

# The ACCOUNTABILITY DIALOGUES



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## Recommendations for the Children's Bureau

In the Fall of 2021, Futures Without Violence, Latinos United for Peace and Equity, The National Center on Violence Against Black Women (Ujima, Inc.), and Women Transforming Families, a project of Ujima, came together with survivors of domestic violence who were impacted by the child welfare system, along with state, tribal, and federal policymakers in the *Accountability Dialogues*. 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 advance policy solutions that would prevent further injustice to adult and child survivors of domestic violence. These recommendations and policy solutions offer a new framework: work diligently with care and compassion, and without bias, to keep families together; robustly support survivors and their children, in their community and with the resources and supports that they have identified, to meet their family's needs; and invest in communities and culturally responsive, community-based organizations to help families thrive.

### 1. Issue an Information Memorandum on Domestic Violence and Child Welfare

Issue an Information Memorandum that provides guidance to state child welfare agencies on domestic violence (DV) practice and policy to advance their knowledge and commitment to effective and safe approaches to DV.

- State clearly that DV, in and of itself, is not child abuse and neglect.
- Require a higher standard of evidence for a failure to protect finding for DV survivors. Listen to survivors and consider all the protective actions they utilized as well as the reasons for those actions before making a failure to protect finding.
- Stop automatically asking survivors to go to support groups, obtain restraining orders, or go to shelters.
- Describe *best practice* as partnering with survivors to understand/assess danger to children and providing a range of services and resources – delivering concrete resources is a legitimate and sometimes sufficient safety and well-being strategy.
- Eliminate bias in the child welfare system, including in reporting families to child welfare, in removing children from families, and in outcomes. Provide strategies, resources, and continuous training to eliminate bias.
- Shift organizational policy and practice to place responsibility for harm, as a result of violence, on the person using violence. Accurately assess the dynamics of any physical violence, as DV survivors are often reacting to or resisting violence rather than initiating or perpetuating violence.
- Develop and implement practice guidance, supervisory support, and training for staff to safely engage with abusive partners.

- Institute a policy waiver process so that requirements to contact fathers who have used violence are renounced when it may increase risk or danger.
- Provide resources and referrals to child welfare offices so they can implement best practices when working with and supporting adult and child survivors of DV, and people who use violence.
- Strongly recommend that states, tribes, and territories partner with:
  - Domestic violence coalitions and/or local programs to ensure that child welfare agencies are thoroughly trained on issues of DV, and place DV advocates in child welfare offices across the state so that they can provide expertise and consultation on individual cases.
  - High-quality, certified programs for abusive partners, also known as Battering Intervention Programs. To be "high quality" means that they are accountable to DV survivors/programs, have practice standards to which they are held accountable, and ensure that people who use violence have meaningful access to help and support.
  - Culturally relevant immigrant support organizations – to create or expand access to meaningful help and assistance for all survivors.
  - Tribal liaisons, advocates, and/or tribal communities – to acknowledge and respect tribal sovereignty and ensure that DV work is aligned with the Indian Child Welfare Act (ICWA).
- Establish language justice practices by ensuring that every person can communicate, understand, and be understood in the language they prefer and feel most articulate and powerful.
- Stop designating survivors of DV as abusive or neglectful in central child abuse registries as a result of DV. This designation can impede future employment options in child-serving or child-contact fields. Most survivors utilize a range of protective strategies to keep their children safe, many of which are not visible to child welfare professionals.

## 2. Issue an Information Memorandum that Urges States to Invest in and Support Families

Issue an Information Memorandum that recommends that states invest in families, communities, and culturally responsive community programs and provide direct financial and other needed supports for families, kinship caregivers, and fictive (close family or friend) caregivers.

### **For all families:**

- State clearly that poverty and DV do not, in and of themselves, constitute neglect.
- Convene state agencies to provide leadership and sustainable funding to strengthen families and communities and to create the conditions and experiences that help children thrive.
- Develop a robust and easily accessible family stabilization package that includes access to TANF cash assistance, SNAP benefits, housing vouchers, Medicaid, LIHEAP, childcare subsidies, transportation assistance, Head Start, Early Head Start, WIC, pre-K programs, unemployment benefits, job training programs, and parent wellness programs.
- Utilize at least \$100 million of TANF Emergency Funds to support families and meet their basic needs (housing, childcare, food and nutrition, etc.), and support innovation to reduce bureaucracy and make funding flexible and more accessible.
- Use Social Services Block Grant (SSBG) funds to provide in-home supportive services to families, such as childcare support during busy times of the day, like mornings, after school, and evenings when families are juggling multiple needs and tasks.

- Integrate service delivery so that families can obtain their family stabilization package at one location, preferably at trusted locations in the community (Family Resource Centers, community centers, schools, community health centers, libraries, etc.).
- Partner with healthcare systems and providers to support children and families.
- Expand language access so that DV survivors and families can be supported in a holistic manner.
- Provide children and families with a broad array of trauma-responsive services to help families heal and thrive, including health/wellness opportunities, recreational and artistic opportunities, cultural and community connections, mutual aid groups, etc., along with high-quality DV and abusive partner intervention services.

### **For families in the child welfare system:**

- Support families with a comprehensive family stabilization package, trauma-responsive services, and DV and abusive partner intervention services as described above.
- Provide families with quality legal representation pre-petition and at all court appearances and proceedings.
- Utilize and support kinship care and fictive caregivers to keep children with people who love them and share cultural and family values.
- Ensure that kinship and fictive caregivers are given financial, childcare, and other supports equivalent to the resources and supports given to foster care providers.
- Address the needs of LGBTQ youth in foster care experiencing partner violence and other harms (trafficking, homelessness, criminalization, and juvenile justice involvement).

### 3. Integrate Gender into the Equity Focus for Child and Family Service Reviews to Advance the Biden Administration's Commitment to an Intersectional Approach to Responding to Gender-based Violence<sup>1</sup>

Domestic violence underlies a myriad of issues for families in the child welfare system – housing instability, educational and medical neglect, lack of affordable and accessible childcare, and child abuse by a partner or ex-partner. Black, Native and Latinx survivors of DV, mostly women, are exponentially disadvantaged because both race and gender influence system involvement, as does child welfare practice and expectations of parents. This is especially significant given the correlation of race and gender with poverty in the U.S. LGBTQ survivors face additional barriers as a result of heteronormative assumptions and expectations. Immigrant survivors of DV experience further barriers around language access, legal status, and lack of familiarity with U.S. services and legal protections. Women who use reactive/resistive violence are too often identified as perpetrators of DV, or the relationship is seen as mutually violent due to inaccurate assessments of power dynamics underlying physical violence. An intersectional lens is required to understand and effectively respond to the many contexts and identities of survivors.

- Integrate gender into the equity focus for Child and Family Services Reviews (CFSR) to ensure that states and the Children's Bureau can advance equity and support for individuals who have been historically underserved, marginalized, and otherwise not provided fair, just, and impartial treatment. This means intentionally including Black, Native and Latinx survivors of DV in the CFSR process.

### 4. Increase Federal Funds to Native American and Rural Children and Families

- Increase federal resources to serve Native American children and families, who are disproportionately impacted by the child welfare system.
- Increase federal resources to serve rural children and families, who are disproportionately impacted by the child welfare system.

### 5. Establish Active Efforts as the Standard for All DV/Child Welfare Cases

- Convene and engage survivors and survivor-led organizations to define *active efforts*?<sup>2</sup>
- Require state child welfare agencies to document active efforts at all phases of each DV case, and include these additional steps:
  - Conduct a comprehensive assessment of the family's circumstances, with a focus on keeping the family together and safe;
  - Describe the practices utilized and resources provided to promote the safety and well-being of the family;
  - Set forth concrete and effective steps to contact and notify the survivor of information and notices,<sup>3</sup>
  - State how they engaged with and incorporated the concerns and needs of the survivor in their work;
  - List the services and supports survivors and their children identified that would keep them together;
  - Explain whether the family received those services and supports, and whether they were accessible, culturally and linguistically specific, and designed to meet the needs of survivors and their children.

### 6. Assemble a Task Force on the Role and Scope of the Child Abuse Prevention and Treatment Act (CAPTA) and Mandated Reporting

CAPTA was passed in 1974 with the intention of preventing serious injuries to and fatalities of children due to abuse and neglect.<sup>4</sup> Each state subsequently codified their own laws to comply with federal laws and regulations. Over the past four decades, the scope and reach of CAPTA expanded, as did the definition of “neglect” and the categories of professionals who are deemed mandated reporters.

- Create a Task Force to review the role and scope of mandated reporting nationally and address how best to ensure that CAPTA and state mandated reporting practices keep children safe in their families and communities. Members of the Task Force should include individuals impacted by the child welfare system (including Black, Native, Latinx and other DV survivors of color), academics, policymakers, abolitionists, philanthropists, social workers, teachers, healthcare and mental health professionals, law enforcement, and federal and state child welfare professionals. The Children’s Bureau should request that the Task Force report back with recommendations in 6-12 months. Actions include:
  - Identify best practices for states to address racial and class bias in mandatory reporting; how best to shift from mandatory reporting to a *mandatory supporting* model; and which policy and legislative changes are needed to expand investments and supports to families.
  - Revise CAPTA language and secure additional Community-Based Child Abuse Prevention (CBCAP) funding to enhance upstream child maltreatment prevention strategies, provide economic and financial supports for families, and fund trained, compassionate, and culturally competent navigators/advocates to facilitate family access to services and resources without child welfare notification or involvement.



- Request that the Office of the Assistant Secretary for Planning and Evaluation (ASPE) conduct research to examine evidence underlying mandatory reporting, whether mandated reporting decreases child maltreatment, and whether it causes harm in neglect and DV cases, particularly for those families most impacted by child welfare – Black, Native and Latinx.
- Determine whether neglect that relates to DV or poverty should be removed from mandated reporting, including for law enforcement. Take into consideration the experiences of states that are currently working on narrowing the definition of neglect in instances of DV and poverty.
- Review consent requirements prior to mandated reporters filing child abuse/neglect reports on DV to child welfare.
- Consider how mandated reporting impacts the willingness of DV survivors and others to seek help, particularly from law enforcement and healthcare providers.
- Review information and data from states uniformly using and higher standard than *reasonable suspicion* for mandated reporting.
- Require annual mandatory reporter training and develop accountability mechanisms/strategies for racial and gender bias in reporting.

## 7. Foster Innovation and Collaboration to Create a Family Assistance Pathway and Strong Communities

- Cultivate and encourage collaboration and coalition building at the state and local levels to co-design a new pathway for families to obtain services and supports that are outside the child welfare system. This pathway to assistance (rather than investigation) must be well-resourced and easily accessible within communities, provide culturally and linguistically specific services and supports, and include staff from impacted communities who have the knowledge and skills to respond to families' needs without involving child welfare systems.

- Fund and support the development of community-connected, community-based organizations to educate and lead the design of the Family Assistance Pathway. Center marginalized survivors of DV and people impacted by the child welfare system in the co-design and creation of this new pathway.
- Look to communities for innovative solutions on the best ways to support the social, emotional, and physical well-being of children and families in their areas, and fund and empower communities to implement these innovative, cross-system solutions.

### 8. Host a Convening to Listen, Learn, and Co-design a Child and Family Well-being System

- On an annual basis, bring together academics, abolitionists, policymakers, state and federal child welfare professionals, health and mental health professionals, criminal legal system practitioners, philanthropists, advocates, and families with lived experience (including Black, Native, Latinx and other DV survivors of color) to share ideas, identify problems, promote promising practices and develop policies on how to strengthen families, reduce poverty, and transform the child welfare system into a child and family well-being system.
- Share and highlight narrative change and system change successes, including the anti-poverty measures being implemented in states and cities across the nation, like the Universal Basic Income and Guaranteed Income projects, Housing First, Child Tax Credits, Earned Income Tax Credits, 24/7 childcare, and family leave benefits, among others, that can help families achieve economic stability.

### Notes

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1. National Strategy on Gender Equity and Equality, The White House, pg. 8. See also: [the Gender Strategy Report](#).
2. Active efforts is defined in federal regulations and involves tribal children and families. 25 C.F.R. Section 23.2. <https://www.law.cornell.edu/cfr/text/25/23.2>.
3. "Giving notice" by leaving something on the door (card, note, brochure) is not effective and is not considered active efforts, or even reasonable efforts.
4. Congress passed the Child Abuse Prevention and Treatment Act of 1974 (CAPTA), as amended by the CAPTA Reauthorization Act of 2010, 42 U.S.C. §5101 et. seq.