal of collaborative co-design was to intentionally shift the paradigm, to extend what was considered possible, and to place survivor voices at the forefront of processes that impact them. It provided survivors with a rare opportunity to be heard by policymakers and participate in a process that not only put their voices at the center, but also engaged their lived expertise and insight to advance real solutions.

The Accountability Dialogues' planning group and survivor speakers highlighted three key policy issues that must be addressed to transform the system: (1) mandatory reporting, (2) definitions of 'failure to protect' and neglect of children, and (3) lack of accountability by child welfare for decades of harm caused. Mandatory reporting laws require professionals who see children who may be victims of abuse or neglect to report to Child Protective Services in their state.

In short, mandatory reporting is the mechanism that initiates intervention by child welfare and involvement in the system. Most reports to child welfare are for neglect, even in cases of domestic violence where mothers are being abused. Abused mothers are charged with neglect and failure to protect, even when their actions often sacrifice their own safety to protect their children.⁶ Despite the hopeful

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— JooYeun Chang,
former Assistant Secretary for the
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expectations of survivors of domestic violence to receive help when they ask for assistance from authorities, the child welfare system repeatedly fails them, often blaming them for being victims of abuse or dismissing the actions they take to keep themselves and their children safe.

JooYeun Chang, former Assistant Secretary for the Administration for Children and Families, joined each session of the Dialogues. In her remarks, she reflected on the design and history of the child welfare system, saying, “This isn’t a system that accidentally has bad outcomes – it produces what it was designed to produce.” As described below in the summaries of the three sessions, the Accountability Dialogues provided an opportunity to listen, learn, and begin the work of co-designing a system with good outcomes where families are treated with compassion and receive the services, resources, and short- and long-term support they need to heal, thrive, and stay together.

Justice is Truth

In the first session, Justice is Truth, survivors who had been involved in child welfare shared their experiences and defined the challenges that led to harmful outcomes for them, their children, and their communities. Each survivor described how the system harmed rather than helped them.

6. Risley-Curtiss, C. & K. Heffernan. “Gender Biases in Child Welfare.” *Affilia - Journal of Women and Social Work* 18, no. 10 (2003): 1-15. https://www.researchgate.net/publication/228756576_Gender_Biases_in_Child_Welfare.

Selena Hernandez, a young survivor, stated, “[My caseworker] shared the details [of my abuse] with [my parents]. I was not ready to share those details because I was still healing. I felt betrayed, and right then and there I knew I was not being helped.” Another survivor, Sharwline Nicholson, reflected, “They charged me with failure to protect because I was experiencing domestic violence. Because I am Black. Because I am an immigrant woman.”

Rather than mandatory reporting, which leads to surveillance and punishment, survivors needed a system that held their abusers accountable and provided the social and economic supports that would enable them to be the parents they aspired to be.

They needed systems to remove the obstacles in their way rather than create new ones. The survivors were compelled by the notion of mandated *supporting* – which could provide more desirable outcomes, including keeping custody of their children and having enough money to sustain their families, a safe and stable place to live, affordable childcare, and other supports to be able to survive away from their abusers. This revision of the status quo response to children’s exposure to domestic violence would also require a deeper inquiry into the definitions of neglect and failure to protect and how those definitions link poverty with child maltreatment, effectively criminalizing poverty. Essentially, when survivors are separated from their children because they are not able to provide for them, they are being punished because they are poor. Survivors also shared repeatedly that they need concrete and sustained accountability practices that address the harm that the child welfare system has caused for generations, particularly to Black, Native and Latinx children and families. This session confirmed that it is absolutely imperative to listen to survivors about what they need and to build solutions from that vantage point.

Justice is Accountability

The second session, Justice is Accountability, gave policymakers, advocates, and judges an opportunity to respond to the survivors’ testimonies from the first session, discuss what they have tried and/or observed in their work, and suggest new ideas for policy change. They acknowledged the need for system change that focuses on keeping families together. They also recognized that system-involved families should be treated with compassion, dignity, and respect, and that survivors’ judgment on how to best to help their families should be heard and considered. For example, Judge Aurora Martinez Jones of the 126th District Court in Texas discussed how she tries to do things differently in her court: “I ask [the family], ‘If I can order the state agency to do something to help you, what would that be?’ I change the question.” Speakers also agreed that the federal, state and local government agencies have a responsibility to robustly fund services and supports to help keep families together. The Honorable Michelle Demmert of the Alaska Native Women’s Resource Center and a sitting Tribal Court Judge reflected, “ICWA means nothing if we, [Tribes], don’t have equal access to services,” referring to the stark disparities in resource availability between States and Tribes. The speakers emphasized the importance of taking a holistic approach to families’ needs and ensuring that all families have access to culturally responsive services and economic supports. Further, former Assistant Secretary Chang spoke about the need to invest heavily in prevention – meaning upstream investments in early childhood education, K-12 education, physical and behavioral health services, workforce development, childcare, housing, food and nutrition programs, child tax credits, and cash assistance programs.

Justice is Prevention

The third session, Justice is Prevention, convened the same survivors and policymakers who spoke in the prior sessions to develop policy recommendations by engaging in open dialogue, discussing policy changes, generating further actions to be taken, and identifying people to engage. The discussion focused on two questions: What do parents need to prevent intervention and involvement by the child welfare system; and what do families need if they become involved in the child welfare system?

Survivors shared that every parent should be informed of their rights and have knowledge of the child welfare system before an investigation starts. They also appealed for case workers and investigators to listen to what they need and not to take away what they have. Survivors and policymakers voiced strong consensus for increased access to economic supports like affordable housing, childcare, income supports, and quality mental and behavioral health services. The Family First model was held up as impetus to avoid waiting for a crisis to happen before a family can receive community-based support. Most importantly, the group urged that system audits must prioritize addressing domestic violence, racism, sexism, and other forms of oppression at all levels, and that the child welfare system must shift from a punitive system to a humane system that centers child and family well-being.

Dialogues to Actions

The Accountability Dialogues created a platform that elevated the voices of survivors and provided an opportunity for survivors, policymakers, advocates, and judges to listen to one another and co-design and advance policy solutions. This effort was only possible because of the time and care put into relationship building, both among the advocates in the planning group and with the survivors who were invited to share their stories. Attending to everyone's needs and concerns was central to the success of this project and illustrates what can be created when no one is left behind. All policy processes must move forward with this ethos in mind. As Rosie Hidalgo of the White House Gender Policy Council noted during the Accountability Dialogues, "We have opportunities in this Administration ... to lift up those things that are working, those promising practices."

Over the next weeks, months, and years, Futures Without Violence, Ujima, Inc., Women Transforming Families and Latinos United for Peace and Equity will share our policy and practice recommendations with the Biden Administration, state agencies, advocates, and survivors and their communities. We will push for changes in laws pertaining to mandatory reporting and definitions of neglect and failure to protect, emphasizing that they should exclude issues of poverty. Additionally, we will work to ensure that every survivor knows their rights and has a recourse to hold systems accountable for unfair and oppressive treatment. We will work to ensure that sixteen years from now, we will not be having the same discussion.