

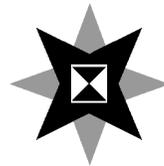
Whose Safety?

Women of Color and the Violence of Law Enforcement

By Anannya Bhattacharjee

A JUSTICE VISIONS WORKING PAPER

American Friends Service Committee



Committee on Women, Population,
and the Environment



2001

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EXECUTIVE SUMMARY

Whose Safety?

Women of Color and the Violence of Law Enforcement

By Anannya Bhattacharjee

Women of color, both immigrant and U.S.-born, have been increasingly affected by the dramatic expansion of law enforcement in the United States over the past thirty years¹ — an expansion that has resulted in widespread and persistent violations of civil, constitutional, and human rights. Both in absolute numbers and as a percentage, women are increasing substantially among populations of prisoners, arrestees, border crossers, undocumented workers, and detainees.

Between 1985 and 1996, for example, the population of women in U.S. prisons increased threefold, with the increase mostly consisting of women of color, particularly African American women. The experiences of women affected by immigration detention or the Border Patrol reveal many similarities. Across the board, women are mainly incarcerated for nonviolent offenses, and the circumstances in which their behavior is judged to be “criminal” are heavily shaped by racialized stereotypes and societal definitions of women’s roles.

Enforcement violence, of course, affects not only women but communities as a whole — again, with the impact heavily concentrated in communities of color, both immigrant and U.S.-born. In response, a broad variety of community-based organizations and advocacy groups have emerged to challenge abuses and to press for greater accountability on the part of law-enforcement

agencies. In all of these movements, women have been well represented, both as advocates and as members of affected communities. Nonetheless, a gender perspective has been weak and sometimes entirely absent in the way the issue of enforcement violence has been framed and discussed.

At the same time, organizations focusing on violence against women have often failed to appreciate the impact of enforcement violence. Today, growing numbers of women of color and allies are challenging the women’s anti-violence movement to expand its understanding of the nature of violence against women and to adopt strategies that take into account not only violence by individuals but also violence perpetrated by the state — whether through law enforcement; political, cultural, and economic domination; or military intervention.²

¹ The term “law enforcement” is used to cover the full range of agencies discussed in this working paper, including local and state police agencies; prison systems at the local, state, and federal levels; the U.S. Border Patrol and interior enforcement operations of the Immigration and Naturalization Service (INS); and the rapidly expanding INS detention system.

² The Color of Violence conference, which brought together thousands of women of color and allies in April 2000, was a landmark event in the development of this perspective.

Enforcement Violence and Gender

This working paper explores enforcement violence against women as a gendered experience. A gender perspective on enforcement violence is important not only for reasons of inclusiveness, but also because it is indispensable to the development of cohesive, effective, and strategic social movements. A gender perspective can help us to appreciate how enforcement violence affects our communities overall, by exposing its impact on such areas as reproduction and sexuality, home life, caregiving, and paid work — all social arenas in which women play a central role.

Although women face particular gender-related issues in their encounters with law enforcement, the system is by no means fair for men. Our purpose is not to show that women suffer more than men (although significant numbers may) or that more women suffer than men; the point is rather to counter the invisibility of women's experience. Common wisdom holds that women have less contact with law enforcement than men; however, this is a limited and ultimately distorted view.

The examples discussed in this working paper are considered under the broad categories of “policing” (including incidents involving police agencies, the Border Patrol, and INS interior enforcement operations) and “jailing” (including jails, prisons, and INS detention facilities). We do not follow the usual custom of considering “immigration” and “criminal justice” as separate issues. For more than a decade, both activists and researchers have noted the increasing integration of these seemingly distinct law-enforcement systems. Reviewing them together, as we do here, reveals that their impact on women and their communities is closely related.

By contrast, enforcement accountability movements are mainly fragmented among distinct racial or ethnic constituencies, between immigrant and U.S.-born populations, and along agency lines (police, INS, prisons, and so on). Such fragmentation compounds the problem created by the overall lack of communication and collaboration between enforcement accountability movements and women's anti-violence organizations. A compre-

hensive gender analysis of enforcement violence requires an exploration that crosses all of these divisions.

This working paper draws on the experiences and perspectives of activists and organizations from across the United States who are responding to enforcement violence and violence against women. It describes the disparate and sometimes conflicting strategies that progressive social movements in the United States have adopted in organizing against diverse forms of violence and abuse. While there are some important exceptions and no lack of mutual sympathy, in general these movements have yet to develop a common understanding, common strategies, and common initiatives.³

Although our purpose is to offer a critique, we do so as participants in and supporters of the social movements we are critiquing. The full range of issues raised by these movements is vital to the well-being of our communities — and their weaknesses weaken us all. In the conclusions, we suggest possible directions for dialogue and collaboration to advance a broadly integrated agenda for anti-violence work. Given the broad scope but modest resources of this initiative, this working paper should be understood as a contribution to what must inevitably be an ongoing process.

Denial of Reproductive Autonomy

Enforcement violence frequently entails violations of women's reproductive rights — at the border, on the street, in the workplace, and in prisons and jails. Integrating such experiences into more familiar notions of reproductive rights affords a fuller understanding of the ways in which the state limits women's reproductive freedom, particularly in communities of color.

³ Among all of the movements discussed in this working paper, the prison movement is probably the most developed in responding to the particular needs of women prisoners. The full-length report offers a more detailed discussion of particular movements, organizations, and initiatives, citing examples of emerging collaborations between enforcement accountability groups and women's groups.

Enforcement violence affects women's reproductive choices in two main ways:

- Through direct intervention in the outcome of a pregnancy, often justified through appeals to the "welfare of the fetus";
- Through active endangerment or neglect of pregnant women, causing adverse results up to and including termination of the pregnancy.

In either case, state intervention causes women to lose control over their pregnancies, for whose outcome they may nonetheless be held legally responsible. In the name of "fetal protection," women who have tested positive for drugs have been arrested for deciding to carry their pregnancy to full term, without evidence being introduced of harm to the fetus. Pregnant women who test positive for drug use on even a single occasion have been charged with child abuse or even murder.

By contrast, such concern for the fetus is nowhere in evidence in INS raids or police stops, during which authorities frequently disregard the consequences of their actions for the outcome of a pregnancy. Under such conditions, a pregnant woman may deliver prematurely, go into early contractions, or lose her fetus; even if the pregnancy is not compromised, women face enormous physical and mental trauma. Numerous such cases have been documented by immigrants' rights and police accountability organizations.

Effective strategies for protecting women's reproductive freedom need to be based in a thorough appreciation of the varying mechanisms of restriction, criminalization, and devaluation faced by women — whether they are imposed through legal restrictions on access and funding for abortions, involuntary sterilization, coercive drug tests and coercive uses of contraception, criminalization of immigrant women, or abuse of pregnant women in prison.

Violence in the Home

Both home and family have been pivotal concepts in the development of women's movements. This working paper challenges us to rethink our understanding by detailing how the supposedly private spaces of the home and family are another significant site of enforcement violence.

The mainstream women's anti-violence movement has sought to protect women from battering largely by advocating for a more vigorous response by police agencies. Over the past thirty years, the achievements of this movement have been substantial, involving significant changes in police and court practices and legal standards, as well as a profound transformation of public awareness. For communities of color in particular, however, this strategy of reform has sometimes backfired, because such communities also face a significant threat of violence in the home from law-enforcement authorities. For women in this situation, the promise of police protection from battering is an empty one.⁴

Enforcement violence in the home frequently occurs during drug or immigration raids, which are often undertaken on the flimsiest of legal grounds. Home intrusions by law enforcement have sparked numerous legal challenges and community-based campaigns. Unfortunately, such efforts by enforcement accountability groups have generally reflected little understanding of how women may be caught in an unbearable double bind when they face violence from both batterers and law enforcement.

Motherhood and Caregiving

The term "motherhood" has traditionally evoked the experiences of economically secure women living in nuclear families — as homemakers, or, increasingly, as affluent professionals. Working-class women, women of color, and lesbians have fought to expand the discussion of motherhood to include women who are impoverished or working poor, single mothers, lesbian mothers and their families, and physically absent mothers such as live-in domestic workers or migrant workers. Survivors of enforcement violence challenge us to expand these notions once again to include an understanding of how women's caregiving role is shaped by their encounters with the state.

⁴ A partial exception is provided by the Violence Against Women Act, which protects undocumented battered women from deportation in certain circumstances.

With women representing an ever-larger proportion of immigrants, increasing numbers of mothers, including single mothers, are affected by INS raids. In addition to the difficulties faced by most mothers in juggling the responsibilities of jobs and parenting, immigrant women face the enormous burden of being continually alert to the possibility of having their family life turned upside down in a matter of hours.

U.S.-born women of color face similar risks in encounters with law enforcement. Prisoners' rights initiatives have challenged the ways in which incarceration provokes major disruptions of family life, including the possibility of losing children to the foster care system. More than two-thirds of women prisoners have children under eighteen, and the majority of them are single mothers. The attitudes and actions of law enforcement, in tandem with other state agencies such as the foster-care system, reflect another familiar double bind, in which women of color are prevented from caring adequately for their children and then are accused of child abuse and neglect.

As mothers, partners, and community members, women often bear primary responsibility for dealing with the aftermath of an arrest, raid, or deportation — by supporting an incarcerated friend or family member; by advocating for the legal rights of loved ones; by helping to ensure the survival and well-being of children and other vulnerable people. In this sense, enforcement violence requires a major expansion of women's care-giving role and the types of responsibility women assume. Sometimes, this has led to the politicization of care giving, as when mothers of prisoners or mothers of detainees have formed grassroots organizations to advocate for the needs of their children or loved ones.

This dimension of women's experience is often rendered invisible when accountability campaigns focus exclusively on the experience of a single (usually male) victim of enforcement violence. We believe that emphasizing the central role of women as caregivers for prisoners and other victims of enforcement violence does not detract from efforts to support the victim, but rather illuminates how such abuse affects the entire community.

Violence Against Women in the Workplace

Women in low-income communities have always been important wage earners; today, they increasingly bear this burden alone as single heads of households. In either case, enforcement violence in the workplace adds significantly to the pressures they face, both as breadwinners and as caregivers.

Whenever the struggle to earn a living is defined as a criminal activity, the door is opened to enforcement violence in the workplace. In some cases, the criminalization of women's work stems from the heavy reliance of certain economic sectors on undocumented labor. In other instances, women's work is criminalized due to the underground nature of certain types of work, such as sex work or drug sales. Anecdotal evidence suggests that women are a major portion of those who survive through a combination of small drug sales and erratic sex work, trapped in cycles of substance abuse, domestic violence, and, frequently, both.

A focus on enforcement violence reveals many parallels between these disparate experiences of women's work, even though they are seldom considered together. Extensive documentation by human rights organizations, labor unions, and immigrants rights groups verifies that INS workplace raids affect women's ability to support their families and ensure their children's safety; frequently endanger pregnant women; and may involve various types of sexual assault. The criminalization of women's work thus targets women as caregivers, as breadwinners, as mothers or mothers-to-be, and as sexual beings. In addition, women immigrants, who must contend with class and gender bias in immigration policies, find that such bias carries over into their interactions with immigration authorities.

Sex work is likewise well known for its constant confrontations with the police. Further, in cities where immigrant women are increasingly working as prostitutes, police may also cooperate closely with immigration authorities.

In recent years, labor and immigrants rights organizations have increasingly joined in contesting the criminalization of immigrant workers. The lens of enforcement violence permits us to see that

in the end, the distinction between “legal” and “illegal” work is as limiting as the distinction between “legal” and “illegal” workers.

Looking Forward: New Alliances and New Strategies

What does it mean in practice to fight violence against women of color while simultaneously addressing the structural violence faced by the community as a whole? Social movements that have come together around the issues of domestic violence, reproductive rights, sexual assault, immigrants rights, INS detention, police accountability, or prisoners’ rights bring sharply divergent experiences and perspectives to this question. It is precisely by working through these differing and sometimes opposing views, however, that we can begin to address the complexities of the relationship between our communities and the state — and the centrality of women to the development of workable strategies for community self-determination.

Some of the initiatives described in this working paper represent important first steps toward the development of new alliances and new strategies to address the devastating impact of violence, in all its forms, on low-income communities of color. As noted at the outset, however, this discussion is not intended to propose an answer or even model strategies for accomplishing this goal, but rather to argue for the importance of dialogue involving all of these movements and their constituencies.

Useful considerations for framing such a dialogue include the following points:

- The home is a location in which women experience both “private” violence (for example, from intimate partners) and “public” violence (from state authorities). By opening up the parameters of how we understand violence in the home, we will be able to better understand how law enforcement operates in communities of color: targeting the home when it comes to raiding it while neglecting it when it comes to protecting the people inside, particularly women and children. In communities of color and poor communities, it is impossible to defend women from intimate violence while sidestepping the pressing issue of state violence and

its impact on safety and self-determination for the community as a whole. Only from such a standpoint can we fight for self-determination for both women and the communities we live in.

- The situation is similar with regard to motherhood and, more generally, caregiving. Enforcement violence in poor communities and communities of color disrupts the ability of caregivers to fulfill their responsibilities. At the same time, the legal apparatus of the state is used to accuse women of child abuse and neglect — with such charges sometimes stemming from the very situation in which the actions of law enforcement or other public authorities have endangered the welfare of children. Our understanding of the challenges facing women as caregivers must be expanded to take account of how caregivers are affected by the massive growth of law enforcement in the United States.

- An even more extreme example is that of the incarceration of women under the banner of “fetal protection,” in which a supposed concern for children is hypocritically used to justify the incarceration of women of color, particularly African American women. By contrast, in other circumstances, enforcement violence effectively treats the outcome of a pregnancy as an unimportant concern, secondary to the imperative to maintain “law and order.” From a community standpoint, the safe birth of children is only the first step in the community’s ability to reproduce itself, so that women’s reproductive rights are intrinsically a community issue as well as an issue of individual self-determination.

- The emergence across the United States of local grassroots organizations of mothers and other supporters of prisoners and detainees is a vital step in mobilizing communities to resist police brutality, INS raids, and mass incarceration. Feminist organizations, in turn, could gain far more relevance to the lives of poor women and women of color by recognizing and addressing the caregiving issues that are vital to such communities.

- Supporters of women’s rights may also want to consider the implications of assaults on the rights of poor women of color, both immigrant and U.S.-born, for the rights of women who do not presently face similar intrusions from law enforcement. The

state's approach to such women — whether they are undocumented workers, asylum seekers in detention facilities, pregnant defendants with substance addiction, or prisoners — may be taken as indicative of the true value accorded by our society to motherhood, family, home, and women's paid labor. The constant erosion of constitutional protections for the rights of women of color and poor women weaken such protections for all women.

- Law enforcement is increasingly a seamless web, in which authorities may move without hindrance between a traffic stop and deportation, or a hospital visit and prison, or the airport and a maximum-security cell. At the same time, a variety of regressive legislation enacted in recent years has sharply restricted avenues for legal redress for those who are caught up in the law-enforcement net. The logic of such policies is similar, whether the specific language refers to “quality of life” policing, drug interdiction, counter-terrorism, or national security. The major difference is that some such measures purport to protect the national borders of the United States, while others seek to defend interior borders based on institutionalized racism

and economic privilege. As long as each type of border is understood separately, however, unexamined beliefs about public safety (on the one hand) and national security (on the other) will continue to foster mutual suspicion and mistrust between immigrant and U.S.-born sectors of the population. Until immigrant and U.S.-born communities of color can work together to challenge the full range of threats posed by enforcement violence to community security and self-determination — including the gendered nature of such threats and their differential effect on women — they will continue to be hampered by divisions and isolation.

We offer this contribution knowing that real forward motion will only be possible through the active involvement of many individuals and organizations in various types of dialogue, joint activities, increased communication, compilation of comparative data, and coordinated outreach efforts. Needless to say, such a process of collaboration should emerge in a way that is grounded in local realities and includes all relevant and interested parties.

Preface

This working paper reflects an intensive research effort by its author, Anannya Bhattacharjee. It also reflects a collaborative endeavor by two activist organizations: the Committee on Women, Population, and the Environment (CWPE) and the American Friends Service Committee (AFSC).

The decision by these two groups to copublish this working paper offers an example of the very type of cross-fertilization that the document argues is necessary to strengthen the effectiveness of activist strategies. CWPE, formed in 1992, is a multi-racial network of women whose activism spans a broad array of issues, including women's health, reproductive rights, immigrants' rights, violence against women, environmental justice, and more. For nearly a decade, it has provided an indispensable haven for activists and researchers who are committed to working for women's empowerment in a way that is fully integrated with a commitment to racial justice, immigrants' rights, indigenous rights, and economic justice, in the United States and internationally.

Working from this wholistic vision of justice (and injustice) has led to many fruitful alliances and intersections. CWPE has critiqued the resurgence of alarmist rhetoric about "overpopulation" as an attempt to lend renewed legitimacy to widely discredited policies of population control. It has helped expose the newest expression of this tendency: the "greening of hate" — that is, the cloaking of immigrant-bashing in environmentalist garb. It has challenged the distribution of dangerous contraceptives and attempts to restrict reproductive choices, for women in developing countries as well as U.S. women of color.

AFSC, founded in 1918, is a practical expression of the spiritual principles of the Religious Society of Friends (Quakers), which include nonviolence and a belief in the infinite dignity and worth of all people. The organization's staff and

volunteers include people of many faiths, races, and nationalities. AFSC programs in some fifty locations around the United States, as well as twenty other countries, work for social and economic justice, peace and demilitarization, dialogue and reconciliation, and humanitarian service.

Both the struggle for immigrants' rights, and resistance to the systemic violence and dehumanization of the criminal justice system, are major elements of AFSC's work for justice within the United States. Each, we believe, is a central focus of the complex intertwining of violence, social exclusion, and economic exploitation in U.S. society — and each represents a profoundly significant site of resistance and grassroots mobilization. As one of several ongoing efforts to document and share AFSC's experiences at the grassroots, staff from AFSC's community-based programs in each of these arenas have contributed their reflections to this project.

The collaboration represented by this working paper is a first for both organizations. It draws deeply on the experience and perspectives of both in order to draw a richer and more complete picture of how violence and the abuse of authority by law-enforcement agencies affect women of color, both immigrant and U.S.-born. Our goal in undertaking this exploration has been to develop a way of understanding violence against women that acknowledges both state violence and intimate violence: that helps integrate our understandings of class, race, and gender oppression.

In the end, such theoretical endeavors are worthwhile if they serve as a resource for activism, and it is in that spirit that we offer this working paper. As stated in the text, we are aware that it represents one small contribution to a much broader process of dialogue, exploration, and critique. We are grateful to all of those who have made this contribution possible.

— *Rachael Kamel, series editor,
Justice Visions Working Papers*

Author's Foreword

It is perhaps appropriate to describe briefly how I became interested in this project. I have been organizing in New York City for more than ten years, especially in Asian immigrant communities. In the process, I helped to start some of the first community organizations in one of the newest and most rapidly growing immigrant communities in the city, the South Asian community.

Over the years, I have been intimately involved with organizing initiatives focusing on domestic violence; police brutality; racially motivated violence; the abuse of immigrant workers, especially domestic workers; and INS detention. Having a foot in all of these political arenas has brought into vivid focus the gaps and contradictions that are caused by the difficulties faced by U.S.-based progressive movements in developing and working from an integrated analysis of race, class, and gender oppression.

In working with domestic violence organizations, I have observed the lack of a critical perspective on law enforcement. I have also seen how a community organizing approach is frequently displaced in such organizations by an exclusive focus on providing services to individual battered women. Similarly, in police accountability work, I have seen the lack of a gender perspective, despite the preponderance of women activists (with groups addressing sex workers' issues standing out as an exception). Yet another aspect of this experience is the rare and tenuous nature of alliances between immigrants and U.S.-born people of color in seeking accountability from law-enforcement agencies, including local police as well as the federal Immigration and Naturalization Service (INS).

Over time I reached the conclusion that the lack of a gender analysis of law enforcement does not occur because women are less affected by enforcement violence but rather because of the way these issues have been defined and portrayed. In all of my experiences as an organizer — whether the specific issue was racially motivated violence,

police accountability, or abuses of domestic workers — I have found fear of law enforcement to be a common denominator, whether or not it served as a focal point for organizing. Later on, in my involvement with a community-based coalition mobilizing around abusive conditions in an immigration detention center in New York, I also witnessed the lack of coordination among prison groups and immigration groups, although there is no lack of mutual sympathy.

I believe that this type of fragmented vision seriously inhibits the ability of our communities to develop both a deeper understanding and proactive strategies to effectively counter all these types of oppression. Women of color are particularly ill served by frameworks for organizing that ask us to choose between working against gender oppression or against racial and class oppression. Through ground-breaking efforts, exemplified most recently by the Color of Violence conference in the spring of 2000, women of color have begun to assert our own experience, our own vision, and our own strategies for working from an integrated understanding of the violence of colonialism, the violence of racism, and the violence of patriarchy. I am deeply appreciative of this opportunity to contribute to what I believe is a critically needed forward step for progressive movements in the United States and elsewhere.

Acknowledgments

As researcher and author of this document, I am grateful for the financial, practical, and intellectual support I have received in this endeavor from the American Friends Service Committee (AFSC) and the Committee on Women, Population, and the Environment (CWPE). The decision by AFSC and CWPE to copublish this document reflects the commitment of both organizations to cross-issue analysis and work.

I am also deeply indebted to numerous individuals and organizations for their assistance in

the preparation of this working paper — far too many, in fact, to thank in this constrained space. Many of them are named in the text, but to many others who contributed I can only express my thanks collectively and in spirit.

I would like to express special thanks to Rachael Kamel of AFSC, a fellow member of CWPE's Steering Committee, who has been an excellent companion throughout this project, assisting me in countless ways, reminding me of its worth, and persevering untiringly in her rigorous editing. I am also extremely fortunate to have worked with an Editorial Committee that helped shape this project and commented on various earlier (and much heftier) drafts, helping me to sharpen my focus: Rajani Bhatia, Betsy Hartmann, Judith Scully, Jael Silliman, Andrea Smith, and Jennifer Yanco of CWPE and Patricia Clark, Kathryn Kurtz, and Janna Shadduck-Hernandez of AFSC.

I would also like to thank the following individuals who, perhaps unknown to themselves, contributed to this project logistically, or by setting a context for me, or by referring me to other extremely useful sources: Mary Barr of the South Forty and Motivational Movement, Elizabeth Ebrahimian of Lutheran Immigrant and Refugee Services, Marlene Fried of the Civil Liberties and Public Policy Program at Hampshire College, Isabel Garcia of the Derechos Humanos Coalition, Ruben Garcia of Annunciation House, Jo Hirschmann of the Ella Baker Center for Human Rights, Maria Jimenez of AFSC's Immigration Law

Enforcement Monitoring Project, Terry McGovern, a Soros Fellow at the Open Society Institute and the founding director of the HIV Law Project, Sue Osthoff of the National Clearinghouse for the Defense of Battered Women, Lynn Paltrow of National Advocates for Pregnant Women, Hollis Pfitsch of the Washington Alliance for Immigrant and Refugee Justice, Mary Powers of the National Coalition on Police Accountability, Dorothy Roberts of Northwestern University and the National Black Women's Health Project, Loretta Ross of the Center for Human Rights Education, Renee Saucedo of La Raza Centro Legal and INS Watch, Shawna Virago of Community United Against Violence, Donna Wilmott of Legal Services for Prisoners with Children, and Johanna Yoder of Border Links. I would also like to thank S. Shankar for his invaluable support and insight.

Although this working paper is the product of a particular research effort, it would have been impossible for me to write it without everything that I have learned over many years as a community activist. For that learning, I must express my deepest gratitude to hundreds of committed and courageous individuals and organizations that I have had the honor to know and work with. Their voices and teachings have helped me to shape my own voice.

— *Anannya Bhattacharjee*
New York City
March 2001

Part I

Overview

Introduction

Over the past thirty years, the entire apparatus of law enforcement in the United States has expanded dramatically, becoming more punitive, more highly integrated, more heavily funded, and more technologically sophisticated. At the same time, a range of public institutions, such as welfare agencies, schools, and hospitals, have become increasingly permeated by what might be described as a culture of law enforcement. In some cases, such institutions have assumed law-enforcement functions or integrated law-enforcement personnel into their operations.

In response, a broad variety of community-based organizations and advocacy groups have begun to challenge persistent violations of civil, constitutional, and human rights and to press for greater accountability on the part of law enforcement, including local and state police agencies; prison systems at the local, state, and federal level; the U.S. Border Patrol and interior enforcement agents of the Immigration and Naturalization Service (INS);⁵ and, most recently, the rapidly expanding INS detention system. Such violations have primarily (although not exclusively) affected communities of color, both immigrant and U.S.-born.

Throughout this period, women (again, primarily women of color) have progressively become a more significant presence, both numerically and proportionately, among the populations of prisoners, arrestees, border crossers, undocumented workers, and detainees. Women have also been well represented, both as advocates and as

members of affected communities, in the various support and accountability movements mentioned above. Nonetheless, a gender perspective has been weak and sometimes entirely absent in the way these issues have been framed and discussed.

A gender analysis is important not simply for reasons of inclusiveness, but also because it is critical to the development of an analysis of enforcement violence that can sustain cohesive, effective, and strategic social movements. (The term “enforcement violence” is used here to cover violence and the abuse of authority by the full range of law-enforcement agencies named above.) Understanding how such violence is experienced by women helps us to go beyond a specific incident, a specific victim, and her or his specific fate to see how law enforcement affects our communities overall. Such an analysis exposes the impact of law enforcement on issues of basic security such as home life, caregiving, reproduction and sexuality, and paid work, all social arenas in which women are central actors. Finally, a gender analysis of law enforcement can help illuminate key tendencies in the relationship between the state (that is, the government) and various sectors of the community.

The arenas we have named — home and family, caregiving, reproduction and sexuality, and paid work — have framed organizing by women’s movements over the past generation. Some of these

⁵ Border control operations also include the U.S. Customs Service, which is part of the Treasury Department; some reports of violence and abuse by Customs agents are also included in this working paper.

movements have defined themselves as “feminist,” while others have not. In either case, a particular thrust of women’s organizing has been to name and challenge violence against women, including domestic violence, sexual assault, and the denial of reproductive freedom. This broad movement against violence against women has formulated its own strategies regarding law enforcement, and these strategies also need to be evaluated in terms of their effectiveness in promoting safety and self-determination for women, especially women of color, and their communities.

The present analysis of enforcement violence against women considers the practices of different law-enforcement agencies, separating them, when relevant, into the broad categories of “policing” (by local and state police agencies, the Border Patrol, and INS enforcement operations in the interior United States) and “jailing” (including jails and prisons as well as INS detention facilities). We do not, however, follow the usual custom of considering “immigration” and “criminal justice” as separate issue areas. For more than a decade, both activists and researchers have noted an increasing integration of these seemingly disparate law-enforcement systems, which has been brought about through legislation, funding, institutional restructuring, sharing of technology and personnel, and joint operations. Further, regardless of official legal frameworks, in practice law-enforcement operations do not distinguish among people according to whether they are undocumented, legally documented, or citizens, but rather rely on racial profiling.

Reviewing immigration and criminal justice together, as we do in this document, reveals that their impact at the community level is indistinguishable. By contrast, enforcement accountability movements are mainly fragmented among distinct racial/ethnic constituencies, between immigrant and U.S.-born populations, and along agency lines (police, INS, prisons, and so on).

A comprehensive gender analysis of enforcement violence requires an exploration that crosses all of these divisions. Our hope in undertaking this exploration is to foster a new kind of dialogue and cross-fertilization: between movements for enforcement accountability and those addressing violence against women; between movements based in

immigrant and U.S.-born communities; and between activists and advocates concerned with immigration and criminal justice. This in turn can give us an understanding of some of the inconsistencies and gaps in our own movements, as well as a sense of future possibilities for deeper and more strategic organizing.

This document is divided into three parts. Following this introduction, Part I continues with a brief overview of the law-enforcement machinery that is relevant to this discussion. It also offers a broad outline of how women’s movements have organized around domestic violence and reproductive rights and how enforcement accountability movements have organized around immigrants’ rights, police accountability, INS detention, and prisoners’ rights. In Part II, enforcement violence against women is analyzed through three lenses: reproduction and sexuality, home and family, and the workplace. Part III draws some conclusions regarding the main arguments advanced in this working paper and offers suggestions for future discussions and collaborations to advance a broadly integrated agenda for anti-violence work. Given the broad scope but modest resources of this initiative, the result may best be viewed as an initial contribution to what must inevitably be an ongoing process.

The analysis presented here is intended as a contribution to the efforts of social movements addressing both enforcement accountability and violence against women. It is based on the experiences and perspectives of activists working on these issues across the United States, including service providers, organizers, advocates, lawyers, researchers, and members of watchdog organizations. Representatives of close to eighty organizations in at least thirteen states have given generously of their time and resources.

This document also draws on reports that have been published by the American Friends Service Committee, Amnesty International, Human Rights Watch, National Coalition of Anti-Violence Programs, National Network for Immigrant and Refugee Rights, The Sentencing Project, Washington Alliance for Immigrant and Refugee Justice, Women’s Commission for Refugee Women and Children, and many others. Where published

reports have been harder to find, it relies on case reports collected by watchdog groups, such as police watch groups. We describe only a few specific cases to highlight certain points and illustrate the formidable volume of cases that have been documented.

This effort has also benefited from books, essays, and letters by activists, scholars, prisoners, and survivors, and from the websites and newsletters, newspapers, and conference presentations of numerous organizations, as well as visits to a small number of organizations in various parts of the United States. The research and writing took place mainly in 1999 and the initial months of 2000.

While this document offers a critique of law enforcement, it is important to remember that government serves many different functions. Our intention is not to argue for less government, but rather to critique the philosophy that underlies the policies and practices of the U.S. government. This note of caution is essential given the current climate of attacks on the very notion of public, and publicly accountable, institutions. In this context, it is important to remember that contemporary critics of “big government” voice strong opposition to a government role in promoting social welfare, while simultaneously calling for an ever-larger role for every type of law enforcement. Calls for privatization of government functions not only open the door to profiteering and corruption, they also sharply reduce the possibilities for public accountability by every type of government agency, particularly law enforcement.

It is also not our intention to negate the reality that some people do commit acts of violence and other offenses, or that every society needs a system for protecting public safety. However, as author and activist Luana Ross has noted in reference to Native Americans and criminal justice, “[a] thorough analysis of Native criminality must include the full context of the criminal behavior — that is, their victimization and the criminalization of Native rights by the United States government.”⁶ In the current social order, we believe that the very concepts of criminality and the appropriate state response are heavily shaped by the many injustices and structural inequalities that exist in our society.

In summary, the objectives of this working paper are:

- To provide a gender analysis of law enforcement, at a moment when women represent an increasingly significant proportion of those who face law enforcement, directly and indirectly;
- To go beyond individual encounters in order to profile the impact of law enforcement on issues of basic security, particularly in communities of color, both immigrant and U.S.-born;
- To juxtapose issues and perspectives regarding enforcement violence and violence against women;
- To explore the potential for more consistent movement building across the issue areas of immigration and criminal justice.

The Evolution of Law Enforcement

This section outlines some of the main features of the law-enforcement bodies that are discussed in this document.⁷

The incarceration explosion — The United States, which is home to 5 percent of the world’s population, incarcerates 25 percent of all prisoners worldwide. The number of people in U.S. jails and prisons reached two million by the year 2000, a world record.⁸

While the percentage of women prisoners remains relatively small, it is growing at a much faster rate than the incarcerated population as a whole. Between 1985 and 1996, the population of women in prison increased threefold. According to the Sentencing Project, “African American women have almost single-handedly expanded the gender-

⁶ Luana Ross, *Inventing the Savage: The Social Construction of Native American Criminality* (Austin, TX: University of Texas Press, 1998), p. 12.

⁷ For a more detailed analysis, see Timothy Dunn, *The Militarization of the U.S.-Mexico Border, 1978–1992: Low-Intensity Conflict Doctrine Comes Home* (Austin, TX: University of Texas Press, 1996), and Christian Parenti, *Lockdown America: Police and Prisons in the Age of Crisis* (New York: Verso, 1999).

⁸ Vincent Schiraldi and Jason Ziedenberg, “The Punishing Decade,” Justice Policy Institute, San Francisco and Washington, DC, Dec. 1999.

end of the prison industrial complex.”⁹ Over the last ten years, criminal justice activists have seen a marked increase in the incarceration of younger women between the ages of sixteen and eighteen.¹⁰ Close to 50 percent of women prisoners report that their first experience with the criminal justice system was as a juvenile. Women are incarcerated most often for drug-related violations; in New York, for example, drug charges account for 91 percent of the increase in women’s imprisonment between 1986 and 1995.¹¹

Most women are incarcerated for nonviolent crimes (such as passing bad checks or drug violations). The circumstances in which women’s behavior is judged to be “criminal” are heavily shaped by social definitions of women’s role. For example, women are often convicted of child abuse or neglect when a male partner committed the actual abuse. Survivors of domestic violence are imprisoned for acts of self-defense. Prostitutes are jailed while their clients walk away.

The most rapidly expanding prison system in the United States is the immigration detention system, with a cost to taxpayers of millions of dollars a year.¹² The explosive growth of detention is one of many changes that were set in motion by the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996, which imposed unprecedentedly harsh conditions on immigrants. The INS has estimated that by the year 2001, it will detain 300,000 people annually, an increase of 76 percent from 1997.¹³

Overcrowding, lack of communication with the outside world, lack of access to legal and medical services, and isolation mark life in INS detention centers. Such conditions are worse for women, whose needs are characteristically given the lowest priority. For example, women detainees face the most severe overcrowding. The total number of women in INS detention doubled between 1995 and 1998.

Many detainees are held in temporary facilities or moved without warning from one state to another, thus making access to lawyers, translators, and human rights advocates almost impossible. Some INS detainees also face the possibility of arbitrary and indefinite incarceration without any process for determining the length of stay, a

condition that clearly violates basic human rights. Organizations such as the Detention Watch Network and the Women’s Commission for Refugee Women and Children have played an important role in investigating conditions, disseminating information, and developing a national awareness of the problems in INS detention.

Some detainees are long-term legal U.S. residents who have served prison sentences for a broad variety of criminal convictions, including many nonviolent or minor offenses. Under IIRAIRA, they are subject to detention and deportation, even though they may have left their countries of origin as young children and may not have ties there. In 1999, *The New York Times* reported that the INS “deported 62,539 immigrants with criminal records. ... That is up 72 percent since Congress expanded the types of crimes that can result in deportation, including some nonviolent offenses such as felony shoplifting. ... [IIRAIRA] permits people to be deported even if they committed their crimes decades ago and served their sentences.”¹⁴

Prison activist Donna Wilmott, a former political prisoner herself, reports that some 40 percent of the prisoners at the Federal Correctional Institute in Dublin, California, are foreign-born. Notes Wilmott: “If you are foreign-born and in prison, the unspoken feeling around is that you are

⁹ Briefing Sheet, The Sentencing Project, Washington, DC, 1997.

¹⁰ Interview with Jana Schroeder, Criminal Justice Program, American Friends Service Committee, Dayton, OH, 1999.

¹¹ Marc Mauer, Cathy Potler, and Richard Wolf, “Gender and Justice: Women, Drugs, and Sentencing Policy,” The Sentencing Project, Washington, DC, Nov. 1999.

¹² “Immigration Detention in the United States,” Lutheran Immigration and Refugee Service, Baltimore, MD, 1998.

¹³ Deanne M. Pearn, “And Justice for All: Understanding and Addressing Human Rights Abuses Against Women in Immigration Detention Centers,” unpublished presentation, Women’s Institute for Leadership Development for Human Rights, San Francisco, 11 May 1998.

¹⁴ Eric Lipton, “As More Are Deported, A ’96 Law Faces Scrutiny,” *New York Times*, 21 Dec. 1999.

inferior,” which she believes is a reflection of anti-immigrant prejudice outside.¹⁵

Policing in the era of mass incarceration — Local and state police agencies are among the most pervasive and mobile law-enforcement bodies. They also cooperate with and help gain entry for officials of other agencies, such as the Border Patrol, other INS agents, or drug enforcement agents.

In the 1990s, New York City was credited with inaugurating an unprecedentedly violent and abusive style of policing— so-called “quality-of-life” policing — under William Bratton, then commissioner of the New York Police Department (NYPD).¹⁶ New York Mayor Rudolph Giuliani “has been explicit in his intention to physically remove and contain any of the visible effects of poverty (i.e. homelessness) that dare to share space with gentrification ... In 1997 and 1998, officers with the NYPD’s street crimes unit frisked more than 45,000 people thought to be carrying guns, but they arrested fewer than 10,000. This policing strategy allows the police to detain, question, and thus regulate tens of thousands of mostly low-income people of color.”¹⁷

The philosophy and practices employed by the NYPD, one of the largest police forces in the United States, have now made their way across the country. In response, community-based movements nationwide have been challenging the increase of police brutality against communities of color, particularly young people from such communities.

At the federal level, parallel trends are observable in immigration enforcement. The INS announced in 1998 that “it employs more armed agents than any other federal agency, including the FBI.”¹⁸ Funding for the Border Patrol, which is part of the INS, increased 149 percent between 1980 and 1988 and has continued to rise steadily since then. Within the INS, the growth of enforcement operations has dramatically outstripped that of the agency’s service operations (processing applications for visas, work permits, citizenship, political asylum, and the like).¹⁹ INS raids, nominally intended to capture undocumented immigrants, can take place in the workplace, home,

neighborhood, streets, or parking lots — in short, any place at all. It is important to note that both border control operations and INS raids invariably target legal residents and citizens as well as undocumented people, with agents using racial profiling (that is, stopping people who “look foreign”) as if it were an indicator of immigration status.

Social justice or “law and order?” — All of these developments may be understood as manifestations of a broad tendency to redefine profound issues of social inequality as problems of “law and order.” From this standpoint, laws mandating more punitive and violent law enforcement are offered up as a substitute for real solutions, which would require a structural transformation of power.²⁰ At the same time, procedural restraints on law enforcement that protect civil and constitutional rights are constantly eroded.

A key example of a social problem that has been reframed as a question of “law and order” is drug trafficking. The redefinition of drug addiction as a legal problem (rather than, for example, a problem of public health) has provided an effective rationale for dramatically expanding the powers and resources of law-enforcement agencies. In the words of drug policy reform advocate Ethan Nadelmann, “police officers, generals, politicians ... qualify as drug czars – but not, to date, a single doctor or public health figure. ... [D]rug policies are designed, implemented, and enforced with

¹⁵ Interview with Donna Wilmott, Legal Services for Prisoners with Children, San Francisco, 1999.

¹⁶ “Police Brutality and Excessive Force in the New York City Police Department,” AMR 51/36/96, Amnesty International–USA, New York, June 1996.

¹⁷ Daniel HoSang, “The Economics of the New Brutality,” *Colorlines*, Winter 1999-2000.

¹⁸ Joel Najar, “The Historical, Political, and Legislative Context for INS Raids,” in *Portrait of Injustice: The Impact of Immigration Raids on Families, Workers, and Communities*, National INS Raids Task Force, National Network for Immigrant and Refugee Rights, Oakland, CA, Oct. 1998.

¹⁹ Dunn, *op. cit.*, pp. 49, 63.

²⁰ Interview with Maria Jimenez, Immigration Law Enforcement Monitoring Project, American Friends Service Committee, Houston, TX, 1999.

virtually no input from the millions of Americans they affect most: drug users.”²¹

Another example is provided by the contemporary catchphrase “quality of life,” which is used to give a humanitarian gloss to the new generation of strategies for urban policing described above. Such strategies focus on harassing, arresting, or incarcerating people who are poor, homeless, or simply hanging out on the street with the wrong skin color or the wrong clothes. Also targeted are those who work on the streets, such as vendors, sex workers, artists, and the like. One might well question exactly whose quality of life is being protected.

Young people of color are among those most affected by the intensification of policing. According to New York City Police Watch, “With declines in funding and roughly one in fourteen youths arrested annually by the NYPD, youths aged thirteen to twenty have a greater chance of getting arrested than they do of getting a job after school or having a community youth program to go to after school.”²²

Jasmine Barker of the Third Eye Movement, an anti-police brutality youth group in the Bay Area, describes four patrol cars swooping down on her for making an illegal U-turn.²³ Third Eye has been conducting know-your-rights workshops in schools and mobilizing for direct action in cases like that of a young woman in a car who was shot and killed by a San Francisco officer who was in pursuit of the driver, a young man of color.

The two fastest growing incarcerated populations are women of color and immigrants of color. Women of color have been especially affected by laws mandating mandatory minimum sentences for all drug offenses, which spread across the nation following the enactment of the Rockefeller Drug Laws in New York State in the early 1970s. As noted by the Sentencing Project, this “eliminates from judges the option of referring first-time nonviolent offenders to scarce, financially strapped drug treatment, counseling, and education programs.”²⁴ In the words of one prisoner,

out of the 300 women here, I'd say 80 percent ... [are] first-time, nonviolent, low-level drug offenders. I've met women who got five years for

what the Feds call “improper use of the telephone”: answering the phone for what later turned out to be a drug sale. ... All these women had boyfriends, or husbands, or acquaintances who used them and then let them hang. ... My roommates are 48, 50, and 58 years old. Sweet, talented ladies. Grandmas ... It all seems so pointless and tragic.”²⁵

Similarly, federal laws like IIRAIRA and the Anti-Terrorism and Effective Death Penalty Act, both enacted in 1996, are directly responsible for the huge increases in the numbers of incarcerated immigrants, both by increasing the number of deportable offenses and by imposing penalties retroactively. In essence, all of these state and federal laws have been posed as solutions to a broad range of problems associated with poverty and global economic inequality, for which the U.S. government and U.S.-based corporations bear a large share of the responsibility.

From this standpoint, one might argue that the primary goal of law enforcement is to contain those segments of the population that are most likely to rise up and threaten a public order that protects the privileged. This perspective is grounded in well-known statistics such as these: African Americans and Latinos make up 22.8 percent of the population but account for 47.8 percent of those living in poverty; African Americans are 13 percent of drug users, yet represent 35 percent of drug arrests, 55 percent of drug convictions and 74 percent of those imprisoned for drug convictions.²⁶ Similarly, “[B]lack under the age of 18 make up 15 percent of their age group, but 26

²¹ Ethan A. Nadelmann, “Commonsense Drug Policy,” *Foreign Affairs*, Jan.-Feb. 1998, Vol. 77, No. 1.

²² “How to Deal with the Police,” resource packet, NYC Police Watch, New York, n.d.

²³ Interview with Jasmine Barker, Third Eye Movement, San Francisco, 2000.

²⁴ Briefing Sheet, The Sentencing Project, Washington, DC, 1997.

²⁵ Maia Szalavitz, “War on Drugs, War on Women,” *On the Issues*, ISSN 0895-6014, Winter 1999, Vol. 8, No. 1, p. 42 ff. (newsletter of CHOICES Women’s Medical Center, New York).

²⁶ Parenti, *op. cit.*, p. 239

percent of those young people arrested ... 44 percent of those detained in juvenile jails and 32 percent of those found guilty of being a delinquent. Similarly, young [B]lacks account for 46 percent of all juveniles tried in adult criminal courts ... and 58 percent of all juveniles confined in adult prisons."²⁷

Harsher and more militarized law enforcement —

The increasingly harsh legal regime described above has been accompanied by a growing reliance on military-style tactics and weaponry by law enforcement at every level. This militarization of domestic law enforcement has been brought about through dramatic increases in funding, increasing use of advanced military technology, sharing of personnel and equipment with the military, and promotion of a war-like culture. Long-term women prisoners report changes such as increasing numbers of guards wearing fatigues and buzz cuts and conducting themselves in military style: making women march in single file for everything, being more physically aggressive, using rubber bullets, and generally having more "toys."²⁸

As such trends have progressed, law enforcement itself has intensified dramatically. Advocates report sharply increasing levels of violence by police and prison guards, overnight stays in local jails for actions that would have warranted at most a ticket a couple of decades back, and greater criminalization of immigrants and young people, especially from communities of color. In New York City, for example, a seventeen-year-old was detained for fifty hours waiting to be arraigned on a trespassing charge.²⁹ Under IIRAIRA, an immigrant who has lived legally in the United States for most of his or her life can be arrested and deported for a minor offense committed in the distant past as a juvenile, wrenching the person from family and community. Immigrants' rights lawyer Gail Pendleton comments that "the criminal justice system now increasingly determines the outcome of the immigration system, which was never supposed to be the case."³⁰

At both the state and federal level, criminal justice legislation enacted in recent decades has transformed policies around bail, sentencing, parole, and the death penalty, to mention just a

few aspects. In the prison system, this enforcement culture results in longer sentences for less serious violations as well as more punitive behavior from guards. These developments have been accompanied by an increasing reliance on isolation of prisoners in special "control units" and the emergence of entire prisons, known as "supermax" (super maximum security) prisons, that rely on isolation.³¹ "In New York, use of isolation units in state prisons is up by more than sixty percent in just five years, even as funding for rehabilitation programs such as drug treatment and job training has been reduced."³²

Interagency collaboration — Over the past two decades, interagency task force efforts have become far more common, whether justified in the name of the "war against drugs" or by concern over undocumented immigration. It is increasingly common for officials of different agencies such as local or state police, the Border Patrol or other INS units, and the county sheriff's department to show up at the same time for law-enforcement encounters ranging from traffic stops to house raids. Such developments, initially reported in the Mexico-U.S. border region, have now spread throughout the country.

In reporting on human rights violations in southern California, for example, an AFSC report found it necessary to address the actions of federal agencies including the Border Patrol, the Customs

²⁷ Eileen Poe-Yamagata and Michael A. Jones, "And Justice for Some," National Council on Crime and Delinquency, San Francisco, 2000, cited in Fox Butterfield, "Racial Disparities Seen as Pervasive in Juvenile Justice: A Snowballing Effect," *New York Times*, 26 June 2000, p. 1.

²⁸ Interview with Cassandra Shaylor, Legal Services for Prisoners with Children, San Francisco, 1999. At the time of this interview Shaylor was conducting doctoral research about women and solitary confinement at Valley State Prison for Women in Chowchilla, CA.

²⁹ David Rohde, "Drug Arrests Overloading the Court System," *New York Times*, 17 Feb. 2000, p. B1.

³⁰ Interview with Gail Pendleton, National Immigration Project, National Lawyers Guild, Boston, 2000.

³¹ Interview with Cassandra Shaylor, Legal Services for Prisoners with Children, San Francisco, 1999.

³² Sasha Abramsky and Andrew White, "Rage in the Cage," *City Limits*, June-July 1996.

Service, and U.S. Port Security; the San Diego and Riverside County Sheriff's Departments; municipal police departments in San Diego, Vista, San Marcos, and Fallbrook; the California Highway Patrol; and the California National Guard.³³ In Newport, Rhode Island, community groups and residents have complained about INS-police cooperation in searching for people suspected of violating immigration laws and have noted the use of abusive procedures in such arrests.³⁴ In Salt Lake City, Utah, a store was raided for drugs and weapons, none of which was found. The raid was conducted by "Salt Lake City Police Department, County Sheriff, SLC task force on drug prevention, SLC swat team, Utah Attorney General, Utah Department of Commerce, U.S. Attorney's Office, FBI, IRS, DEA, and INS."³⁵

As communication between agencies increases, one agency can threaten individuals by invoking the powers of another. For example, in New York City, when a woman of Indian origin found herself in the police station with her boyfriend, the latter was threatened by the police with deportation even though he is a legal immigrant with a work permit and the police do not directly have powers of deportation.³⁶ In the case of immigrant women caught in situations of domestic violence, the increasing collusion between the police and immigration authorities makes it dangerous to call the police, because they could deport either the woman or the man against the woman's wishes.³⁷

As noted in a report from the National Immigration Project of the National Lawyers Guild, "There is ... no requirement that a victim or witness state her place of birth or immigration status when filing a complaint or a police report. Under federal law, the police have no duty to inquire into the immigration status of a victim, witness, or arrestee. ... Despite this fact, some judges and law-enforcement officers do inquire into immigration status in domestic violence cases. Such inquiries during police investigations or at trial significantly erode community confidence in the judiciary and cooperation with the police. For victims of family violence this practice can be lethal."³⁸

Privatization and profit — As incarceration expands at every level, new opportunities for profit have been created through prison construction contracts, the privatization of health care and food services, and even the privatization of entire institutions. All of these economic arrangements are undergoing rapid expansion, as is the use of prison labor by private corporations. Prisoners, who may be paid next to nothing, also serve as the most controllable workforce, since they cannot unionize. AFSC criminal justice staff have observed cases in which prisoners who are "good" workers have been denied parole, as the institution does not want to lose their labor.³⁹

The INS also serves as a growing source of income for county jails, which are rented out for immigration-related detention. "At an average cost of \$58 per day per detainee," according to Human Rights Watch, "the INS spends nearly a half-million dollars each day to house its detainees in local jails. This arrangement provides a source of profit for county governments; in some, county debts have been paid and some taxes eliminated due to revenue from holding immigrants in local

³³ "Human and Civil Rights Violations on the U.S.-Mexico Border, 1995-1997," U.S.-Mexico Border Program/Immigration Law Enforcement Monitoring Project, American Friends Service Committee, San Diego, CA, 1998.

³⁴ Comments on listserv of National INS Raids Task Force (sponsored by National Network for Immigrant and Refugee Rights, Oakland, CA, 2000).

³⁵ *Portrait of Injustice: The Impact of Immigration Raids on Families, Workers, and Communities*, National INS Raids Task Force, National Network for Immigrant and Refugee Rights, Oakland, CA, Oct. 1998, p. 28.

³⁶ Case report, NYC Police Watch, New York, 1 Jun. 1998.

³⁷ Interviews with Gloria Hernandez, Immigrant Women Access Project, Fresno, CA, 1999, and Rebecca Brockman, Las Americas Immigrant Advocacy Center, El Paso, TX, 1999. As noted on page 15, the Violence Against Women Act offers battered undocumented women some protection from deportation in certain circumstances.

³⁸ Gail Pendleton and David Neal, "Local Police Enforcement of Immigration Laws and Its Effects on Victims of Domestic Violence," National Immigration Project, National Lawyers Guild, Boston, 1999.

³⁹ Interview with Patricia Clark, National Representative for Criminal Justice, American Friends Service Committee, Philadelphia, 2000.

jails. ... Officials at Euless City Jail in Texas told Human Rights Watch that they had lowered their per diem rate from \$68 to \$55 in order ... 'to be more competitive'. ... The Chief of Security for CCA [Corrections Corporation of America]...even asked Human Rights Watch researchers if they knew of ways to get more INS detainees."⁴⁰

Impact on other institutions— The punitive logic of law enforcement has had a pervasive impact on other public agencies that supposedly serve an entirely distinct mission. For example, welfare recipients increasingly find that welfare services resemble the criminal justice system. Processes like the Eligibility Verification Review, welfare organizers say, reflect the culture of criminalization.⁴¹ In a household of people with varied immigration status, the mother may be afraid to open the door when a welfare case worker comes on a house visit, as she is scared of exposing any undocumented relative who may be staying there. Through workfare programs, welfare recipients are obliged to work almost for free and are not allowed to unionize, similarly to prison workers.⁴² A workfare worker in New York City may be paid \$1.80 an hour in a job cleaning courthouses, as compared \$18–\$20 per hour for a union worker doing the same job.

The foster care system and child protective services also increasingly employ punitive measures, especially toward women of color. Foster care agencies may view treatment for mothers with substance addiction as being too expensive or as taking too long. Investigations by child protective services evoke considerable fear, as they are closely tied to the criminal justice system.⁴³ The original mission of these agencies, that of protecting and helping children at risk and their families, has been eclipsed by the drive to exact punishment in response to the complex problems of impoverished families. As with law enforcement, it is communities of color that bear the brunt of these punitive systems.

Many low-wage workplaces that rely on immigrant labor have also begun to resemble law-enforcement institutions. In one well-documented case, immigrant workers in an Iowa meatpacking factory were routinely subjected to body searches, supervision in bathrooms, drug tests, video surveillance, locker searches, and a lack of medical services.⁴⁴

Organizing Against Violence

Progressive social movements in the United States have developed disparate, and sometimes conflicting, strategies for organizing against all these forms of violence and abuse. The section below on “enforcement accountability” reviews the approaches of organizations advocating for immigrants’ rights, border rights, police accountability, the rights of INS detainees, and prisoners’ rights. Next, our discussion of women’s anti-violence organizing discusses movements focusing on domestic violence, sexual assault, and reproductive rights. The balance of this working paper explores in more detail how enforcement violence affects women and suggests some common ground for these two types of movements.

While our purpose here is to offer a critique, it is important to affirm that we do so as participants in and supporters of the social movements we are critiquing. The issues raised by all of these movements are vital to the well-being of our communities — and their weaknesses weaken us all.

Enforcement Accountability

Broadly speaking, enforcement accountability movements have focused on confronting the many types of violence and abuse engendered by the unrestrained growth of law enforcement. The constituencies of these movements are diverse,

⁴⁰ “Locked Away: Immigration Detainees in Local Jails in the United States,” G1001, Human Rights Watch, New York, Sept. 1998.

⁴¹ Elaine Kim (Community Voices Heard, New York), unpublished presentation, “Women of Color: The Forgotten Members of the New Economy,” New York University, 28–29 Mar. 2000.

⁴² Minerva Delgado (Puerto Rican Legal Defense and Education Fund, New York), unpublished presentation, “Women of Color: The Forgotten Members of the New Economy,” New York University, 28–29 Mar. 2000.

⁴³ Interview with Martha Matthew, National Center for Youth Law, Oakland, CA, 2000.

⁴⁴ Deborah Fink, “Workplace Violence: Working to Survive, Invisible and Unregulated,” unpublished presentation, “Violence: Shredding Social Fabrics, Destroying Global Health,” University of Iowa, Iowa City, 14–16 April 2000. See also Deborah Fink, *Cutting into the Meat-Packing Line* (Chapel Hill: University of North Carolina Press, 1998).

spanning immigrant as well as U.S.-born communities of color (as well as growing numbers of white allies, especially among youth).

The prisoners' rights movement is perhaps the best established of the enforcement accountability movements. Diverse organizations such as Justice Works or Legal Services for Prisoners with Children, among numerous others, work on different aspects of prisoners' lives in all parts of the country. Prison support groups have advocated for various alternatives to incarceration. Justice Works, for example, advocates for alternatives like community service work, restitution, employment and job training assistance, alcohol and substance abuse treatment, conditional or supervised release, and residential care and counseling.⁴⁵

Also widespread are grassroots police accountability groups, such as Bay Area Police Watch or New York City Police Watch. Networking among such groups is facilitated by the National Coalition on Police Accountability (NCOPA), based in Chicago. The work of all these groups on documenting specific instances of police brutality are crucial in gauging the scope of the issue in different communities.

Similarly, violence and abuse directed against immigrants has been extensively documented by local groups like the Washington Alliance for Immigrant and Refugee Justice. The systematic abuse of human rights at the Mexico-U.S. Border, particularly by the Border Patrol, has been brought to national attention by AFSC's Immigration Law-Enforcement Monitoring Project. The National INS Raids Task Force of the National Network for Immigrant and Refugee Rights (NNIRR) has played a key role in publicizing the growing impact of INS raids in interior regions of the country.

As we have noted, the links among these diverse movements for enforcement accountability are still relatively weak. Among national coalitions, NCOPA has played a pioneering role in bringing together police accountability and immigrants' rights groups, often with the support and collaboration of AFSC. A new national network, Critical Resistance, has sponsored conferences on both coasts and ongoing follow-up activities, contributing substantially to strengthening such links. Human rights organizations such as Human

Rights Watch and Amnesty International have compiled comprehensive reports on human rights abuses by police agencies, immigration authorities, and prisons — but so far such documentation has been gathered and analyzed separately for each type of law-enforcement system.

The invisibility of gender — Among the enforcement accountability movements, the prison movement is the most organized with regard to women, with a range of organizations focusing on such issues as sexual violence by guards, medical care, parole, child custody, visitation, and extended caregivers' programs. It is unusual, however, to find sustained alliances between the work of such organizations and women's anti-violence organizations. The violence against women movement has not taken ownership of women prisoners' concerns, and prison groups have not placed themselves in the context of the violence against women effort.

Immigrants' rights organizations have documented and publicized violence inflicted on women by immigration authorities, especially at the Mexico-U.S. border, where immigration law enforcement has been a focus of community concern for a longer period of time. Nonetheless, documentation and organizing efforts have seldom reflected a sustained focus on how women experience border crossing and associated abuses of their rights. In one case, when immigrants' rights lawyers and advocates organized a campaign around a woman who was raped by a Border Patrol agent, they did so with virtually no links or discussions with women's organizations in the area, because no prior relationships had been established.⁴⁶ Further, immigrants' rights groups as well as human rights watchdog groups have often described INS abuse in gender-neutral terms, referring to the impact on "families" and the loss of "wage-earners." Such terms erase the singular hardships that women bear and continue to keep the discussion male-dominated by default,

⁴⁵ Kristen Flurkey, "Working for Alternatives to Incarceration," *Peace and Freedom*, Nov.-Dec. 1999.

⁴⁶ Interview with Jesus Romo, attorney and activist, Tucson, AZ, 1999.

obscuring the considerable leadership women provide in immigrants' rights organizing.

Significant numbers of women of all ages are actively involved in organizing against police brutality. Nevertheless, the focus of such initiatives continues to be disproportionately masculine (although mothers of victims of police brutality, who have created their own organizations, have broadened the discussion). Recently, a string of cases of police brutality and police killings in New York City have sparked broad community outrage, gaining national publicity. During the same time-span, the case surfaced of a battered woman who called the police while she was being beaten by her partner. The police took her to an isolated spot, beat her up brutally, and left her there with the warning that next time they found her, they would kill her.⁴⁷ Her story was never taken up by the groups actively protesting the undeniably tragic and unjust deaths of male victims.

The Women's Anti-Violence Movement

Over the past thirty years, women's anti-violence organizations have broken the silence about many types of violence whose existence was previously denied or trivialized. Prior to the emergence of this movement, even life-threatening instances of sexual assault or domestic violence were commonly treated as purely "private" matters undeserving of official intervention, while the victims of such violence were routinely stigmatized and publicly humiliated if they dared to speak out. The achievements of the women's anti-violence movement are substantial, involving significant changes in police and court practices and legal standards, as well as a profound transformation of public awareness.

The successes of this movement, however, have come at a price. Women's anti-violence organizations have evolved a considerable distance away from their origins as a grassroots, community-based groups; today, most are professionally staffed agencies providing social and legal services. In seeking to hold police agencies accountable for enforcing laws against sexual assault and domestic violence, the women's anti-violence movement has largely sidestepped the problem of the violent and

abusive nature of law enforcement in poor communities of color. In the process, it has restricted its focus to the ways in which women may be vulnerable to violence from individual men, overlooking the ways in which women are also subject to violence from authorities of the state.

Over the years, this has resulted in a growing tension between the mainstream anti-violence movement and women-of-color organizations concerning the posture of women's organizations toward governmental agencies. Fundamentally, this is an issue of how progressive movements understand the role of the state. Does the state apparatus hinder or help women's efforts to ensure the safety and well-being of themselves and their communities? In the balance of this section, we explore various ways in which this tension has surfaced.

Reproductive rights— In the 1960s, women's right to choose safe and legal abortion became a focal demand of the emergent the women's movement. Over the years, women of color and poor women have fought to expand the issue, initially by including economic as well as legal barriers to access to abortion. In the 1970s, the concept of "reproductive rights" was introduced in order to reframe the movement for reproductive freedom by acknowledging and addressing restrictions faced primarily by women of color, beginning with sterilization abuse.

Building on the 1970s critique of sterilization abuse and racist population control policies, progressive scholars and activists have continued to deepen their analysis of the particular character of assaults on the reproductive rights of women of color. Today, the criminal justice system plays an increasingly prominent role in governing reproductive choices for women of color. As we saw in the previous section, the "war on drugs" has served as a blanket rationale for the dramatic expansion of law enforcement and accompanying weakening of constitutional protections. In recent years, rightwing opponents of abortion have also found that they could make headway by situating their drive for

⁴⁷ Greg Smith and Tara George, "Officers Accused of Beating Woman," *Daily News* (New York), 2 Mar. 2000, p. 2.

greater state control of women's bodies within the framework of the war on drugs — beginning, naturally, with the bodies of women of color.

One well-known illustration of this trend is the case of *Whitner v. State*,⁴⁸ in which the South Carolina Supreme Court upheld the notion that a pregnant woman who uses illicit drugs or engages in any other behavior that might endanger her fetus can be prosecuted as a child abuser and sentenced to prison. As Lynn Paltrow of National Advocates for Pregnant Women comments, “the prosecutors are in fact seeking to have the judiciary create a new crime of drug use, and then only for one group of people — pregnant women.”⁴⁹

The *Whitner* case prompted a major debate within legal circles.⁵⁰ The New York–based Center for Reproductive Law and Policy joined the defendant in appealing the original ruling, and amicus briefs were filed by numerous organizations, including medical, public health, and women's groups.⁵¹

Almost all of the pregnant women who have been arrested under this ruling in South Carolina are African American, although one survey revealed that “the typical drug-using woman in the South is in fact a white woman, in her thirties, divorced or never married, with two or three children.”⁵² On a national level, while white and affluent drug users are placed in treatment programs, poor people of color are incarcerated for substance abuse. According to Dorothy Roberts, author of *Killing the Black Body* and a member of the board of the National Black Women's Health Project, “crack exposure is now the leading grounds for newborn foster placement” in New York City.⁵³ Such practices continue regardless of extensive medical research challenging the widespread conception that cocaine is harmful to fetal development, while reconfirming the well-established harmful effects of poverty, malnutrition, lack of prenatal care, and use of alcohol or tobacco during pregnancy.^{54, 55}

In October 1999 the U.S. House of Representatives passed a bill that established criminal penalties for anyone who injures a fetus in the commission of another federal offense, which could cover batterers as well as pregnant women themselves.⁵⁶ Although the federal bill specifically

excludes women who opt for abortions, this type of punitive legislation, justified as an anti-violence measure, is widely considered to be a backdoor strategy to assist rightwing abortion opponents in their drive to secure legal recognition of the “personhood” of the unborn fetus.⁵⁷ According to the National Right to Life Committee, similar laws have already passed twenty-four state legislatures.

Long-acting contraceptives like Norplant have also been used as a tool of coercion by the criminal justice system. The safety of Norplant has

⁴⁸ 492 S.E. 2d 777 (S.C. 1997), *cert. denied*, 118 S. Ct. 1857 (1998).

⁴⁹ Lynn M. Paltrow, “Pregnant Drug Users, Fetal Persons, and the Threat to *Roe v. Wade*,” *Albany Law Review*, Vol. 62, 1999, p. 1022.

⁵⁰ As we go to press, the U.S. Supreme Court has ruled in a similar case (*Ferguson v. City of Charleston*), that testing pregnant women for drugs without their consent and sharing results with police violates the constitutional prohibition of unreasonable search and seizure.

⁵¹ Amici in this case included the American Medical Association, the American College of Obstetricians and Gynecologists, the American Public Health Association, the American Nurses Association, the National Council on Alcoholism and Drug Dependence, Planned Parenthood of South Carolina, the National Women's Health Network, the NOW Legal Defense and Education Fund, and the Women's Law Project, among others.

⁵² Lynn M. Paltrow, “Our Common Struggle,” *Harm Reduction Communication* (newsletter of the Harm Reduction Coalition, New York), Spring 1999, No. 8.

⁵³ Dorothy Roberts, *Killing the Black Body: Race, Liberty and Reproduction* (New York: Pantheon, 1997), p. 160.

⁵⁴ “Cocaine and Pregnancy,” Lindesmith Center, New York, 1996, rev. 1999.

⁵⁵ As we go to press, the *Journal of the American Medical Association* has published a major review of 36 separate clinical studies, which found “no consistent evidence” of a negative impact of cocaine exposure *in utero* (Deborah Frank et al., “Growth, Development, and Behavior in Early Childhood Following Prenatal Cocaine Exposure: A Systematic Review,” *JAMA* 285:12, pp. 1613–1625).

⁵⁶ This bill failed to clear the 106th Congress, and was reintroduced in February 2001.

⁵⁷ Noy Thrupkaew, “Republicans Work Overtime for ‘Unborn Victims of Violence,’” *Sojourner: The Women's Forum*, Nov. 1999.

been challenged by women's health organizations,⁵⁸ which have also argued that use of such contraceptives places medical practitioners more in control of women's bodies than the women themselves. In California's Central Valley, Darlene Johnson, a pregnant African American welfare recipient, was convicted on charges of child abuse; the judge who sentenced her gave her a "choice" between Norplant and a longer jail sentence.⁵⁹ This decision carries several chilling messages: that once women have been convicted, the state has the right to control their reproductive choices, and that the machinery of law enforcement can be invoked to assert such control.

Dorothy Roberts cites a study conducted by Stanford and University of Chicago professors who attributed the drop in crime rate during the 1990s to abortions by poor women of color.⁶⁰ The study argues that the rise in abortions by young, poor women of color during the 1970s prevented the birth of unwanted children who would have gone on to commit crimes fifteen to twenty-five years later. On this basis, they argue that legalized abortion can be credited for as much as 50 percent of the substantial drop in crime rates between 1991 and 1997.

Somewhat defensively, the two professors affirm that they are merely concerned to find the true causes for dropping crime rates, stating specifically that they do not mean to suggest that poor women of color should be encouraged to terminate their pregnancies. Although it was never published in any academic journal,⁶¹ this study received extensive national press coverage — due perhaps to its propaganda value for attempts to justify the expansion of state intervention in the lives of women of color.

Similar sentiments regarding "bad" mothers and their children are manifested toward immigrant communities of color. At the Mexico-U.S. border, the Border Patrol often accuses pregnant immigrant women of coming to the United States to have children so that they can benefit from the child's automatic U.S. citizenship. This is not unlike a Black welfare mother being told that she is having children to receive larger welfare checks — and only a step away from her being told that she must use Norplant in order to receive the next check.

Anti-immigrant groups have also faulted immigrants for "causing" overpopulation in the United States, which is then interpreted as the source of various social ills, including environmental degradation, crime, and urban sprawl. In 1994, when California's Proposition 187 ushered in several years of immigrant-bashing (culminating in the passage of IIRAIRA two years later), reproductive health services for immigrant women were the first to be targeted for abolition. Such developments demonstrate the connection between anti-immigrant scapegoating and support for a population control agenda for the Third World (as well as for U.S. communities of color).⁶² For certain groups of women, motherhood is deviant or pathological; their fertility is construed as a negative force that must be controlled, within and beyond the borders of the United States.

The contemporary reproductive rights movement has responded unevenly, even weakly, to all these trends toward increasing state repression of women of color: pregnant women being incarcerated for drug use, welfare payments or prison sentences being tied to women's use of birth control, punitive measures to protect fetuses by punishing pregnant women, anti-immigrant scapegoating, and programs that link the dissemination of contraceptives to a population control agenda. Part II of this discussion looks in more

⁵⁸ See "Essential Principles for Responsible Health Care Reform," National Latina Health Organization, San Francisco, 1993, and "Norplant: A New Contraceptive with the Potential for Abuse," California Pro-Choice Education Fund, San Francisco, 1997.

⁵⁹ Kathy Holub, "When Worlds Collide," *San Jose Mercury News*, 7 Jul. 1991.

⁶⁰ John Donohue III and Steven Levitt, "The Impact of Legalized Abortion on Crime," working paper 8004, National Bureau of Economic Research, Cambridge, MA, Nov. 2000. Dorothy Roberts mentioned press accounts of this study in remarks at a reproductive rights conference at Hampshire College in April 2000.

⁶¹ The study was ultimately released by a conservative "think tank," the National Bureau of Economic Research, as cited in footnote 60.

⁶² Al Knight, "This Time Aspen Leads the Way," *Denver Post*, 19 Dec. 1999.

detail at enforcement violence and its impact on women's reproductive choices, suggesting a more complete framework for seeking common ground between the reproductive rights and enforcement accountability movements.

Domestic violence and sexual assault — The growing tension between women of color and the mainstream women's anti-violence movement is not a question of who is "included" in the movement, but rather reflects fundamentally contradictory understandings of the impact of collaboration with the state. Over time, the efforts of anti-violence organizations to develop working relationships with law-enforcement agencies, coupled with their reliance on government funding, have restricted their ability to challenge a repressive state agenda. The demand for more state protection — in essence, more law enforcement — has displaced critical and innovative thinking about alternative community-based strategies for promoting public safety.

In the process, the concerns of women of color, who are far more likely to experience law enforcement as a threat to themselves and their communities, have been marginalized. Some critics have argued that public pressure to increase arrests for domestic violence is inevitably translated into increased arrests of men of color. For undocumented immigrants, police summoned in a case of domestic violence may notify the INS, with the result that both the woman and her male partner may be deported.⁶³

No one would dispute that women's safety is fundamental; the issue is rather how it is best achieved. Leni Marin of the Family Violence Prevention Fund in San Francisco, which has fought to improve the responsiveness of the criminal justice system, comments that intervention in domestic violence cases can be dangerous or even fatal to battered women. Achieving protection and safety in such situations is no easy matter. Over the long term, Marin believes that punitive measures cannot change people's behavior and in fact may well cause greater instability in women's lives.⁶⁴

Sue Osthoff of the National Clearinghouse for the Defense of Battered Women argues emphatically that "unintended consequences are

surfacing from over-reliance on the criminal legal system. Twenty-five years ago, women of color were saying that we should not turn to the criminal legal system. But we put all our eggs in one basket without seeking other creative ways of community intervention. The battered women's movement has contributed to the increase in the police state and the increase of men in prisons. We are telling battered women to turn to a system that is classist, sexist, homophobic, arbitrary, and not unlike the batterer." She asserts that it is impossible to create a just society in a climate of hatred of defendants and with a spirit of vengeance.⁶⁵

Mainstream strategies have many unintended consequences that affect women negatively. Battered women who assault or kill their spouses are detained longer before trial, face higher bails, and receive longer sentences than any other type of defendant. A desperate battered woman may believe she has no alternative but to kill her batterer when he is asleep. The U.S. legal system considers such a killing only as an isolated incident, disregarding the reality of domestic violence; the woman's act is thus judged not as a desperate measure of self-defense but as premeditated murder. Shamita Das Dasgupta of Manavi, a South Asian domestic violence organization in New Jersey, comments that large numbers of battered women are arrested when police erroneously identify them as the primary aggressor in a domestic conflict or file criminal charges against them for acts of self-defense. Many women may then accept a plea bargain, since they have no realistic opportunity to defend themselves against such charges.⁶⁶

Sociologist Beth Richie has coined the phrase "gender entrapment" to illuminate how survivors

⁶³ Interviews with Lynn Coyle, Lawyer's Committee for Civil Rights Under the Law of Texas, San Antonio, 1999, and Juanita Genis, Las Americas Immigrant Advocacy Center, El Paso, TX, 1999.

⁶⁴ Interview with Leni Marin, Family Violence Prevention Fund, San Francisco, 2000.

⁶⁵ Interview with Sue Osthoff, National Clearinghouse for the Defense of Battered Women, Philadelphia, 2000.

⁶⁶ Interview with Shamita Das Dasgupta, Manavi, Union, New Jersey, 2000.

of domestic violence are criminalized through a variety of circumstances that stem from their violent lives.⁶⁷ She cites cases of women who may commit crimes at the demand of the batterer, hoping to stop the abuse. Joan Porter of Lifers, an organization supporting women prisoners in Pennsylvania, says women “are often merely accompanying their male companion [in a drug sale]...when something goes wrong. The male is more knowledgeable about the legal system. He plea bargains and she, feeling herself innocent, does not, so the District Attorney comes down heavy on her.”⁶⁸

As New York official Sujata Warriar warns, however, there is no clear consensus around the role of law enforcement among women-of-color anti-violence activists.⁶⁹ For example, Lori Humphreys, an attorney with Ayuda, a domestic violence agency in Washington, DC serving immigrants, maintains that mandatory arrests and more policing are needed to protect women of color from domestic violence, although she too agrees that often the survivor has no control over the criminal justice process once it is set in motion.⁷⁰

Warriar also critiques the process of state-initiated reform following the passage of the Violence Against Women Act (VAWA) in 1994.⁷¹ VAWA, which is widely hailed as a signal achievement for the women’s anti-violence movement, resulted in significant funding for reform of how domestic violence cases are processed. Such funding, however, was channeled directly to the criminal justice system, often without any input from domestic violence organizations. The resultant reforms have led to such practices as police threatening a woman to force her to testify against her batterer.

At the same time, VAWA is also a good example of grassroots involvement as well as cross-issue collaboration between immigrants’ rights groups and domestic violence groups, through the National Network on Behalf of Immigrant Battered Women. Through this coalition, small community organizations were involved in collecting stories of undocumented women in order to make the case for the inclusion of the self-petitioning measure in the act, which permits battered immigrant women to file INS applications directly, without depending on their husbands. VAWA also

protects undocumented battered women from deportation in certain circumstances. Some of the women who participated in this grassroots process have gone on to take leadership around the issue of domestic violence in their communities.

Beckie Masaki of the Asian Women’s Shelter in San Francisco observes that “domestic violence organizations working with battered immigrant women find themselves in a curious position at the intersection of anti-violence against women work and enforcement accountability work. Remedies through law enforcement are somewhat important but the emphasis is misplaced given the underutilization of this remedy in our communities. It is telling that only five incidents of police intervention in domestic violence calls took place in the Asian community in San Francisco during 1998, although 35 percent of the population is Asian. Women-of-color or immigrant groups will also find that although the issue of cultural specificity is important in ensuring sensitivity, certain monolithic or patriarchal definitions of culture are invariably used by law enforcement in order to excuse violence or to maintain a policy of noninterference.”⁷²

Masaki notes that training programs for police initiated (and, often, provided) by domestic violence organizations have brought about a more friendly relationship between domestic violence organizations and law-enforcement as compared to ten or twenty years ago. This has placed domestic violence organizations on a strange footing with organizations that fight against enforcement violence, such as anti-police brutality organizations.

⁶⁷ Beth Richie, *Compelled to Crime: The Gender Entrapment of Battered Black Women* (New York: Routledge, 1996).

⁶⁸ Interviews with Joan Porter, Lifers, Philadelphia, 1999 and 2000.

⁶⁹ Interview with Sujata Warriar, Director, Health Care Bureau, New York State Office for the Prevention of Domestic Violence, New York City, 2000.

⁷⁰ Interview with Lori Humphreys, managing attorney for domestic violence, Ayuda, Washington, DC, 2000.

⁷¹ VAWA was reauthorized in October 2000.

⁷² Interview with Beckie Masaki, director, Asian Women’s Shelter, San Francisco, 2000.

The gulf between these two types of organizations has resulted in some lost opportunities as well. Recently, an African American police officer in San Francisco with a record of brutality in other situations was also found to be a batterer. When the officer was fired, elements of the African American community came to his defense and the Police Commissioner ultimately reinstated him. An effective alliance between domestic violence and anti-police brutality groups could have created an occasion to raise crucial issues about both violence against women and police accountability. In the absence of such an alliance, the issues went unexplored.

Joan Porter cites instances in which domestic violence agencies in Bucks County, Pennsylvania have provided counseling services to women prisoners who are survivors of battering.⁷³ She argues, however, that such efforts are limited by their failure to address issues of safety and self-determination outside the prison or the criminal justice system in a way that breaks the cycle of abuse and criminalization. A new program, the Intensive Case Management Project for Female Offenders in Bucks County, makes a link between substance addiction and the criminal justice system, attempting to break the cycle that leads to repeat incarceration by working with women both while they are in prison and after their release. Each woman sets up her own plan and her own goals and determines her own progress.⁷⁴ Such rehabilitative programming, however, has become increasingly rare.

In summary, the safety and self-determination of women of color and poor women cannot be secured in isolation from the safety and self-determination of their communities as a whole. In the long run, by turning exclusively to law enforcement for protection, without sufficient community organizing and alliance building, the mainstream movement against violence against women has instead compromised the safety of women of color and their communities. Women of color understand intimately that they cannot demand protection from law enforcement on the one hand and organize around police brutality on the other hand, as if dealing with two separate entities: only an integrated approach can be effective.

A Gender Perspective on Law Enforcement

The preceding discussion has outlined how women's organizing for reproductive rights and against domestic violence must take into account the increasingly repressive character of law enforcement. By the same token, enforcement accountability movements need to develop a deeper understanding of women's experience.

Although women most definitely face particular gender-related issues in their encounters with law enforcement, by no means can one say that enforcement is fair for men. Our purpose is not to show that women suffer more than men (although significant numbers may) or that more women suffer than men. The point is rather to counter the invisibility of women.

Discussions of law enforcement generally center on male images. If, however, we look at enforcement as a community issue, then the experience of women comes into sharper focus. This in turn requires an understanding that encounters with law enforcement do not always leave behind a paper trail, are not always limited to one main victim, and continue well beyond an initial incident.

Common wisdom holds that women have less contact with law enforcement than men. This, however, is a limiting and ultimately distorted view. What remains untold or unrecorded is how deeply women's lives are affected by such encounters or how extensively women become involved in defending or accompanying men — as their wives, girlfriends, sisters, mothers, and caregivers in general. For example, police watch groups receive large numbers of calls from women, many of whom are calling on behalf of a son or grandson. Most men in prison depend primarily on women outside to take care of their survival and legal needs inside and outside the prison.

Women also experience direct encounters with law enforcement, on the street and in their

⁷³ Interview with Joan Porter, Lifers, Philadelphia, 1999.

⁷⁴ Interview with Marge Hanna, Intensive Case Management Project for Female Offenders in Bucks County, Warminster, PA, 2000.

homes. Again, common wisdom holds that law-enforcement agents operate mainly on the street. In reality, police and INS agents frequently enter private dwellings, deeply affecting women's home lives. Even in the case of workplace raids, our understanding must be extended beyond the image of male workers being hauled away by the INS — again, an image that obscures the increasingly large numbers of women affected by such operations.

Another way our understanding is distorted is by focusing on the immediate victim of an encounter with law enforcement, echoing the structure of the U.S. legal system. Any such incident, however, is better understood as an experience that involves more than one person — and as a moment in a string of other episodes that precede and follow it. For example, in the case of a police operation, the immediate victim (say, a man) may be in a location (say, the home) where other people

(especially women) can be picked up along with him and subjected to similar violence from authorities. Often, the woman is released more quickly and her experience may not leave behind a paper trail, thus erasing it from the official record. After her release, she characteristically faces a daunting burden of responsibility with regard to both the fate of the immediate victim as well as those who are indirectly affected, who may include children and other family members.

Until we make visible these erasures and acknowledge these extensions of women's responsibilities, all of which are part of the impact of law enforcement, we will continue to see law enforcement as mainly a male issue, imposing, as we have argued, serious limitations on the effectiveness and consistency of our strategies. Examining women's experience of enforcement violence is the task that we take up in the next section of this document.

————— *Part II* —————

Enforcement Violence Against Women

Denial of Reproductive and Sexual Autonomy

Reproductive Rights

Enforcement violence affects women's reproductive choices in two main ways: through direct intervention in the outcome of a pregnancy, often justified through appeals to the "welfare of the fetus," or through active endangerment or neglect of a pregnant woman, causing adverse results, including termination of her pregnancy. In either case, state intervention results in women losing control over their pregnancies, for whose outcome they may nonetheless be held legally responsible.

Policing — In the name of "fetal protection," women who have tested positively for drugs have been arrested for deciding to carry their pregnancy to full term, without any evidence of harm to the fetus. Such operations have focused almost entirely on women of color. In *Killing the Black Body*, Dorothy Roberts describes such arrests as scenes

"in some totalitarian regime, not the sanctity of a maternity ward. Police arrested some patients within days or even hours of giving birth and hauled them off to jail in handcuff and leg shackles. The handcuffs were attached to a three-inch wide leather belt that was wrapped around their stomachs. Some women were still bleeding from the delivery."⁷⁵

Pregnant women who test positive on even a single occasion may be charged with child abuse or

even murder. In one such case, cited by Lynn Paltrow, "[p]rosecutors argued that arrest was ... justified because evidence of a woman's drug use during pregnancy is predictive of an inability to parent effectively." Paltrow points out that "fathers identified as drug users are not automatically presumed to be incapable of parenting."⁷⁶ Dorothy Roberts also cites evidence that pregnant defendants in such cases may "receive harsher sentences than drug-addicted men or women who are not pregnant."⁷⁷ Ironically, such women may be sentenced to prisons where fully a third of pregnant women are known to miscarry.⁷⁸

By contrast, such ostensible concern for protection of the fetus is nowhere in evidence in INS raids or police stops, during which authorities frequently disregard the consequences of their actions for the outcome of a pregnancy. Under such conditions, a pregnant woman may deliver prematurely, go into early contractions, or lose her fetus. Even if the pregnancy is not compromised, women face enormous physical and mental trauma.

The combination of advanced pregnancy and coercive interrogation may provoke a life-threatening

⁷⁵ Roberts, *Killing the Black Body*, *op. cit.*, p. 166.

⁷⁶ Lynn M. Paltrow, "Prosecution and Prejudice: Judging Drug-Using Pregnant Women," in Julia E. Hanigsberg and Sara Ruddick, eds., *Mother Troubles: Rethinking Contemporary Maternal Dilemmas* (Boston: Beacon Press, 1999), p. 71.

⁷⁷ Roberts, *op. cit.*, p. 180

⁷⁸ "The Violation of Incarcerated Women's Reproductive Rights," information packet, National Women's Health Network, Washington, DC, n.d.

ing condition. One such incident resulted in the death of a woman who was crossing the Mexico-U.S. border when she was eight-and-a-half months pregnant:

While being interrogated, [she] showed signs of physical and emotional distress... difficulty in breathing, spitting up, loss of vision, incoherence, profuse sweating. ... She began to lapse into brief periods of unconsciousness. ... Despite her critical condition, the officers did not administer rudimentary first aid, nor did they check her eyes, breathing, or pulse. ... [She started] exhibiting symptoms of cardiac arrest.⁷⁹

The doctor who eventually attended her later testified that she had suffered a fatal heart attack that was most likely “caused by the coercive interrogation.” In ruling on a federal civil suit filed by her husband,⁸⁰ the court found that the INS agents’ negligence had not caused the woman’s death, and no damages were merited – a decision that was upheld on appeal. With redress denied by U.S. courts, the case was forwarded to the Inter-American Commission on Human Rights of the Organization of American States.

For undocumented immigrants in the Mexico-U.S. border region, the increasingly dense presence of the Border Patrol also functions as a deterrent to seeking health care. Local service providers who previously would help transport women to health clinics now hesitate to do so because of the increased number of checkpoints the women would have to pass through.⁸¹

The U.S. Customs Service has also received increasing media attention for aggressive searches of women of color, especially African Americans and Latinas, at various U.S. ports of entry. Women have been held incommunicado for hours, forced to undergo intrusive “body cavity” searches to determine whether they were carrying drugs, and forced to drink laxatives to induce bowel movements. Some have delivered prematurely due to the stress they endured. One well-publicized case involved an African American professional from the Upper East Side of Manhattan. In this instance, even economic privilege did not shield an affluent woman of color from the kind of treatment routinely handed out to poor migrant

women crossing the Mexico-U.S. border.⁸²

Documenting and publicizing such abuses is often the first crucial step. Legal challenges to such practices have also been mounted by advocates of immigrants’ rights, reproductive rights, and, in the case of the Customs Service, the American Civil Liberties Union.

Jailing — When women are incarcerated, whether by immigration authorities or the criminal justice system, these state institutions frequently disregard their legal and ethical responsibility for providing basic health services. As a result, women’s safety during pregnancy is often endangered or neglected, as are other women’s health needs.

According to Amnesty International, “[m]any women enter jail and prison pregnant. In 1997-98, more than 2,200 pregnant women were imprisoned and more than 1,300 babies were born in prisons.... In at least 40 states, babies are taken from their imprisoned mothers almost immediately after birth or at the time the mother is discharged from hospital.”⁸³

In INS detention centers, women face inadequate and uncaring medical services and disrespectful prison officials. The problem is compounded by language barriers and the fact that detention center personnel face no sanctions for

⁷⁹ Petition to the Inter-American Commission on Human Rights of the Organization of American States, submitted by AFSC, four other U.S. and Mexican organizations, and seven individuals, 12 Aug. 1992, pp. 12-13. Although more than a decade old, many of the incidents cited in this document still ring true.

⁸⁰ *Contreras, et al. v. Obed Gonzales, et al.* No. B-78-150 (Southern District of Texas).

⁸¹ Interview with Terry McGovern, Open Society Fellow and founding director of HIV Law Project, New York, 2000.

⁸² In May 2000, the ACLU and the woman involved sued the Customs Service in U.S. District Court, charging that the agency’s response to her initial complaint was inadequate (see “ACLU Sues U.S. Customs Service Over Degrading Search in Case of ‘Flying While Black’,” American Civil Liberties Union, New York, 12 May 2000).

⁸³ “Not Part of My Sentence: Violations of the Human Rights of Women in Custody,” AMR 51/01/99, Amnesty International–USA, New York, Mar. 1999

neglecting the needs of detainees.⁸⁴ The lack of female medical staff also creates a deterrent to use of already limited services. Under such conditions, pregnancy and even routine physiological events like menstruation can wreak havoc in a woman detainee's life. One Haitian detainee described her experience with a miscarriage in these words:

All the clothing I had on me was soaked in blood, the sheet where I was laying was filled with blood ... [they] put chains on my feet and chains on my hands. ... I was very, very ill and I started not to see well, my stomach when I was walking felt like it was opening. ... Everywhere I went in the hospital I'm in chains, in the surgery room chains are on my feet.⁸⁵

In both detention facilities and prisons, incarcerated women have described the extreme humiliation of having to beg for sanitary pads. A prison activist at the Ohio Reformatory for Women (ORW) writes that:

Women ... bleed all over everything because of no proper sanitary protection for disposal and no tampons are issued, bloody unwrapped sanitarines are in every dorm john, every trash can, and blood on every faucet handle ... and everywhere imaginable. This excludes the humiliation factors. We have male staff in housing units.⁸⁶

Those who successfully carry a pregnancy to term may give birth shackled to a hospital bed and surrounded by armed guards. At California's Valley State Prison for Women, prisoners are transferred to the Madera County Hospital, where

prisoner-patients ... are held in a specially designated secure ward. Despite the presence of four armed guards in the ward, each inmate was chained to the bed by her ankle. ... It is hard to see how seriously ill women, or women about to give birth (or who have just given birth) would present a security risk requiring mechanical restraint, especially in a locked ward closely supervised by armed guards.⁸⁷

In one case documented in Cook County, Illinois, a woman prisoner was shackled to a hospital bed during her twelve hours of labor, since the attending physician could not find an officer to release

her. She was finally unshackled only moments before her baby was born.⁸⁸

The inadequacy of care for pregnant women reflects the overall lack of services for women prisoners' basic health needs. The prisoner activist at ORW cited above writes that:

The entire "central services" (i.e. commissary, big laundry, dental, medical, mental health, rec, CFS, food warehouse, etc.) was designed for 500 inmates. We now have 2000 ... The plan is really to up our population to 4000 without improving any central service.⁸⁹

The same prisoner reports that mammograms, pap smears, or any other health services particular to women are rare or entirely absent. About dentists, she writes,

It takes months to get an extraction, which is all they do. ... I have teeth slated for REPAIR since 1995! No amount of grieving does a damn bit of good. ... It took over one week, personal begging ... to get some ibuprofen!⁹⁰

While health services and other conditions for male prisoners also fail to meet minimal standards, women's needs are consistently accorded an even lower priority. At ORW, prisoner activists report that women prisoners suffer greatly from the lack of fans in intense summer heat. While a facility for male prisoners provides electric fans,

⁸⁴ Pearn, *op. cit.*

⁸⁵ "Liberty Denied: Women Seeking Asylum Imprisoned in the United States," Women's Commission for Refugee Women and Children, New York, April 1997, pp. 18-19.

⁸⁶ Letter to Diane Malloy from prisoner activist, Ohio Reformatory for Women, Marysville, OH, 1999. Malloy is ombudsman for the Ohio chapter of CURE, a national organization of prisoners' friends and family members.

⁸⁷ "Findings of a Visit to Valley State Prison for Women, California," AMR 51/53/99, Amnesty International-USA, New York, April 1999.

⁸⁸ *Ibid.*

⁸⁹ Letter to Diane Malloy from prisoner activist at Ohio Reformatory for Women, Marysville, OH, 1999.

⁹⁰ *Ibid.*

women are allowed to use only ineffective battery-operated fans, for which they have to buy the batteries themselves. When the women complained, prison authorities replied that the wiring was too old in the women's building.⁹¹

The prisoners' rights movement has a rich history of fighting for the basic human rights of prisoners, including those of women prisoners. The struggle for adequate medical care inside prisons has been a lengthy one, often spearheaded by women prisoners themselves. Resistance to INS detention is newer, since the dramatic nationwide growth of the detention system is relatively recent. Local grassroots organizations, national watch groups like Detention Watch Network, and the Women's Commission for Refugee Women and Children are among the groups in the forefront of this struggle, documenting abuses and raising awareness around the issues. As in every instance we have explored, however, the links among different enforcement accountability movements remain weak or absent, as do links with women's reproductive rights organizations.

Effective strategies for protecting women's reproductive freedom need to be based in a thorough appreciation of the varying mechanisms of restriction, criminalization, and devaluation faced by women — whether they are imposed through legal restrictions on access and funding for abortions, involuntary sterilization, coercive drug tests and coercive uses of contraception, criminalization of immigrant women, or abuse of pregnant women in prison.

Women's Bodily Integrity

Struggles against sexual assault have long been central to the violence against women movement. The focus, however, has mainly been on rape and assault in intimate relationships. Although the use of rape as a deliberate weapon of war has been widely denounced in an international context, the women's movement has seldom organized around rape and other forms of sexual assault committed by law-enforcement authorities within the borders of the United States. Prison activists and, more recently, immigrants' rights advocates have raised such issues, but by and large their efforts have not

had organized links with the women's anti-violence movement.

When rapes committed by law-enforcement agents become public knowledge, they are generally portrayed as the individual act of a "bad apple," who may be disciplined or even terminated. Women's testimonies about their experiences — as prisoners or detainees, as border crossers, and in encounters with police or the INS — paint a far different picture of widespread violations of women's bodily integrity, whose existence goes unacknowledged and whose victims face formidable obstacles in seeking legal redress.

From this standpoint, rape and other forms of sexual assault committed by law-enforcement authorities are better understood as a systemic and deliberate, if unofficial, enforcement practice, whose perpetrators are rarely held accountable for their actions. Women prisoners in particular have spoken of how rape is used as an explicit tool of punishment and retaliation by prison guards.⁹² Such assaults serve as an indisputable reminder to women of the vulnerability of their bodies — as well as of the impunity of male law-enforcement authorities.

Bodily searches, by police, prison guards, or INS agents, also serve as a frequent occasion for sexual assault and harassment. Although such searches are supposedly justified for security reasons, their excessive frequency, intrusiveness, and lack of a functional purpose lend credence to the belief of many prisoners and arrestees that the goal is one of control and terror, rather than safety.

Finally, women's ability to express their sexuality in positive ways, including through lesbian relationships, is systematically denied in the coercive prison environment.

⁹¹ Interview with Jana Schroeder, Criminal Justice Program, American Friends Service Committee, Dayton, OH, and statements from prisoners at Ohio Reformatory for Women, Marysville, OH.

⁹² It should be noted that rape is also used as a routine, if unofficial, tool for control of male prisoners by prison authorities, although the reality of male rape is less often acknowledged.

Policing — The case of a group of tenants in Redwood City, California, who complained to their landlord about deplorable living conditions, became a watershed issue for community organizing locally. The landlord called the INS in retaliation; the INS in turn called local police for assistance and together they raided the apartment building. With both female and male tenants detained in one apartment, the INS agents demanded that some of the women expose their breasts to the agents and the other detainees.⁹³

This incident is a clear example of the gendered nature of enforcement violence. It reminds women of their vulnerability to law enforcement, even inside their homes. From the conventional perspective of the men in the community, it reinforces the power of (male) enforcement officers to humiliate male members of the community by dramatizing their inability to protect their female neighbors and family members from abuse by authorities. The sexualizing of this incident is a demonstration of the power of law-enforcement authorities to do anything they please, usually without being held accountable.

The raid described here resulted in arrests, deportation, and further human rights abuses for those involved. Ultimately, community outrage over this incident led to a victory for enforcement accountability advocates. INS Watch, a collaborative project of the San Francisco-based Ella Baker Center for Human Rights and La Raza Centro Legal, “worked with the tenants to successfully pressure the Redwood City Police Department to establish a ‘no collaboration’ policy between local police and the INS.”⁹⁴

The isolation and seclusion of the Mexico-U.S. border region makes it especially dangerous for women. AFSC’s Immigration Law Enforcement Monitoring Project (ILEMP) reported receipt of 346 abuse reports from 92 women between January 1993 and August 1995. The abuses documented included illegal detention, inappropriate or abusive interrogation, and sexual assault.⁹⁵

Once a woman has been stopped by authorities, agents have access to her address, leaving her in danger of being stalked and harassed, especially if she is a local resident. In one notable case, a Mexican woman filed a complaint charging Border

Patrol agent Luis Santiago Esteves with making sexually explicit, harassing phone calls for days after stopping her and her boyfriend at a border checkpoint. The Border Patrol took no disciplinary action against Esteves, simply transferring him to another inspection station. Later that year he was charged with kidnapping and raping another Mexican woman.

Esteves was suspended after this incident, but was reinstated without further disciplinary action when the complaining witness failed to appear in court. When another immigrant accused him of rape two years later, he was arrested and convicted in both cases; his conviction, however, was reversed on appeal. This case illustrates the many difficulties faced by border crossers and border communities in obtaining legal redress, a major reason why human rights advocates at the border believe abuses are seriously underreported.⁹⁶

It is not uncommon for the INS to hide records of agents’ past misconduct, such as rape or harassment, which then may affect the successful prosecution of rape cases. In a particularly well-known case, a Border Patrol agent, Larry Selders, raped several women over a period of time. When one victim finally sued for damages, it took over three years of legal battle to uncover Selders’ previous record. In this case, a sustained effort by ILEMP and its local community partners ultimately ensured his exposure, and the Border Patrol was ordered to pay the plaintiff damages of more than three-quarters of a million dollars.⁹⁷ More

⁹³ Interview with Renee Saucedo, coordinator, INS Watch, a joint project of La Raza Centro Legal and Ella Baker Center for Human Rights, San Francisco, 2000.

⁹⁴ *Ibid.*

⁹⁵ “U.S. Strategies for Eliminating Sexual Violence Against Women,” in Proceedings, “National and International Strategies for the Elimination of Sexual Violence,” 5th Annual Symposium, University of Texas School of Law, Austin; published in *Texas Journal of Women and the Law*, Vol. 6, No. 2, Spring 1997.

⁹⁶ “Global Report on Women’s Human Rights,” 01009946, Part 21, Sexual Assault by U.S. Border Patrol Agents, Human Rights Watch, New York, 1995, pp. 183-191.

⁹⁷ “Arizona Rape Case Challenges Negligence of INS Supervision of Border Patrol Agent,” U.S. Newswire (Washington, DC), 13 Aug. 1999.

often, however, the resources for such persistence are not available.

Similar cases have often been reported in U.S.-born communities of color. A woman who rejects a police officer's sexual advances may find herself facing trumped-up charges:

In Newark, New Jersey, a woman was waiting for a friend at the train station when a police officer approached and started flirting with her. When she indicated no interest, the officer told her to take a walk. She walked a bit and the officer approached her again. When she asked to be left alone, the officer told her that she was under arrest. She was handcuffed and charged with resisting arrest and creating a public disturbance. She complained that the cuffs were too tight, to which the officer responded with a curse and broke her wrist. She was taken to the precinct, where she overheard the officer telling someone else that she was under arrest because she had turned him down. She was finally released with a court summons, at which point she asked for an ambulance because of her wrist. The police refused.⁹⁸

Interrogations can also serve as an occasion for sexual assault. In Encinitas, California, a border enforcement agent who was questioning a woman “asked if she worked as a prostitute”; then he made her pull her shirt up and touched her, while looking around to make sure no one was around. He made her pull her pants and underwear down and penetrated her with his finger.⁹⁹

Sexually humiliating searches can even take place in full view of the public, as in this incident reported to NYC Police Watch:

I was riding my bike ... when five officers approached me and threw me off ... The officers further proceeded to throw me up against a car and started searching me forcibly for no possible reason ... [the] most degrading experience any civilian can be subjected to ... [One officer] put on rubber gloves and started taking my clothes off in front of the other man officers while [another officer] held me down for the illegal search. Two other officers threw me on the floor on my stomach in the street in front of my building while all my neighbors watched in dismay. The neighbors started to yell, to stop the brutality, and they continued to violate me and

pull my pants down, tearing a big hole in my underwear (I have the underwear as evidence) while the other ... officers held me down during the humiliating physical search.¹⁰⁰

Threats of sexual assault can serve to deter women from challenging law-enforcement officers or filing complaints. Mary Powers, coordinator of the National Coalition on Police Accountability, recounts the case of one young woman who wanted to file a complaint about police harassment. The officer involved called her at home to say that if she wanted to file a complaint, then he would come to pick it up.¹⁰¹ In another case, a Native American woman was approached by two officers who were seeking to serve her with legal papers. The interaction became hostile; when she asked one of the officers who he was, he answered, “walk over to the car and get in and I will show you who I am.”¹⁰²

Shawna Virago of Community United Against Violence in San Francisco observes that it is common for law-enforcement officers to assume that transsexual women are sex workers. Transsexuals may thus be arrested and searched anywhere — in a store while shopping, for example — and accused of prostitution even when accompanied by their husbands and carrying their marriage licenses.¹⁰³ Groups tracking hate violence against lesbian, gay, bisexual, and transgender (LGBT) people “are particularly concerned with the emerging pattern of police officials targeting transsexual and transgendered people.” The National Coalition of Anti-Violence Programs registered a 20 percent increase over just one year (1997-1998) in reports of law-enforcement personnel perpetrating anti-LGBT violence.¹⁰⁴

⁹⁸ Case report, NYC Police Watch., New York, 30 Mar. 1999 (*paraphrased*).

⁹⁹ Petition to Inter-American Commission on Human Rights, *op. cit.*, p. 27.

¹⁰⁰ Case report, NYC Police Watch, New York, 9 Feb. 1999

¹⁰¹ Interview with Mary Powers, NCOPA, Chicago, 1999.

¹⁰² Case report, Citizens Alert, Chicago, 4 Jun. 1997.

¹⁰³ Interview with Shawna Virago, Community United Against Violence, San Francisco, 1999.

¹⁰⁴ “Anti-Lesbian, Gay, Bisexual and Transgender Violence in 1998,” National Coalition of Anti-Violence Programs, New York, 1999, p. 54.

Stephanie was walking to a night club when she noticed a police car following... When she arrived at the bar, she immediately went to the women's bathroom, ... a police officer barged into the bathroom, grabbed her and arrested her for prostitution. Later at the precinct, in front of a number of officers, he started to strip search her with everyone taunting her. One officer pulled her hair so hard, claiming it was a wig, that her scalp began to bleed. She was thrown into a cell naked and left in the cold night. She had no criminal record but was charged with solicitation.¹⁰⁵

The nature of sexual harassment and assault by law enforcement does not vary a great deal among different agencies or according to whether they are immigration- or criminal justice-related. Most advocates believe that such abuses are seriously underreported and are frequently covered up. Records of such incidents by police accountability organizations are crucial for uncovering the extent of such abuses. In the Mexico-U.S. border region, organizations like ILEMP and its local grassroots partners play a crucial role in documenting and investigating such abuses. Missing, however, are the voices of women's organizations and their presence when the community mobilizes.

If women's anti-violence organizations were to join campaigns around such issues, they could promote a stronger understanding of the gendered nature of law-enforcement violence. Such links could also help women's organizations to develop an approach to anti-violence work that incorporates a critique of the involvement of the state as a direct perpetrator of violence against women. Similarly, although both immigrant and U.S.-born women of color have very similar experiences of state violence, the opportunities for the cross-fertilization of their organizing experiences are very rare.

Jailing— Women in prisons frequently report rape or harassment by guards and medical practitioners. In an environment characterized by isolation, authoritarian control, and an active philosophy of dehumanization, rape, and harassment serve as the ultimate opportunity for guards and others to assert their authority.¹⁰⁶ Needless to say, the predominance of male guards and medical personnel makes women's prisons an especially potent site

for use of rape as a tool for reinforcing male control of women's bodies. In federal prisons, for example, 70 percent of guards are men.¹⁰⁷

Medical care may often serve as an occasion for sexual harassment or rape, for example when doctors subject women prisoners to unnecessary gynecological exams. Involuntary and unnecessary pelvic exams, pap smears, and similar tests became an issue in the Valley State Prison for Women in Chowchilla, which came to light in a particularly embarrassing fashion for the prison officials.

Knowing that Ted Koppel was going to interview the head medical officer of VSPW on *Nightline*, Legal Services for Prisoners with Children, a prisoners' rights organization in California, informed Koppel about VSPW inmates' complaints that they were subjected to unnecessary pelvic exams when seeking treatments for headaches.¹⁰⁸ When Koppel asked the prison's 71-year-old medical director a question related to this, he replied, "I've heard inmates tell me that they would deliberately like to be examined. It's the only male contact they get."¹⁰⁹

On the other hand, since sexual contact is officially forbidden in prisons, it is difficult for prisoners to obtain accurate information on HIV and other sexually transmitted diseases, and educational materials on such topics may even be banned.¹¹⁰

Amnesty International describes "male guards touching prisoners' breasts and genitals during

¹⁰⁵ *Ibid.*, p. 64 (*paraphrased*).

¹⁰⁶ Numerous such cases are documented in "All Too Familiar: Sexual Abuse of Women in U.S. State Prisons," Human Rights Watch, New York, Dec. 1996, and a follow-up report, "Nowhere to Hide: Retaliation Against Women in Michigan State Prisons," Human Rights Watch, New York, Jul. 1998.

¹⁰⁷ Gary Delsohn, "Prison Doctor Loses Post over TV Comment," *Sacramento Bee*, 15 Oct. 1999.

¹⁰⁸ Interview with Donna Wilmott, Legal Services for Prisoners with Children, San Francisco, 1999.

¹⁰⁹ As quoted in Delsohn, *op. cit.*

¹¹⁰ Interview with Jana Schroeder, Criminal Justice Program, American Friends Service Committee, Dayton, OH, 1999.

daily pat-down and strip searches, watching women as they shower and dress and, in some cases, selling women to male inmates for sex.”¹¹¹

A strip search conducted by or in front of men is a frightening experience for any woman; it is all the more so for immigrant women who may come from a culture in which no man has ever seen them naked except their husbands. Additional constraints, such as lack of knowledge of English or of what recourse is available to prisoners, can render the situation even more traumatic. In a report on women asylum seekers incarcerated in an INS detention facility in rural York County, Pennsylvania, the Women’s Commission for Refugee Women and Children describes what happened when a Ugandan woman fleeing extreme violence in her country broke down emotionally:

The prison deemed [her] breakdown a suicide attempt and sent in a “Quick Response Team.” The team consisted of four men, three of whom were wearing riot gear. They also brought dogs... The men, without the presence of a female guard, stripped [her]. She begged them not to remove her bra and panties... they placed her naked and spread-eagled in four-point restraints on a cot.”¹¹²

Most women prisoners and detainees are survivors of physical and sexual violence. Prisons and detention centers are seldom equipped to support women in recovering from such trauma, and in fact are far more likely to aggravate it with additional sexual violence. According to one analysis of Department of Justice statistics, “48 percent of women in U.S. jails reported being sexually or physically abused prior to their detention; 27 percent reported being raped. Given the general underreporting by women in the area of sexual assault, the actual percentages are likely to be much higher.”¹¹³ The INS incarcerates many women asylum seekers who are fleeing gender-based violence in their home countries; such women may be detained for years without outside contact. Both detainees and prisoners receive little support in facing nightmares, depression, suicidal impulses, and other symptoms resulting from severe trauma.

Sexist and patriarchal notions about women affect the way guards respond to women’s com-

plaints and infractions of disciplinary rules. Cassandra Shaylor comments that women at Valley State Prison for Women who speak up and fight back are more likely to end up in isolation in the prison’s Security Housing Unit (SHU). For example, if a woman is raped by a guard and becomes pregnant but refuses an abortion, she can be sent to SHU. In essence, Shaylor argues, women prisoners become property of the state.¹¹⁴ At the Women’s Correctional Center in Montana, according to Luana Ross, both gender and race are treated as forms of deviance warranting additional punishment. Notes Ross, “Native women are disproportionately represented in maximum security: out of eleven women, six are Native. This ... relates directly to Native prisoners’ relationships with white guards.”¹¹⁵

Homophobic practices are also intensified in the prison environment. Lesbian relationships are interpreted in an exclusive context of violence and victimization, with no recognition of consensual relationships. Some women may be lesbians independently of their incarceration; for others, a lesbian relationship may serve as an adaptation to the prison environment. In either case, homophobic, voyeuristic, and oppressive labeling of lesbian relationships can make intimate relationships difficult or impossible to maintain, even though they may be fundamental to prisoners’ sanity. Any expression of affection, whether sexual or not, may be penalized. Lesbian couples that are identified as

¹¹¹ Barbara Vobejda, “Abuse of Female Prisoners in U.S. Is Routine, Rights Report Says,” *Washington Post*, 4 Mar. 1999, p. A-11.

¹¹² “Forgotten Prisoners: A Follow-up Report on Refugee Women Incarcerated in York County, Pennsylvania,” Women’s Commission for Refugee Women and Children, New York, Jul. 1998, p. 7.

¹¹³ “Women in California Prisons,” information packet, Women’s Institute for Leadership Development for Human Rights and Legal Services for Prisoners with Children, San Francisco, May 1998.

¹¹⁴ Interview with Cassandra Shaylor, Legal Services for Prisoners with Children, San Francisco, 1999.

¹¹⁵ Luana Ross, *op. cit.*, p. 142.

such may be separated and beaten. Women who are seen as butches may be viewed as always trying to make sexual advances to other prisoners, even though male guards may pose a far greater threat. Books and publications about lesbianism, or a lesbian prison visitor, may be thrown out.¹¹⁶

Jackie Walker, AIDS Information Coordinator of the ACLU National Prison Project, comments that lesbian partners of prisoners may be harassed during visitation. Individual wardens may impose arbitrary policies prohibiting women from touching one another or even doing one another's hair.¹¹⁷ Luana Ross argues that homophobic fantasies, fueled by media stereotypes, "see the imprisoned women as the 'hardened bull-dyke' lurking in the halls, waiting to rape her next victim. Gay women can also be seen as 'unfit mothers' and denied visits with their children, punished excessively, and put in maximum security."¹¹⁸

Violence in the Home and Family

The supposedly private space of the home and family is another significant site of enforcement violence against women. The discussion below explores two key concepts: intrusions by law enforcement into the home; and the impact of enforcement violence on women's roles as mothers, and, more generally, caregivers. Both home and family have been pivotal concepts in the development of women's organizing; the present discussion challenges us to rethink our understanding of these social arenas.

Home: When the State Intrudes

As noted in the previous section, the mainstream women's anti-violence movement has sought to protect women from battering by advocating for a more active response from police agencies. The underlying assumption of this strategy is that government intervention is the best way to protect women from intimate violence in their private homes. As we have argued, however, communities of color, both immigrant and U.S.-born, also face a significant threat of violence in the home from state authorities. The supposed privacy and sanctity of the home is a very relative concept, whose application — like that of Fourth

Amendment guarantees against unreasonable search and seizure — are heavily conditioned by racial and economic status.

Police trainings promoted and administered by domestic violence agencies have brought about undeniable improvements in the way police respond to domestic violence calls. In some ways, however, this strategy of reform has backfired. Women who turn to police for protection from battering may still face humiliation or abuse from officers, implicit and sometimes overt encouragement of the batterer, and wrongful arrest of women as the primary aggressor. Such problems may be compounded through deportation of the batterer against the woman's wishes or disproportionate arrests of men of color.

Women — primarily but not exclusively women of color — must also face the intrusion of law enforcement into their homes in the pursuit of drug or immigration raids, often on the flimsiest of legal grounds. Since home is a space where women are often found, either as homemakers or as primary caretakers (in addition to any role they may play as breadwinners), enforcement violence in the home affects women's lives in a central way.

Numerous cases have been documented in which law-enforcement authorities have illegally entered private homes, often when it should have been clear that the person they were seeking did not even live there. Women often face the brunt of such raids, either directly or when they come under suspicion of being accomplices or possessing information about the primary suspect. Such raids can lead, at the minimum, to the destruction of property, violence, and illegal arrests, as well as to more drastic consequences such as the temporary or permanent separation of mothers from children, deportation, and the break-up of families. Factors

¹¹⁶ Information provided by Jana Schroeder, Criminal Justice Program, American Friends Service Committee, Dayton, OH, based on presentations at the October 1998 Critical Resistance conference in San Francisco.

¹¹⁷ Interview with Jackie Walker, AIDS Information Coordinator, ACLU National Prison Project, Washington, DC, 2000.

¹¹⁸ Luana Ross, *op. cit.*

that can render home intrusions particularly traumatic for women include the presence of children, pregnancy, state of undress, and the sense of responsibility for the home and everything in it that women carry as primary caregivers.

House raids by immigration authorities are a frequent occurrence in the Mexico-U.S. border region. Amnesty International has documented cases of homes being invaded and searched without notice and family members being deported if they were unable to produce appropriate identification.¹¹⁹

Tucson attorney Jesus Romo represented a family subjected to such a raid in Nogales, Arizona. Their complaint against the Border Patrol notes that the woman of the house and her child are U.S. citizens; her husband is a permanent resident. One evening in 1997, Border Patrol agents “pounded” at their home; when the husband answered the door,

one of the agents threw the sliding door open and burst in ... Once inside, the agents asked [the man] for his papers and then proceeded to confront the frightened child and mother, screaming for “papers.” The agents proceeded to search the house without ever asking for permission from anyone in the house. They ... stayed in the household for approximately thirty minutes, causing panic and terror to the occupants. ... They never asked for permission, and during their entire stay ... they acted as if the Plaintiffs were under arrest and the agents had the absolute right to go through the Plaintiffs’ personal property and rooms without permission.¹²⁰

As a result of the trauma of this incident, the woman of the house, who was two months pregnant, miscarried within forty-eight hours.

Donna Wilmott of Legal Services for Prisoners with Children cites the case of Danny, a Colombian woman who was serving a twenty-year sentence at the Federal Correctional Institution in Dublin, California. In an interview with Wilmott, Danny commented that:

When I was arrested my house was raided illegally; they had no warrant for my arrest. I was given a public defender who was an immigration lawyer and had no real experience in criminal law. ... She never even investigated the illegal circumstances of my arrest. ... My first disillusion

with American justice was when my lawyer told me to cooperate or they would give me 20 years.¹²¹

During a house raid by INS, whether or not women are directly targeted, they often feel a sense of responsibility for the home and everyone in it, which may provoke great tension and anxiety. In communities threatened by INS raids, it is often women who come together to strategize about how to avoid house raids, as an extension of their responsibility for caring for the home. Case files from the Washington Alliance for Immigrant and Refugee Justice quote one woman as saying that if the INS is around, she turns the lights and television off so that the house appears empty.

Home invasions by police are similar to those by immigration agents, with frequent reports of the destruction of property or forced entry. According to one case report,

In New York, a fifty-year-old African American woman was lying in her room and her daughter and dog were in the living room. The daughter heard a drilling noise and went to the door to check it. Just then the cops burst in. ... The daughter ran out of the room scared — they shot after her and the bullet went into the wall. She ran to her mother’s door. The cops grabbed and pulled her back and broke down the bedroom door. Five officers ran in cursing, wearing riot gear with their faces hidden. They told the woman “to shut the fuck up.” They picked up the bed and said, “there is nothing there.” They claimed they had reports of heavy drug activity but the women told them they had the wrong house. They made the mother and daughter stand in the hallway in full view of the neighbors while they searched the house. They took them to the precinct, kept them locked up for several hours, and gave them a summons for half a joint and a \$3 bag of marijuana they said they had found.¹²²

¹¹⁹ “Human Rights Concerns in the Border Region with Mexico,” Report AMR 51/03/98, Amnesty International-USA, New York, May 1998.

¹²⁰ Complaint filed in U.S. District Court, Tucson, Arizona, 1997.

¹²¹ Cited in Donna Wilmott, “The War on Immigrants – Behind the Walls,” unpublished presentation, Women’s Studies Forum, San Francisco State University, Oct. 1998.

¹²² Case Report, NYC Police Watch, New York, 1 Feb. 1999 (*paraphrased*).

Women may be suspected of withholding information if they are related to a man police are looking for. In other cases, homes have been broken into in by police searching for people who did not even live there.

In San Francisco, a police car pulled up at the home of a thirty-four-year-old African American woman. The police burst into her house pulling out guns. They went up the stairs without any permission, scaring her young son, yelling and cursing. They were apparently looking for a man who did not live there. They had no search warrant and informed the woman that they did not need one as they could do whatever they wanted.¹²³

Case reports from police accountability groups paint a picture of police behavior that includes physical violence, shows of weapons, use of helicopters, wanton destruction of property, and false arrests. The scale of such actions is entirely disproportionate to any legitimate law-enforcement objective. One sixty-year-old Afro-Caribbean woman in New York City, whose house was searched for no reason when she and an older relative were home, commented that police were in “full gear as if prepared for war.”¹²⁴

The aggressiveness displayed in drug and immigration raids is very much at odds with the behavior of law enforcement when called upon to defend the rights of those who are vulnerable and oppressed. A personal experience of the author is illustrative:

In 1999, I received information about a live-in domestic worker, a recent South Asian immigrant working in the home of a wealthy suburban professional couple. She was working around the clock for almost no wages and was forbidden to communicate with the outside world. She was desperate and wanted to escape but did not know how. As immigrants’ rights advocates, my then-coworker and I knew that if we simply showed up at the home where the woman was being held, we would be lied to or accused of trespassing. We contacted the police discreetly since she was undocumented. They said they could not help us communicate with her employers and that if we approached them, we would be charged with trespassing. In this case, the privacy of these

wealthy employers’ home was held to be inviolate, while the plight of an immigrant worker being held in a condition of involuntary servitude was not serious enough to merit police action.¹²⁵

The type of home intrusions described here have resulted in numerous community-based campaigns and legal challenges, from legal activists, immigrants’ rights organizations, and a variety of watchdog groups. In particular, house raids by immigration authorities have been a major focus for organizations seeking to stop INS raids. As in other instances we have cited, however, there has been little involvement by women’s organizations in such initiatives, while efforts by enforcement accountability groups have reflected little understanding of women’s experience of violence, particularly the ways in which women may be caught in an unbearable double bind when they face violence from both batterers and law enforcement.

Motherhood and Caregiving

The term “motherhood” has traditionally evoked the experiences of economically secure women living in nuclear families — as homemakers, or, increasingly, as affluent professionals. Working-class women and women of color have fought to expand the discussion of motherhood to include women who are impoverished or working poor, single women, and “physically absent” mothers such as live-in domestic workers or migrant workers. Our understanding of motherhood and caregiving has also expanded to reflect the experiences of lesbian families, extended families (which are more common in communities of color), and other “nontraditional” (that is, non-nuclear) families.

Survivors of enforcement violence challenge us to expand these notions once again to include an understanding of how the caregiving role is

¹²³ Case report, Bay Area Police Watch, San Francisco, 30 Aug. 1999 (*paraphrased*).

¹²⁴ Case report, NYC Police Watch, New York, 12 Jan. 1999.

¹²⁵ Personal experience of Anannya Bhattacharjee as representative of Andolan: Organizing South Asian Workers, New York, 1999.

shaped for some women by their encounters with the state. The stories presented in this section illuminate how women may be held responsible for parenting even when they have little control over it. We will see how enforcement violence may cause women to be criminalized as “bad” mothers — or to see their lives violently disrupted as they strive to fulfill the responsibilities of motherhood.

Ultimately, violence and other abuses of human rights by law enforcement reconfigure motherhood as a tool for greater state control of women and their communities. As members of extended families — grandmothers, aunts, sisters, and so on — women must also face violent and protracted disruptions of family life caused by enforcement violence, even when authorities did not “come for them.”

Such experiences have given rise to organizations led by mothers and caregivers who support each other and organize around enforcement violence and its effects on their families. Examples include Parents Against Police Brutality in New York; Mothers for Freedom in Miami, which focuses on INS detention; and the Boycott Crime Coalition in Newark, New Jersey, a grassroots coalition addressing both police brutality and abusive prison conditions. Legal Services for Prisoners with Children, one of the first organizations to work with prisoners and their children, helped start the Grandparent Caregiver Advocacy Project, in recognition of the role of extended families in prisoners’ lives. Locally based grassroots organizations focusing on these issues exist in many parts of the country.

Policing — As women represent an ever-larger proportion of immigrants, increasing numbers of mothers, including single mothers, are affected by INS raids. According to statements compiled by the Washington Alliance for Immigrant and Refugee Justice, a series of INS raids at the Brewster Heights Packing Plant in 1997 and 1998 picked up “lots of women who are single moms with kids in school here in Brewster.”¹²⁶ One mother described a raid in March 1998 in these words:

I hid behind a machine... After they found me the first time, I escaped again and hid in the bathroom. Four agents came in and found me

hiding there. They put me in the van and I gave my name and answered other questions they asked. I have five children and I told the agents that I wanted to be with my children. The agents were trying to convince everyone to sign voluntary departure. They said a bus was coming and they could get on it and be in Mexico faster. I, along with another woman, said I would sign voluntary departure if I could get my children to come with me. The agents told us they would get a bus for all of them and they would go get our children. They said this to scare them into signing, thinking we would not want the INS to go get our children. But I told them that was fine with me — I just wanted to be with my children. I called my children and told them to get ready to go.¹²⁷

In addition to the difficulties faced by most mothers in juggling the responsibilities of job and parenting, immigrant women face the enormous burden of being continually alert to the possibility of having their family life turned upside down in a matter of hours. Both legally documented as well as undocumented women may be detained and even deported in INS raids.

Immigrant mothers must devise contingency plans for their children in case they are taken away, given that once they are detained, there is little opportunity to make alternative child-care arrangements. Women may need to decide whether or not to take their children with them if they are deported. Children also increase women’s vulnerability to coercion by the INS, which may use children as leverage to induce women to sign documents (such as voluntary departure) that they could legally refuse to sign.¹²⁸

¹²⁶ Statements collected by Washington Alliance for Immigrant and Refugee Justice, Brewster, WA, 1997. See also “Civil Rights Under Siege: The Impact of Immigration Raids on Washington State,” WAIRJ and National INS Raids Task Force, National Network for Immigrant and Refugee Rights, Oakland, CA, Oct. 1998.

¹²⁷ Statement by worker at Brewster Heights Packing Plant to WAIRJ, Brewster, WA, 1998.

¹²⁸ “Women at the U.S.-Mexico Border: Violation of Women’s Rights as Human Rights in Border Crossings,” Immigration Law Enforcement Monitoring Project, American Friends Service Committee, Houston, TX, Sept. 1995.

Case reports from watchdog groups bear witness to the extreme shock experienced by women when their efforts to earn a living in order to take care of their families are treated as a criminal activity. While detained, women describe being strip-searched as if they were smugglers. In Miami, a Mother's Day action in 1998 denounced an abusive and violent workplace raid by the INS the previous month, in which legally documented as well as undocumented women were rounded up.¹²⁹

As primary caregivers, women are often accompanied by their children while they are running errands. In border towns, being stopped by law enforcement on such everyday occasions is not uncommon. Mothers have been humiliated by being abused by agents in front of their children and have witnessed their children being violently handled while they are helpless to do anything about it.

Lynn Coyle of the Lawyers Committee for Human Rights Under the Law in El Paso, Texas, filed a complaint on behalf of a husband, wife, and their three children who were illegally detained and incarcerated by Border Patrol near Amarillo, Texas. Even after the rest of the family was released, the mother and her thirteen-year-old daughter were detained and subjected to physical and emotional abuse, including being threatened with rape. Each was manipulated through threats to the other to induce them to cooperate with Border Patrol agents. One agent told the daughter that if she did not convince her mother to sign a document, he would physically harm her mother. Another agent told the mother that he would rape her daughter if she refused to sign. Agents called the mother a "bitch," "daughter of a whore," and "fucking bitch" in front of the daughter. Ultimately, both were released into a freezing night without transportation, money, or warm clothing.¹³⁰

Women who are not directly targeted by INS or Border Patrol agents generally assume responsibility for taking care of the needs of family members who have fallen into the hands of authorities. This expanded caregiving role may include seeking legal representation, bringing necessary papers to a detention center, and the like. In other cases, an entire family may be left without income when a man who is the sole breadwinner is deported,

resulting in possible eviction and other problems. Women's options for managing such situations may be extremely limited, particularly since their immigration status may well be as insecure as their husband's. Returning to their country of origin may expose them and their children to utter destitution, violence, or both.

U.S.-born women of color face similar anxieties in encounters with police. Mothers may be threatened with major disruptions of family life, including losing their children to the foster care system. In California, "there is no law requiring police officers to allow parents to make arrangements for the care of their children at the time of arrest."¹³¹ The examples below are drawn from case reports collected by police watch groups:

[An African American woman] was coming up 112th Street [in Manhattan]. ... She was with her eight-year-old daughter. The cops asked for her license and she gave it to them. She had just purchased new insurance and she didn't have the papers on her. ... Another cop car rode up and at this point there were six cops all huddled in the street talking. ... They asked if anyone was at home in her house, and she said no. They said if no one was home they would have to send her daughter to foster care. Her daughter started crying. [The woman] kept asking why they were stopping her ... and the cop said, "I'm not going to discuss this with you in the street." ... They put her daughter in a police car and then handcuffed her in front of her daughter. They took her to the 28th precinct and booked her and put her in a cell. ... Several times she heard superior officers saying, "this girl should never have been arrested." She was in custody for seventeen hours without food. At 6:00 p.m. the next night she was arraigned and they sent her home with three tickets – headlight missing and insurance papers not on her. The criminal ticket did not have the charge written on it. She went to the court on the

¹²⁹ "Portrait of Injustice," *op. cit.*, p. 21.

¹³⁰ Complaint No. 2-94-CV-344, filed in U.S. District Court, Amarillo, TX, 7 Dec. 1994 (incident of 8 Jan. 1993).

¹³¹ Thorn Ndaizee Meweh and Dorsey Nunn, "Mass Incarceration and Communities of Color," *Political Environments* (newsletter of Committee on Women, Population, and the Environment), No. 7, Fall 1999–Winter 2000.

day it said and she was waiting all day. They eventually told her that the paperwork was lost and the case was dismissed.¹³²

In Stockton [California], a 27-year-old Latina mother was getting her kids ready for school. The police loudly banged on her door, broke it in with guns although she was going to open it, knocked her over bleeding and almost unconscious. Her kids were thrown all over the place. They claimed that they were looking for crack and some man who clearly did not live there.¹³³

As in the immigration cases cited above, it is usually women who deal with the aftermath of an encounter with law enforcement, beginning with finding money for bail. Mothers frequently try to ensure fair treatment for their sons at the hands of the police; in the process it not uncommon for them to be assaulted and detained, as illustrated in the extracts below:

An African American woman went to the police station to straighten out her son's arrest for disorderly conduct. Some officers started "beating her down" in the room she was in and debating whether she should also go to jail. She was released on bond for a battery charge. She had done nothing.¹³⁴

A fifty-three-year-old African American woman was working as security in a building in New York, when someone came and told her that her son was being beaten up. She went to the place where this was happening and approached the police to ask what was going on. The officer asked her who she was and she said she was the mother. The officer told her to "back the fuck off" and pushed her. When he was about to push her again she raised her hands up and the officer ordered her arrest. Her hand was pushed into a school fence and was fractured. She was taken to Central Booking. In the meantime her son was taken to Riker's Island although they did not find what they were looking for on him (a gun).¹³⁵

Harriett Walden of Mothers for Police Accountability in Seattle describes how the group was formed:

"Mothers" got started after an incident happened with one of my sons and the police. My son was coming home from a Black community festival.

Several blocks from our house police began following his car and then they pulled him over. The police said they were looking for drugs and guns, but they never searched the car. They called an eleven-car back-up. In the end, four kids were arrested, two of whom lived with me. They took the kids down to the precinct and roughed them up a bit. I was really quite concerned, not only for my children, but for what was happening in our communities. ... We have made accountability a buzzword. And we've had an impact on the arbitrary use of the felony stop.¹³⁶

A different type of problem is faced by women of color who are arrested or accused of negligence. One well-known case is that of teenage mother Tabitha Walrond, who was unable to obtain adequate medical advice for her newborn due to processing delays and mix-ups by Medicaid and the hospital involved. After the death of her baby boy, she was charged with recklessly causing his death and was convicted of criminally negligent homicide, a verdict that could have drawn a prison sentence of four years. Walrond's case drew a great deal of public attention and she was ultimately sentenced to five years of probation with mandatory counseling.¹³⁷

The stigmatization of women of color as "bad" mothers leads to women internalizing these notions. In California's Central Valley, AFSC's Pan-Valley Institute has brought together recent immigrant women from different ethnic groups to reflect on their experiences. In such gatherings, mothers have expressed great concern about their sons' involvement with gangs and intimidation by

¹³² Case report, NYC Police Watch, New York, 9 Sept. 98

¹³³ Case report, Bay Area Police Watch, San Francisco, 4 Nov. 1999.

¹³⁴ Case report, Citizens Alert, Chicago, 1 Oct. 1997 (*paraphrased*).

¹³⁵ Case report, NYC Police Watch, New York, 19 Jul. 1999 (*paraphrased*).

¹³⁶ Interview with Harriett Walden, Mothers for Police Accountability, Seattle, 1999. See also "Harriett Walden: Crusader for Police Accountability," *People's Weekly World*, 24 Apr. 1999.

¹³⁷ "What Kind of Justice? The Case of Tabitha Walrond," *Sojourner: The Women's Forum*, Nov. 1999, p. 11.

the police. In the absence of an analysis of institutional racism in the surrounding culture, they tend to hold themselves entirely responsible for their sons' "getting into trouble," experiencing depression and increased isolation as a result.¹³⁸

The attitudes and actions of law enforcement and other agencies of the state reflect a familiar contradiction, in which women of color, both immigrant and U.S.-born, are prevented from caring adequately for their children, while they are simultaneously accused of child abuse and neglect. A white suburban housewife who stays home to care for her children is applauded, while a poor woman of color who seeks state support to do the same is stigmatized as lazy. An undocumented mother who crosses the border in order to be able to provide for her children is seen as negligent for exposing her children to the considerable risks involved — even though such risks have been entirely created by shifts in state policies over recent years.

Jailing — "More than two-thirds of all incarcerated women," according to Human Rights Watch, "have at least one child under the age of eighteen, and the majority of these are single mothers."¹³⁹ Motherhood is a compelling force in the lives of many women prisoners, and their children may provide a fundamental motivation for them to rebuild their lives. Women caught up in the criminal justice system, however, are stigmatized far more harshly than men, resulting in profound suspicion by authorities of their ability to be "good" mothers.

The rapid rise in the incarceration of women of color has led to situations in which mothers and daughters from the same family, and even grandmothers, may all be incarcerated. AFSC criminal justice staff have observed that children with an incarcerated parent are especially targeted by law enforcement, thus increasing the likelihood of their criminalization and incarceration.¹⁴⁰ In the process, mothers are held solely accountable for society's inability to provide a healthy environment for their children.

An overriding issue for incarcerated mothers is the lengthy separation they face from their children, coupled with the diminishing hope of

ever getting them back. Both conventional prisons and INS detention are designed in ways that, rather than aiding women to maintain a bond with their children, instead make it as hard as possible. Women sentenced to federal prison are generally shipped out of state, where they may lose touch with their children and families.¹⁴¹ Such services as do exist to support family reunification owe a great deal to sustained pressure by advocates and affected communities.

If a woman with a child is arrested, she often turns to female relatives — her mother, grandmother, aunt, sister, or older daughter — to act as caregivers until she is released. Such relatives are routinely investigated by child welfare authorities, and any past criminal record may lead to the child being placed in foster care. Even in the absence of a criminal record, such investigations may lead to arbitrary conclusions, as in the case cited below of a prisoner who asked her mother to care for her child:

[The social worker] stated a few things that I feel should not disqualify my mother from having my daughter. My mother has trouble reading. Her not being able to give an address for school or her home at a moment's notice does not prove that she cannot take care of my child. I feel that my mother is capable of caring for my children.¹⁴²

Even when a woman is able to obtain a caregiver or guardian, she still faces serious obstacles in maintaining a relationship with her children, who may be her only lifeline. Factors such as intervention by child welfare authorities, the loss of a caregiver, or the caregiver's lack of commitment to keeping the mother in contact

¹³⁸ Interview with Myrna Martinez, Pan Valley Institute, American Friends Service Committee, Fresno, CA, 2000.

¹³⁹ "Nowhere to Hide," *op. cit.*

¹⁴⁰ Interview with Patricia Clark, National Criminal Justice Representative, American Friends Service Committee, Philadelphia, 2000.

¹⁴¹ "Impact on Children of Women in Prison," Fact sheet No. 3, Rights for All Campaign, Amnesty International—USA, New York, n.d. See also "Not Part of My Sentence," *op. cit.*

¹⁴² Letter from prisoner to Legal Services for Prisoners with Children, San Francisco, 10 May 1999.

with her child may lead to permanent loss of custody. The consequences of such a loss may be devastating — for the woman herself, for her child, and for the community at large, which faces the prospect of “lost generations” growing up without parenting.¹⁴³

Once children are placed in foster care, women prisoners face further obstacles in maintaining not only contact but also parental rights. The foster care agency may move the child without telling the mother; if the mother does not know where her child is, she may be accused of neglect and abandonment.¹⁴⁴ In California, the Department of Corrections is not required by law to transport women to foster care hearings, yet judges may regard their absence as evidence of the woman’s lack of interest.¹⁴⁵ One woman’s letter to Legal Services for Prisoners with Children recounts how her attempt to regain custody of her child met a roadblock when she was unable to attend the court hearing:

I filed a notice of motion to get into court so I could get visitation rights... I had planned on letting the judge know of my wish to enter the CPMP [Community Prisoner Mother Program] infant program ... I was asking that full physical custody [be] restored to me... Needless to say the judge refused to submit an oral order of transport for me to be taken to court, so on the day of the hearing the case was dismissed because I didn’t show up.¹⁴⁶

Donna Wilmott of Legal Services for Prisoners with Children underscores the permanent destruction of families caused by the INS detention system. “The vast majority of immigrants are deported after completing their full sentences. ... Even if a woman has lived her entire life in the United States, had children here, and obtained a green card, the chances are high she will be deported. ... The present policy of deporting people regardless of where their real community ties are is inhumane.”¹⁴⁷ Detention Watch describes how one young mother was affected:

Originally from Jamaica, [Stacey] had been a permanent resident in the United States since she was four years old ... living in the New York metropolitan area with her husband and two U.S.

citizen children. ... Stacey went to the [INS] to apply for U.S. citizenship. ... In doing a background check, the INS discovered that Stacey had been convicted of petty larceny as a teenager. This minor crime made her subject to removal, despite her strong ties to the United States. ... The INS came to her house ... arrested her and placed her in the Varick Street Detention Center in Manhattan. ... Her deportation officer pressured her repeatedly to tell the Jamaican consulate that she wanted to return. ... They threatened to transfer her to a jail hundreds of miles from New York where she would never see her family. One day, the INS made good on its threat. ... Stacey was placed in the DeKalb County Prison in Atlanta. ... She attempted suicide ... Her pro bono lawyers ... requested her release ... The INS denied the parole request, stating the it was now holding her because she is a threat to her own safety. ... Stacey, meanwhile, is giving up hope ... wondering how her baby is faring without the care of its mother.¹⁴⁸

The extension of caregiving — In the case of policing, often there is no clear boundary between the person who is mainly affected by law enforcement and their family members or caregivers. Once someone is incarcerated, however, the sharpest of lines separates those inside prison walls from those outside. We believe that emphasizing the role of women as caregivers for prisoners does not detract from efforts to support the person who is incarcerated. Rather, it illuminates how women often become invisible when enforcement accountability efforts focus exclusively on the experience of a

¹⁴³ Interview with Cassie Pierson, Legal Services for Prisoners with Children, San Francisco, 1999.

¹⁴⁴ Interview with Mary Fitzgerald, Justice Works, New York, 2000.

¹⁴⁵ Interview with Cassandra Shaylor, Legal Services for Prisoners with Children, San Francisco, 1999.

¹⁴⁶ Letter from prisoner to Legal Services for Prisoners with Children, San Francisco, 12 May 1999

¹⁴⁷ Donna Wilmott, “The War on Immigrants – Behind the Walls,” *op. cit.*

¹⁴⁸ Wendy Young, “Young Mother’s Detention Nightmare,” *Detention Watch Network News*, No. 13, Feb.-Mar. 2000 (newsletter of Detention Watch, Lutheran Immigrant and Refugee Services, Baltimore, MD).

single (usually male) victim of enforcement violence, and reinforces our understanding of incarceration as a community rather than an individual experience.

Renee Wormack Keels is a member of Silent Warriors, a Massachusetts support group for mothers with sons and daughters in prison. She writes,

My oldest son is in prison. ... I attended the trial every day until the jury was given the case. ... my son [was] found guilty AND sentenced, all at the same time. I was overwhelmed. ... There was no one with whom I could share my grief and heartache. I closed the door to my room and cried most of the day and into the night. ...

Each and every one of these young men and women has someone who is concerned about them. That person may be a mother, a grandmother, a daughter or a sister or perhaps a wife. ... Regardless of the fact that our sons are in prison, innocent or guilty, there is something we can all do. There are some things we have a right to know. What is happening to our children? ... Do they receive adequate medical attention when it is required? Do we realize that there are issues of accountability for Department of Corrections and the criminal justice system as a whole? There are constitutional rights that protect them, but do we know what they are and how to access that information? No, because we rarely are able to ask these questions without being looked upon suspiciously ourselves.¹⁴⁹

On death row, a large majority of prisoners are men; like most prisoners, they rely on women outside (mothers or partners) for most aspects of their lives. Guilt by association leaves women caregivers of death row prisoners heavily stigmatized; for some, even buying groceries can become a traumatic experience. When they visit their loved ones they are treated with contempt and suspicion by prison guards.¹⁵⁰

When released prisoners rejoin their families, everyone in their home may be caught up in the scrutiny and searches of the parole officer. In government-subsidized housing, if a parolee is arrested or anything is found during a search, the family can lose their home.¹⁵¹

In immigrant communities, one reflection of the extension of women's caregiving role is the leadership women have taken in challenging abuses

of their family members by law-enforcement authorities. In early 1999, Mothers for Freedom, a group supporting INS detainees, staged a hunger strike to protest conditions in Florida's notorious Krome Detention Center. The organization played a central role in bringing national attention to the issue of INS detention and in successfully pressuring the INS to change certain policies. Later that year, another mothers' group helped negotiate an end to a hostage crisis among INS detainees in Louisiana, although in that case the INS was later accused of renegeing on its promises to the mothers and their incarcerated sons.¹⁵²

In a very real sense, women caregivers subsidize the U.S. government by taking care of the largest incarcerated population in the world. Sadly, entrenched patterns of sexism mean that women prisoners may not receive the same level of support from male partners outside; for example, notes Mary Fitzgerald of Justice Works, women prisoners often receive significantly fewer visitors than male prisoners.¹⁵³ Nonetheless, whether from inside or outside prison walls, women of color, both immigrant and U.S.-born, struggle valiantly to prevent the state-sponsored destruction of their families and communities.

¹⁴⁹ Renee Wormack Keels, "Me and Other Mothers (MOMS)," a message for Mother's Day, *Loves Herself – Regardless*, Winter 97, Vol. 1, No. 2 (publication of Women's Theological Center, Newton Centre, MA).

¹⁵⁰ Interview with Patricia Clark, National Criminal Justice Representative, American Friends Service Committee, Philadelphia, 2000.

¹⁵¹ Interview with Cassie Pierson, Legal Services for Prisoners with Children, San Francisco, 1999.

¹⁵² Alan Clendenning, "Inmate still being held in Louisiana was promised he would go to Cuba," Associated Press, 24 Dec. 1999.

¹⁵³ Interview with Mary Fitzgerald, Justice Works, New York, 2000.

Violence Against Women in the Workplace

Women in the low-wage and underground workforce face a pervasive threat from enforcement violence in the workplace. Women in low-income communities have always been important wage earners; today, they increasingly bear such burdens alone as heads of households. In either case, enforcement violence adds significantly to the pressures of women's responsibilities as caregivers and breadwinners.

The door is opened to enforcement violence against women in the workplace when the struggle to earn a living is defined as a criminal activity. On the one hand, this criminalization of women's work stems from the heavy reliance of certain economic sectors on undocumented women workers: in service occupations, whether in motels or restaurants or as workers in private households; in agriculture, where women represent an increasing portion of farm workers; and in such industries as meat-packing, canneries, or the garment industry.

In other instances, women's work is criminalized due to the underground nature of certain types of work, such as sex work or drug sales. Anecdotal evidence suggests that women are a major portion of those who survive through a combination of small drug sales and erratic sex work, trapped in cycles of substance abuse, domestic violence, and, often, both.¹⁵⁴

A focus on enforcement violence reveals many parallels between these diverse experiences of women's work, even though they are seldom considered together. In both instances, women are subject to harassment, coercion, and outright violence from law enforcement, whether the agency in question is the INS or local police. Although there are important differences in how law enforcement handles workers in these different circumstances, there are also striking similarities. In the paragraphs below, each is considered in turn.

As "workers on the lowest rung of the occupational ladder," poor immigrant women "are especially vulnerable to exploitation."¹⁵⁵ Their workplaces are frequently targeted by INS raids, at the Mexico-U.S. border as well as in inland areas of the United States. AFSC's Maria Jimenez points

out that the only type of labor regulation that receives plentiful government funding is control of the undocumented workforce, in sharp contrast to the level of government resources devoted to the enforcement of labor laws that protect workers.¹⁵⁶

Extensive documentation from human rights organizations, labor unions, and immigrants' rights groups verifies that workplace raids frequently affect legally documented workers and U.S. citizens as well as undocumented workers. Immigration raids are frequently used by employers as a tactic for disrupting labor organizing efforts. Far from stopping the inflow of undocumented workers, INS raids serve to intimidate immigrant workers and keep them more vulnerable to exploitation by employers. Many of the firms that have been raided proactively recruit workers in the border region; others, especially in agriculture, rely on labor contractors in an effort to insulate themselves from legal responsibility.

While INS raids subject undocumented workers to detention and deportation, "employer sanctions" provisions enacted in 1986 have seldom been enforced. In recognition of this reality, in February 2000 the AFL-CIO reversed its long-standing support for employer sanctions, joining immigrants' rights organizations in calling for a new amnesty for undocumented workers.

The cases cited in previous sections have illustrated the impact of INS workplace raids on women as caregivers, as breadwinners, as mothers-to-be, and as sexual beings. It is important to note as well that current immigration policies favor the immigration of skilled high-tech workers and other highly educated people, most of whom are male, given their greater access to such occupations globally. Women are more often eligible to immigrate

¹⁵⁴ Interview with Mary Barr, Justice Works, New York, 1999. Barr also works with South 40 Corp. and Motivational Movement, both in New York.

¹⁵⁵ "Women on the Border: Needs and Opportunities," in Rachael Kamel and Anya Hoffman, eds., *The Maquiladora Reader: Cross-Border Organizing Since NAFTA* (Philadelphia: American Friends Service Committee, 1999), p. 25.

¹⁵⁶ Interview with Maria Jimenez, Immigration Law Enforcement Monitoring Project, American Friends Service Committee, Houston, TX, 1999.

legally through family (especially spousal) sponsorship, so that they are dependent on their husbands (or, sometimes, fathers) to attain legal status.

Women immigrants thus face both class and gender bias in the way immigration policies are structured, which carries over into their interactions with the INS. The Washington Alliance for Immigrant and Refugee Justice reports the experience of a woman detained in an INS raid:

“Is it true that he is your husband” he [the INS agent] said and pointed to my husband who was there. “Yes, and he put papers in for me,” I said. ... There were others that were trying to tell him that we had papers in process, too. One woman had some papers to prove that her father had applied for her to get a green card. ... This agent ... ripped up her papers. He said we were all liars when we said we had papers in process. I think they don’t have the right to rip people’s papers. This woman only had two or three years to wait until her papers came through. She’s now in Mexico, but all her family is here.¹⁵⁷

Such an incident could cause a women’s application for legal permanent residence to be jeopardized or revoked. Women who have applied as self-petitioners under VAWA could also see their applications jeopardized if they are detained and are thus unable to follow up on the application process.

Domestic work, which is primarily performed by poor women of color, both immigrant and U.S.-born, is another industry that is rife with abuse by employers. Given the lack of decent and affordable child care, the inexpensive child care provided by economically desperate immigrant women makes it possible for many professionals, particularly women, to go to work every day knowing that their homes and children will be taken care of. Immigrant domestic workers frequently work long hours without any benefits. They are subject to verbal and sometimes sexual abuse and are generally paid well below minimum wage. Many are undocumented, and employers often use the threat of the police and INS to keep them under control.

Sex workers describe many parallel experiences of enforcement violence and its impact on women’s efforts to earn a living. The U.S. Prostitutes Collective (USPROS) notes that “many

prostitute women are mothers who can’t support their children on women’s low wages and are being criminalized for finding a way to survive.”¹⁵⁸ Sex work, of course, is well known for its constant confrontations with the police. In addition, in cities where immigrant women are increasingly working as prostitutes, police may also work closely with immigration authorities.¹⁵⁹

Sex workers’ encounters with law enforcement frequently entail a range of abuses, from verbal insults to coerced sex, brutal beatings, and rape. If the police know a woman to be a sex worker, they may harass her even when she is not working. Writing in *Gauntlet Magazine*, Jeremy Hay notes that:

The most common of police abuses that prostitutes face, requests for sex in lieu of arrest and verbal abuse, are also perhaps the hardest to verify for purposes of complaint. “Blow me and I won’t take you in,” is an offer that many prostitutes recount having heard and also having turned down. It seems predicated on the assumption that prostitutes don’t care who they have sex with and that they will do anything to avoid arrest. In fact, most experienced street prostitutes are resigned to the fact that they will be arrested over and over again, sometimes for questionable charges. What they object to most are the fear and indignities heaped upon them by bad officers who step beyond the line of normal procedure.¹⁶⁰

¹⁵⁷ Statement by worker at Brewster Heights Packing Plant to Washington Alliance for Immigrant and Refugee Justice, Brewster, WA, regarding raid on 2 Dec. 1997. See also “Civil Rights Under Siege,” *op. cit.*

¹⁵⁸ “USPROS: When Police Priorities Change, Attitudes Will Change,” statement by the U.S. PROStitutes Collective and Wages Due Lesbians of San Francisco to the Public Hearing on Violence Against Women and Girls in Prostitution held by the San Francisco Commission on the Status of Women, 17 April 1997. Published in International Prostitutes Collective, *Some Mother’s Daughter: The Hidden Movement of Prostitute Women Against Violence* (London: Crossroads Books, June 1999).

¹⁵⁹ Interview with Jo Hirschman, Ella Baker Center for Human Rights, San Francisco, 1999. See also “Report of Police Harassment of Prostitutes: Statement of the Problems,” US PROS, San Francisco, 2 Aug. 1994.

¹⁶⁰ Jeremy Hay, “Police Abuse of Prostitutes in San Francisco,” *Gauntlet Magazine*, Vol. 1, No. 7, 1994.

In Chicago, Mary Powers describes women prostitutes being picked up by police at bus stops on their way to and from work. The police ask for sexual services in return for favors.¹⁶¹ In New York City sex parlors, local police may threaten to shut down an establishment if they are not given sexual services. Women picked up in police raids may be taken away in their underwear and have their possessions confiscated.¹⁶²

Transsexual women involved in sex work face abuse in even more complex ways. If the woman is unable to afford a sex-change operation, the legal documentation of her gender does not match the woman's own gender representation, so she is essentially incorrectly documented.¹⁶³ In encounters with police, she may then become the victim of cruel jokes and other types of verbal abuse. Transsexuals are also subjected to unnecessary and illegal strip searches, presumably for the unofficial motive of gender identification.

USPROS participated in a Task Force on Prostitution established by the City of San Francisco in 1994, in order to ensure that the voice of sex workers was heard. The task force found that San Francisco taxpayers pay over \$7 million a year for the arrest, processing, and jailing of sex workers, even though most voters believe that victimless crimes like sex work should be a low priority for police. Groundbreaking recommendations calling for the decriminalization of sex work have been presented to the city. As USPROS observes, “[t]he police use prostitution and/or suspicion of drugs to profile people they don't like the look of. Anyone they decide looks like a sex worker or hangs out with sex workers, looks transgendered or is Black, Asian, or Latino is stopped on the street, intimidated, questioned, warrants checked, and very likely arrested.”¹⁶⁴

On the street, homelessness, drug addiction, and prostitution can often form a continuum of desperate strategies for economic survival. Many women who need treatment are met instead with enforcement violence. New York City activist Mary Barr was a homeless addict for three years, from 1993 to 1996. Today, she views her substance abuse as an escape from the emotional pain of separation from her children and a reflection of her hopelessness about ever living another kind of life.

In two-and-a-half years on the streets, she was arrested forty-five times, but never once offered the option of treatment.

Barr recalls how police coerce sexual services from sex workers. Once a detective followed her and a customer. He let her john go and then had sex with her, saying she might as well since the john had paid already. On another occasion, recalls Barr,

a uniformed officer stopped his car. I was surprised because he was alone — the police never make arrests alone. When he got out of the car, I thought he was going to hit me. I was scared. He said, “get in the back seat” and then started to drive. Then he stopped the car, said to me, “do what you do best,” and raped me.¹⁶⁵

Barr notes that women usually sell drugs to support their habits, not as large-scale drug traffickers. She comments that authorities “didn't have money to treat me. But they had money to take away my children,”¹⁶⁶ adding that it costs \$750,000 for the state to take care of a child until the age of eighteen, which is thirty times the cost of providing a year of substance abuse treatment. Barr estimates that two-thirds of the people in prison are addicts — most of whom are offered no meaningful access to treatment.

In recent years, labor and immigrants' rights organizations have increasingly joined in contest-

¹⁶¹ Interview with Mary Powers, Chicago, 1999. Powers coordinates the Chicago-based Citizens Alert and Coalition to End Police Torture and Brutality as well as the National Coalition on Police Accountability.

¹⁶² Interview with Jane Bai and Hyun Lee, CAAAV: Organizing Asian Communities (formerly Committee Against Anti-Asian Violence), New York, 1999.

¹⁶³ Interview with Jo Hirschman, Ella Baker Center for Human Rights, San Francisco, 1999.

¹⁶⁴ US PROStitutes Collective, “Are We Not Human? Prostitute Women's Right to Protection and Other Rights – A Human Rights Issue for Everyone,” statement presented to San Francisco Human Rights Commission in support of recommendations of San Francisco Task Force on Prostitution, 11 Feb. 1999.

¹⁶⁵ Interview with Mary Barr, Justice Works, New York, 1999.

¹⁶⁶ *Ibid.*

ing the criminalization of immigrant workers. The lens of enforcement violence permits us to see that in the end, the distinction between “legal” and “illegal” occupations is as limiting as the distinction between “legal” and “illegal” workers. In the case of undocumented labor, enforcement violence serves as one of the principal forces keeping wages low, since workers who live in a state of terror and clandestinity are unlikely to report violations of wage and hour laws or to organize to improve their conditions through collective bargaining. Likewise, although such phenomena are less widely recognized, the underground economy of drug traffick-

ing and sex work, coupled with the lack of “legal” job opportunities, help maintain the cycle of violence, incarceration, and social breakdown that is devastating many urban communities of color.

Although sex workers and undocumented factory or field workers may have markedly different experiences, both reflect the growing criminalization of low-income communities of color, both immigrant and U.S.-born. Both, likewise, form part of an unbreakable continuum of women’s strategies for survival, which are an expression of their commitment to themselves, their families, and their communities.

————— *Part III* —————

Looking Forward

As we have argued throughout this discussion, until we understand how women experience enforcement violence, we cannot fully understand how such violence affects our communities. A perspective that is grounded in the realities of women of color and poor women, both immigrant and U.S.-born, can illuminate how enforcement violence affects areas in which women are central actors, such as home life, caregiving, reproduction and sexuality, and paid work. Each of these areas is vital to the basic security of our communities, and therefore to community life as whole.

A community-centered perspective challenges us to go beyond a more conventional human rights framework, which seeks to hold law-enforcement agencies accountable for violating the rights of individuals. Understanding abuse as a community problem permits us to focus on what strategies will best support the safety and self-determination of communities that currently find themselves under siege from agencies of the state.

Throughout this discussion, we have emphasized the importance of integrating the feminist critique of violence against women with the critique of state violence advanced by enforcement accountability movements. Similarly, we have argued for the importance of understanding the many parallels between “immigration” and “criminal justice” issues, and building coalitions that cross lines of racial/ethnic identity and immigration status.

In this section, we seek to identify some possible areas for discussion and strategizing around these points of intersection. In conclusion,

we briefly describe several ongoing initiatives that reflect a more integrated approach.

Gender and Enforcement Violence

We have argued that the home is a location in which women experience both “private” violence (for example, from intimate partners) and “public” violence (from state authorities). The larger project of defending women against violence and abuse urgently requires us to transcend the artificial and damaging divide in which progressive social movements tend to focus on one type of violence while disregarding the other.

By opening up our understanding of violence in the home, we will be able to better understand how the law enforcement operates in communities of color, both immigrant and U.S.-born: targeting the home when it comes to raiding it while avoiding or neglecting it when it comes to protecting the people inside, particularly women and children.

The situation is similar with regard to motherhood and, more generally, caregiving. Enforcement violence in poor communities and communities of color disrupts caregivers’ ability to fulfill their responsibilities. At the same time, the legal apparatus of the state is used to accuse women of irresponsibility and abuse — with charges sometimes stemming directly from the harm caused by law enforcement or other public agencies.

It is, of course, not our intention to argue that child abuse and neglect are not serious problems, or that the larger community should not intervene to protect children from abuse. Often,

however, poor women and women of color are caught in a double bind in which they are held legally responsible for circumstances over which they have little or no control. As in the case of domestic violence, such interventions, far from protecting children, contribute actively to destabilizing the lives of women as well as their families and communities.

An even more extreme example is that of the incarceration of women under the banner of “fetal protection,” in which a supposed concern for children is hypocritically used to justify the incarceration of women of color, particularly African American women. In other circumstances, law-enforcement authorities treat the outcome of a pregnancy as an unimportant concern, secondary to the imperative to maintain “law and order.”

In each case, women of color are subjected to specialized definitions of criminality and punitive measures. As a result, they are ultimately deprived of control over their own biological processes.

Advocates of women’s rights would do well to consider what implications these assaults on the rights of poor women of color, both immigrant and U.S.-born, may have for the rights of women who may not face similar intrusions from law enforcement. The constant erosion of constitutional protections for the rights of poor women of color weaken such protections for everyone. The state’s approach to such women — whether they are migrant workers, pregnant defendants with substance addiction, undocumented workers, asylum seekers, or prisoners — may be taken as an indication of the true value accorded by our society to motherhood, family, home, and women’s work.

Caregiving and Criminalization

Our discussion of the politics of caregiving reveals many points of intersection with feminist critiques of deepening economic inequality. Such critiques have highlighted how women, who are the vast majority of caregivers, bear the brunt of economic restructuring — by working for the lowest wages under the most inhumane working conditions; by working a double and triple shift as mothers, homemakers, and wage earners; by taking on new caregiving responsibilities to compensate

for the dismantling of social welfare, health care, and pension systems; and by securing the daily survival of their families in conditions of deepening impoverishment and economic dislocation. Today, increasing numbers of women face these challenges as the sole breadwinners for their families.¹⁶⁷

As we have argued in other cases, this feminist understanding must be further expanded to take account of how caregivers are affected by enforcement violence. Such violence represents an assault on the integrity and viability of our communities, reflecting broader social processes of criminalization.

In numerous instances, women caregivers are on the front lines of efforts to survive and resist such attacks. Across the United States, the emergence of local grassroots organizations of mothers and other supporters of prisoners and detainees is a vital step in mobilizing the community against police brutality, INS raids, and mass incarceration. Such initiatives could be greatly strengthened through a gender analysis illuminating how women’s ability to fulfill their social role as caregivers and community builders is endangered by state violence. Feminist organizations, in turn, could gain far more relevance to the lives of poor women and women of color by recognizing and addressing the caregiving issues that are vital to such communities.

Bridging the Immigration—Criminal Justice Divide

Law enforcement is increasingly a seamless web, in which authorities may move without hindrance between a traffic stop and deportation, or a hospital visit and prison, or the airport and a maximum-security cell. This unrestricted integration of law-enforcement operations is terrifying to contemplate, let alone to experience. Moreover, according to scholars, such integration, and the accompanying adoption of a national

¹⁶⁷ While this working paper has focused on conditions inside the United States, the phenomena described here obviously apply on a global level.

enforcement strategy, is also one of the hallmarks of a totalitarian regime.¹⁶⁸

At the same time, a variety of regressive legislation enacted in recent years has sharply restricted avenues for legal redress by those who are caught up in the law-enforcement net. Reduced access to the courts and to legal counsel has affected asylum seekers and other immigrants; prisoners, especially those on death row; and all poor people who rely on legal aid. Courts may now use secret evidence and secret testimony to incarcerate or deport noncitizens accused of “terrorism.” Protections for due process rights, like the constitutional prohibition on unreasonable search and seizure, have been seriously eroded by a series of court decisions.

The logic of such policies is similar, whether the specific language refers to “quality of life” policing, drug interdiction, counter-terrorism, or national security. All of these terms extend a false promise of increased safety in exchange for restrictions on constitutional rights. In each case, the experiences of immigrant and U.S.-born communities of color reveal many parallels. The major difference is that some of these measures purport to protect the national borders of the United States, while others seek to defend interior borders of institutionalized racism and economic privilege. As long as each type of border is understood separately, however, unexamined beliefs about public safety, on the one hand, and national security, on the other, will continue to foster mutual suspicion and mistrust between immigrant and U.S.-born sectors of the community.

In New York City, recent incidents of police brutality, including the sexualized brutalization of Abner Louima and the killing of Amadou Diallo, both of whom were immigrants, have indicated decisively that all people of color are subject to enforcement violence. The coalitions that came together to protest these incidents, such as People’s Justice 2000, brought immigrant and U.S.-born sectors of the community together in a powerful way. Such coalitions, however, at least in the context of New York, have yet to take the further step of addressing the discriminatory and abusive nature of immigration law enforcement.

Until immigrant and U.S.-born communities

of color can work together in an integrated way to challenge the full range of threats posed by enforcement violence to community security and self-determination — including the differential effect of enforcement violence on women — we will continue to be hampered by divisions and isolation. In such a situation, each segment of the community is vulnerable to manipulation by the rhetoric of security and thus may implicitly or explicitly support expanded powers for law enforcement for the group seen as “other” than its own.

New Alliances, New Strategies

What does it mean in practice to fight violence against women of color while simultaneously addressing the structural violence faced by the larger community? The New York-based Institute on Violence, which focuses on how violence is experienced by African American women in Central Harlem, is one of several groups around the country seeking to develop a new model for anti-violence work. Working in partnership with Harlem Legal Services and the African American Task Force, the Institute brought together 300 community members to develop strategies for addressing different levels of violence. The purpose of this project is to strengthen the capacity of different sectors of the community (including residents and business owners as well as health and human services, cultural, religious, and recreational agencies) to respond to violence against women and to affirm the value of the lives of African American women.

In addition to working with community organizations and churches to help strengthen their ability to address violence against women, the Institute is also considering establishing a Community Police Council. As part of this process, it has held nine meetings with groups of residents to discuss strategies around the criminal justice system. These meetings brought together senior citizens, survivors of domestic violence, residential drug treatment programs, and people with

¹⁶⁸ Dunn, *op. cit.*

disabilities. For everyone involved, the police were a “hot button” issue.¹⁶⁹

In exploring alternatives to an exclusive reliance on law enforcement for protection in domestic violence situations, the Asian Women’s Shelter (AWS) in California is attempting to involve local communities in exploring how domestic violence takes place among their members and how to ensure that battered women are safe and supported. One issue that has come up is how to hold batterers accountable. As organizer Beckie Masaki of AWS observes, a close-knit community is a prerequisite for community-based models of accountability. The more communities of color are affected by multiple forces fostering social breakdown, the more difficult such an effort can be.¹⁷⁰

Justice Works, a prisoners’ advocacy organization in New York, reports the formation of a new alliance with domestic violence organizations. Since 1992, Justice Works has organized a nationwide day of demonstrations on Mother’s Day around the theme of “Mothers in Prison, Children Left Behind.” Its campaign, which began in New York City, has spread to twenty cities across the country. In 2000, Justice Works received support for the first time from several domestic violence organizations, which used campaign materials as part of their own educational efforts.¹⁷¹

In the Boston area, AFSC’s Criminal Justice Program, together with the Dimmock Community Health Center, has supported the development of a coalition seeking to work in new ways around issues of women caught up in the criminal justice system. Under the name “Women in Prison, Families in Crisis,” this initiative has brought together people with experience in health issues, substance abuse, domestic violence, legal aid, and community organizing. Several members of the coalition are former prisoners or friends and family of prisoners. Using a community circle model, the group discusses how crime might be redefined as “harm,” so that the issue becomes how to address the harm caused to everyone involved in a “criminal” action — the victim, the perpetrator, and the community. Participants in this effort devoted almost two years to building relationships with each other and developing common values and mutual respect.¹⁷²

The initiatives described above are all important steps toward the development of new alliances and new strategies to address the devastating impact of violence, in all its forms, on low-income communities of color. Organizations and social movements that have come together around such issues as domestic violence, reproductive rights, sexual assault, immigrants’ rights, INS detention, police accountability, and prisoners’ rights bring sharply different views and experiences to the discussion. It is precisely by working through these differing and sometimes opposing views, however, that we can begin to address the complexities of the relationship between our communities and the state — and the centrality of women to the development of practical strategies for community self-determination.

The fragmentation of progressive politics — due to lack of resources or to a partial analysis — is hardly a new phenomenon. Progressive organizations or projects, if they are able to access any funding at all, are dependent on narrowly categorized slots defined by foundations or government agencies. They are also seriously hampered by a dearth of spaces for broader analysis. All of these factors promote continued isolation. Over time, fragmentation and isolation take their toll, undermining the judicious use of limited resources, the impact of progressive strategies, and the capacity of groups to bring people together. Social activists who seek to counter such fragmentation know this story only too well.

The present document has sought to contribute to ongoing attempts to promote broader analysis and strategizing. In the end, it will have served its purpose if it is able to help promote the cross-fertilization of experiences among the various

¹⁶⁹ Interview with Gail Garfield, Institute on Violence, New York, 2000.

¹⁷⁰ Interview with Beckie Masaki, Asian Women’s Shelter, San Francisco, 2000.

¹⁷¹ Interview with Mary Fitzgerald, Justice Works, New York, 2000.

¹⁷² Interview with Jamie Suarez-Potts, Criminal Justice Program, American Friends Service Committee, Cambridge, MA, 2000.

constituencies of the women's movement and the various enforcement accountability movements.

We offer this contribution knowing that real forward motion can only be possible through the active involvement of many individuals and organizations in various types of dialogue, joint activities, increased communications, compilation of scattered data, or coordinated outreach efforts.

Needless to say, such a process of collaboration, whose importance we have argued for throughout this document, should emerge in a way that is grounded in local realities and includes all relevant and interested parties. Rather than offering a prefabricated solution, we can end this discussion only by recommending the initiation of such a process.