

Dreaming of Abolitionist Futures, Reconceptualizing Child Welfare:
Keeping Kids Safe in the Age of Abolition

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INTRODUCTION

“We must reclaim definitions of safety.”¹

– Erica R. Meiners, scholar-activist

Amongst lawyers who work in both the criminal and civil judicial systems, the termination of parental rights (TPR) is understood as the civil equivalent to the criminal punishment system’s death penalty: it is the most severe and permanent outcome that can result from a civil case. As the racism of the criminal punishment system receives more and more coverage, news stations broadcast horrible stories of wrongful convictions resulting in execution.² In March of 2020, headlines about the execution of Nathaniel Woods held the nation rapt, as many prominent activists and celebrities unsuccessfully organized to prevent Nathaniel’s execution, arguing that he was innocent and wrongfully convicted.³ While I was familiar with conversations like those surrounding Nathaniel’s death, – discussions about the morality of the death penalty and the injustice of wrongful convictions, – I had not heard any mention of wrongful TPR until embarking on this research. As I heard more and more stories of wrongful TPRs, I was amazed by a common thread between them: more often than not, the TPR was triggered by an investigation that was supposed to help. How is it that a system intended to help support strong children and families results in the destruction of so many families?

A Chicago-based attorney recounted anecdotes from past clients’ experiences to me, many of them including instances of what she deemed wrongful TPR by the child protection

¹ Erica R. Meiners, “Ending the School-to-Prison Pipeline/Building Abolition Futures,” *The Urban Review* 43, no. 4 (2011): 559.

² See “Executed But Possibly Innocent” from the Death Penalty Information Center, and “More Innocent People on Death Row than Estimated: Study” by David Von Drehle in *Time*.

³ Christina Maxouris “Nathaniel Woods’ execution doesn’t end the controversy over his case,” *CNN*, March 6 2020. <https://www.cnn.com/2020/03/06/us/nathaniel-woods-executed-reaction/index.html>

system, or what I will come to call the family regulation system.⁴ One story stood out: concerned neighbors called 911 in response to a loud altercation. Police showed up to find a mother experiencing intimate partner violence. While getting arrested, her boyfriend retaliated against her by admitting to an armed robbery that she assisted him with, willfully incriminating himself so that she would be incarcerated too. Her incarceration resulted in the placement of her son in foster care. Despite the circumstances, this mother was deemed “lucky”: her sentence was short, only two and a half years. But in Illinois, parental rights are terminated when a child is in foster care for 15 out of 22 months.

In those 15 months, her son ran away from several foster homes in an attempt to find her. Foster parents expressed disinterest in adopting him because his actions made it clear that it was in his best interest to return to her custody. Regardless, under Illinois law her sentence was too long to permit reunification: under normal pretenses, her parental rights would have been terminated after 15 months, resulting in the separation of her and her child until that child turned 18. The foundation of this story is all too common: an incarcerated mother loses custody because she is socially isolated and without the resources to actively parent from inside. The ending is anomalous as the mother in this story was lucky again: the courts decided that it was not in the best interest of the child to terminate parental rights, and for reasons that remain unclear, they were willing to grant an extension of the window for parental rights termination in this circumstance. This outcome is rare, as 63,123 U.S. children were adopted out of foster care in

⁴ Anonymous interview participant #6 (family defense attorney) in discussion with the author, January 2020.

the fiscal year 2018, and another 71,254 were awaiting adoption after their birth parents' parental rights had been terminated.⁵

In this instance, neighbors sought help to address perceived violence, and while that help may have spared that mother and her child from experiencing intimate partner violence that night, it also nearly resulted in the destruction of a bond between a mother and her child. It is this dissonance between intention and outcome that captured my attention in June of 2018 when I began researching mandatory reporting laws as a part of my work at the National LGBTQ Institute on Intimate Partner Violence. The escalation of concern for a child's well-being into a state intervention, and then the further escalation of that intervention to the removal of a child, or potentially the termination of a parent's rights alarmed me. How is it that individuals who rarely think of themselves as state actors (elementary school teachers, pediatricians, etc) can trigger reactions that lead to the "civil death penalty"? My experience organizing alongside prison abolitionists in Chicago led me to a second question: how can the work of prison abolitionists extend beyond the criminal punishment system to consider how policing also manifests in the child protection system?

Through this research, I have found a small but growing community that has identified the Illinois Department of Children and Family Services (DCFS) – and the child protection system more broadly – as an extension of the carceral state. It is for this reason that I concentrate my research on Illinois, with a specific focus on Chicago. In investigating the organizing of Chicago-area organizers, I have found substantial and compelling evidence that supports their understanding that the Illinois DCFS is an arm of the prison nation, but I return to this question:

⁵ U.S. Department of Health and Human Services et al., "The AFCARS Report: Preliminary FY 2018 Estimates as of August 22, 2019 - No. 26" (Annual FY AFCARS Report, 2019), 1. <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport26.pdf>

if prisons and policing in all its forms do not keep children safe, then what does? How do we keep children safe in an abolitionist world?

Review of Literature

Contemporary texts published in the last two decades – namely Dorothy Roberts’ *Shattered Bonds* (2002), Tina Lee’s *Catching A Case* (2016), and Diane Redleaf’s *They Took the Kids Last Night* (2018) – have brought the inefficiencies and inequities of the child protection system to the attention of academics and child welfare researchers by documenting vast racial disparities, unnavigable child protection protocols, and unending bureaucratic rabbit holes, all tolerated in the pursuit of reunification with one’s child. This body of work has generated a relative consensus that current approaches to child protection are insufficient.

More recent journalistic works, such as Stephanie Clifford and Jessica Silver-Greenberg’s “Foster Care as Punishment: The New Reality of ‘Jane Crow’” (2017) have highlighted how commonplace parenting mishaps that would be deemed a one-off accident in white neighborhoods are grounds for child removal when the alleged “perpetrator” is a Black or brown impoverished person, even with minimal evidence. Clifford and Silver-Greenberg explicate how deviating from any of children’s services mandates, even when they are confusing or unclear, can be labeled noncompliance and considered as evidence that a parent is uncooperative. This article is in the company of similar pieces that have documented horrifying tales – much like the previous anecdote – of impoverished mothers raising children in neighborhoods with minimal support and high police presence who are met with punishment instead of help in response to moments of crisis.⁶ In addition to sharing these stories, these

⁶ For similar accounts look to Roxanna Asgarian’s “I Gotta Be Strong for My Babies” (2018) in *The Appeal*, which examines the “failure to protect laws” that criminalize parents for “permitting” the abuse of their children by another party by failing to predict it and survivors of intimate partner violence for “allowing” their children to witness their own victimization. Additionally, Kathryn Joyce’s “The Crime of

articles also aim to demystify the policies and procedures that comprise the child welfare system in an effort to highlight the magnitude of this injustice and evoke sympathy from a larger audience, one that will likely never encounter child protective services (CPS).

Simultaneously, in reaction to the murder of Michael Brown in 2014 and the emergence of the resultant #BlackLivesMatter movement, conversations about prisons and policing have entered the American mainstage in unprecedented ways. Explosive televised news clips showcased how white Americans woke up to – or refused to wake up to – the significance and fatality of anti-Black racism in police departments and prisons.⁷ As a result, “prison reform” and “prison abolition” are now a part of the cultural lexicon. Responses to the carceral system are varied, with vast differences between reformists who want to fix the current system, and abolitionists who seek to dismantle existing systems and start anew, citing their historical entrenchment in anti-Blackness, colonialism, and genocide as a barrier to effective reform. Scholars’ reactions to the shortcomings of the child protection system are generally reformist, even in spite of the links between the carceral system and the child protection system. Their reformist solutions often focus on developing wider-reaching welfare services, limiting the number of times a child is relocated, and expediting adoption processes. Countering these emphases, I build on the small but growing body of literature that compares the child protection and prison systems as well as a wealth of prison abolitionist literature to extend an abolitionist framework to the child protection system.

First, I employ the abolitionist framework that is set out by many scholar-activists, namely Angela Davis, Mariame Kaba, Ruth Wilson Gilmore, Beth Richie, and Dean Spade; all

Parenting While Poor” (2019) in *The New Republic* examines the punitive history of New York Administration for Children’s Services and prevention programs that are trying to change the system.
⁷ Fox & Friends, “‘Murder’ Movement: Sheriff #BlackLivesMatter is Out of Control,” hosted by Brian Kilmeade, aired August 31, 2015, on live television, FOX News. <https://youtu.be/Yc9fur0YzkM>.

of whom draw on the wisdom and experience of Black feminists to conclude that incarceration perpetuates (rather than ameliorates) harm and dismantles families and communities.

Particularly, I pursue the line of inquiry articulated in the epigraph of this introduction, offered by carceral studies scholar Erica R. Meiners in her “Ending the School-to-Prison Pipeline/Building Abolition Futures” (2011) when she writes that “the prevailing contemporary carceral logic recycles the false notion that safety can be achieved through essentially more of the same: more guards, fences, surveillance, suspensions, punishment, etc. [...] We must reclaim definitions of safety.”⁸ Meiners expands abolitionist reasoning beyond police and prisons, thinking more broadly about which systems we justify as essential to our safety. Her argument employs the idea of carceral logics: examining how all systems which purport to keep us safe, healthy, educated, etc. regulate behavior into a binary of “acceptable” versus “unacceptable,” accordingly casting people into the categories of “good” versus “bad,” and then hyper regulating those brandished “bad.” Ruth Wilson Gilmore phrases this another way: the prison system convinces us that there are a “terrible few” who cause harm, and that those people deserve to suffer via incarceration while all non-incarcerated “innocents” are “protected” from these “terrible few.”⁹ Given that the child protection system is undoubtedly defined by its ability to keep youth “safe” from “the terrible few” who harm children, I argue that it therefore adheres to the aforementioned carceral logics. Thus, I contend that reconsidering the child protection system is central to this project of reclaiming safety.

I critique the tendency of reformists who name strengthening the welfare system as an end-all-be-all solution to child protection injustice, similar to the way that prison reformists lean

⁸ Erica R. Meiners, “Ending the School-to-Prison Pipeline/Building Abolition Futures,” *The Urban Review* 43, no. 4 (2011): 559.

⁹ Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley, University of California Press, 2007): 15.

towards bolstering the “rehabilitative” components of prisons. By drawing on data about the interconnectedness of welfare and surveillance I argue that a short-sighted, welfare focused approach actually enables and perpetuates carcerality.¹⁰ Welfare researchers like Youngmin Yi, Christopher Wildeman, and Kelley Fong focus their scholarship on the value of increasing access to welfare services. Yi and Wildeman identify that the restrictions attached to welfare services are a barrier to children’s well-being, and Fong is critical of the functional mechanisms that render the welfare system inaccessible to low-income mothers.¹¹ Moving away from these scholars’ emphasis on improving access to welfare, which frames welfare as a neutral “helping” system, I employ a Foucaultian critique of surveillance, examining how surveillance functions within the welfare system. I build on Frank Edwards’ concerns about how the child protection system “[relies] on a diffuse surveillance network” and Fong’s later research, which takes a revised stance in asserting that child protection functionally operates as an extension of the surveillance state.¹² After talking to low-income mothers about their experiences of surveillance, Fong concluded that her interviewees “projected compliance under authorities’ gaze.”¹³ Fong found that while low-income mothers were surveilled by the welfare system, they were able to use this strategically to their benefit by performing compliance at moments when they knew they were being surveilled. Fong’s interviewees leveraged these moments as opportunities to portray

¹⁰ In his *Forced Passages: Imprisoned Radical Intellectuals and the U.S. Prison Regime*, Dylan Rodriguez articulates how surveillance is a central aspect of carceral culture.

¹¹ Youngmin Yi and Christopher Wildeman, "Can Foster Care Interventions Diminish Justice System Inequality?" *The Future of Children* 28, no. 1 (2018): 37-58.; Kelley Fong, "Encouraging Parental Trust and Honesty to Promote Food Security for All Children" *Pediatrics* 137, no. 4 (2016).

¹² Frank Edwards, "Saving Children, Controlling Families: Punishment, Redistribution, and Child Protection" *American Sociological Review* 81, no. 3 (2016): 575-595.; Kelley Fong "Concealment and Constraint: Child Protective Services Fears and Poor Mothers' Institutional Engagement" *Social Forces* 97, no. 4 (2019): 1785-1809.

¹³ Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York, Pantheon Books, 1977).; Kelley Fong "Concealment and Constraint: Child Protective Services Fears and Poor Mothers' Institutional Engagement" *Social Forces* 97, no. 4 (2019): 1785-1809.

themselves as obedient and worthy welfare recipients, then resumed parenting as they wished when in private.

Prominent legal scholar Dorothy Roberts' findings complicate Fong's conclusions, arguing that the impacts of child protection surveillance extend beyond direct surveillance by CPS. Roberts identified that impoverished mothers of color alter their behavior to perform conformity with a normative standard of western parenting in front of both CPS employees and community members, turning the Chicago neighborhood where Roberts' ethnography takes place into a panoptic territory. In the Woodlawn area, neighbors police each other and ultimately themselves by siccing DCFS on those they deem non-compliant, or those they have interpersonal conflict with and want to retaliate against.¹⁴ In order to contextualize these patterns of projected compliance and self-policing, I draw on the works of surveillance scholars Dylan Rodriguez, Simone Brown, Rachel Dubrofsky, and Shoshana Magnet who inform my understanding that the prison system serves to regulate behavior as opposed to ameliorating harm in communities. Building on these works, I conclude that the behavior of low-income mothers who are in contact with the child protection system is consistent with the way that marginalized subjects perform conformity within a surveillance state; that the policing mechanisms of the child protection system extend beyond the physical presence of child protection workers, creating a compliant, self-policing citizenry.

I take up the charge to build a new coalitional "queer politics" amongst this citizenry, which Cathy Cohen offers in her now-canonical "Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?" (1997). I understand these marginalized subjects, single

¹⁴ Michel Foucault, *Discipline and Punish: The Birth of the Prison* (New York, Pantheon Books, 1977).; Dorothy Roberts, "Child protection as surveillance of African American families" *Journal of Social Welfare and Family Law* 36, no. 4 (2014): 426-537.

mothers, and social service-dependent families as queer by Cohen's definition. Cohen writes that she walks away from identity politics towards coalitional politics, understanding queer as "a new political identity that is truly ... inclusive of all those who stand on the outside of the dominant constructed norm of state-sanctioned white middle- and upper-class heterosexuality. ... Based on an intersectional analysis that recognizes how numerous systems of oppression interact to regulate and police the lives of most people."¹⁵ By Cohen's rubric, parents and families who are tangled up in the child protection system and the oppressive frameworks (racism, classism, xenophobia, sexism) that contributed to their formalized system involvement are queer. These system survivors are queer because they exist "outside the dominant constructed norm" and because the state intervenes to "regulate and police" their lives.¹⁶ I contend that system-involved persons become queer subjects through their continued existence, which defies systems that work to dismantle families' and individuals' autonomy. Given the heightened stakes of the child protection system, – namely its ability to enact the "civil death penalty" through terminating a parent's rights, – I argue that fighting for the preservation of one's family in the face of a system that deems their parenthood "unfit" is subversive.

In solidarity with these queer subjects, and in response to the parallels between the carceral and surveilling child protection system and the white supremacist prison nation, Roberts calls for the abolition of the "racist institution" that is the child protection system in favor of a replacement that truly centers child protection.¹⁷ Though Roberts explicitly uses the rhetoric of

¹⁵ Cathy Cohen, "Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?" *GLQ: A Journal of Lesbian and Gay Studies*, 3, no. 4 (1997): 441.

¹⁶ Ibid; Throughout this thesis I continue using rhetoric which refers to "family regulation system survivors." While provocative, I believe this rhetoric is justified because of the way it parallels the survivor-oriented language that is pervasive throughout the intimate partner violence prevention movement, and I seek to situate this project within a larger community of anti-violence works. Like Cohen writes, system-involved persons live "outside the dominant constructed norm." Living in the margins in this way is resistant, and enduring the backlash that comes with subversion is an act of survival.

¹⁷ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* (New York, Basic Books, 2002), 16.

abolition, she does not articulate a connection between child protection abolition and prison abolition. Carceral studies researcher Venezia Michalsen, however, does make this connection. Michalsen writes in her 2019 “Abolitionist Feminism as Prisons Close: Fighting the Racist and Misogynist Surveillance ‘Child Welfare’ System” that

While [current abolitionist frameworks] refer to the abolition of the criminal punishment system, they can be expanded to imagine abolition of the similarly framed “helping” systems such as the “child welfare” system that is simply a disguised extension of the surveillance state that stunts generations of poor Black and brown families.¹⁸

By employing an expansive view of the mechanisms of prisons and policing, Michalsen is the first to articulate that child protection and prison abolition go hand in hand. I build on the work of the many who have named the child protection system as intrinsically linked to the policing of Black and brown bodies. Specifically, I take up the charge left by Dorothy Roberts and Venezia Michalsen to explore how to conceive of keeping children safe in an abolitionist world.

Academic literature shows that while prisons are built to keep the public safe, they rarely actualize this goal. Child protection researchers are finding that the child protection system is similarly ineffective. Mainstream media’s showcasing of how the average American is more and more attuned to the harms of carcerality makes it clear that these issues are pressing. Instead of replicating the same ineffective “reforms” that are being applied to the prison system, it is time to think in revolutionary terms: how do we keep children safe without relying on the same carceral systems that oppress us?

A Note on Terminology

In an effort to put an abolitionist methodology into practice, I debated extensively about what language to use because our words are highly political. When describing systems, I wanted

¹⁸ Venezia Michaelson, “Abolitionist Feminism as Prisons Close: Fighting the Racist and Misogynist Surveillance ‘Child Welfare’ System” *The Prison Journal*, 99, no. 4, (2019): 510.

to use terms that accurately center how power is wielded and exerted to marginalize queer subjects. I borrow from Mariame Kaba's language when I refer to the "criminal punishment system" to denote the network of police, courts, prisons, and surveillance agencies which surveil, regulate, and punish.¹⁹ I use a variety of terms interchangeably, including the prison nation, the prison industrial complex, and the carceral system.²⁰ Following Kaba, I deliberately use these terms, and not the "criminal justice system," to emphasize that the system serves to punish, not to bring justice. Additionally, by naming that the system is endemic, embedded in the fabric of the nation, and that it is a complex that extends beyond literal prisons, we can see prisons as a mindset and a culture more than a series of facilities.

Perhaps most challenging of all was deciding what to call what is commonly known as the "child protection system": the framework of mechanisms (from federal to state agencies, as well as private companies) which variably identify child maltreatment, intervene in child maltreatment cases, remove children, and punish parents. I finally came to the phrase "family regulation system" by ruling out phrases which could not accurately encapsulate the specific harms of this system. "Child welfare" feels too generous, as the system does not provide welfare services in practice, and it feels historically inaccurate given the 1970s-90s policy shift away from framing child protection as an extension of social services, which I will describe in greater detail in chapter one.²¹ Additionally, interviewees across the board shared that a paramount problem with this system is its dearth of resources, so once again, "welfare" feels inaccurate.

¹⁹ Mariame Kaba, *Why Is This Happening?* Interviewed by Chris Hayes (2019, New York: NBC Universal), podcast.

²⁰ Each of these terms are elaborated on at greater length in Appendix A.

²¹ In the late 20th century, a series of federal policy decisions decreased the social services capabilities of the family regulation system and heightened their focus on protection via swift removal and adoption processes.

I considered “child protection system,” but like “welfare,” “protection” is an overly generous turn of phrase. While the stated intention of this system may be to protect children, this thesis rests on the idea that state interventions do not keep us safe, and in fact, they make the most marginalized members of our communities less safe. The connotation of “child removal system” does emphasize the punitive nature of the system, but it isolates child removal too narrowly. I hope to illustrate in this work – particularly in chapter two – that this system is harmful even if children are not removed, or if families are reunified after removal.

I finally landed on “family regulation system,” as I think that this term most accurately centers the impacts of the system on families (as opposed to disregarding the influence of the family unit by isolating children). Further, by using the term “regulation” I attempt to apply a queer lens which recognizes that any kind of state intervention which designates a family “unhealthy” or “unsafe” constructs an opposing standard of what a “healthy” or “safe” family is. Given the realities of the systems of domination that we live in – white supremacy and heteropatriarchy – this opposing standard is unavoidably steeped in racism and sexism. Regulation is a process of assessing families’ compliance with these systems of domination. Additionally, I take up the Foucaultian logic that state interventions (and the resulting surveillance) yield self-policing, meaning that not only are subjects punished for non-compliance, but they also self-monitor for this compliance, too. This self-monitoring upholds the dominant systems of racism and sexism. Throughout this thesis, there are other terms that are hard to pin down, and for that reason I have included a glossary that you can reference in Appendix A.

Searching for language that centers the harms of family regulation also raises the question: how does one label a system harmful when the system does not necessarily cause harm

in every individual case? Or, when in spite of this harm, the family regulation system may simultaneously be the best solution to child maltreatment that is currently available? These questions dovetail with similar conversations in abolition communities about how to respond to violence without relying on police when police are, for the most part, the most immediately accessible, trained, armed response teams that one may have access to at any given time.²² So while we strive for a world where notions of “crime” are complicated, and definitions of “safety” are reclaimed, in the interim we may have no choice but to call the police from time to time. Similarly, in instances of child maltreatment where circumstances seem both dire and urgent, and community responses are not an option, the family regulation system may be the best, imperfect option available. So while arguments made in this paper push for alternatives to the family regulation system, these do not stand to discredit the situations that the family regulation system has ameliorated, but instead to complicate binary perceptions of this system as solely helpful or harmful and ask us to imagine what alternatives might mitigate harm, or be more wholly helpful.

Methods and Methodologies

In an effort to mitigate harm throughout the creation of this project, I balanced a desire to acknowledge the stated intentions of everyone involved in family regulation interventions: “to keep the child safe” with a simultaneous inclination to regard parents (and children, when appropriate) as the authorities on what safety would look like for specific children. Additionally, I sought to affirm the situated knowledges of marginalized persons, recognizing lived experiences as sources of evidence that inform individuals’ worldviews. As a result, I assumed

²² See Ejeris Dixon’s chapter “Building Community Safety: Practical Steps Toward Liberatory Transformation,” in *Beyond Survival: Strategies and Stories from the Transformative Justice Movement* for more on this.

that while experiences of oppression are not monolithic, Black people, Indigenous people, and people of color are the experts on what constitutes racism, for example.²³

In order to enact these objectives I utilized historical analysis, discursive analysis, and feminist interviewing. First, I offer a brief history of child removal in the United States. While an extensive history extends far beyond the scope of this project, it is important for me to contextualize the present-day family regulation system in this larger history in order to help my reader understand that state-sanctioned child removal by family regulation agencies extends on and reifies a long history of the child removal of Black, Indigenous, people of color originating in 1619.

Second, I go beyond a mere theoretical or demographic comparison to discursively analyze Illinois DCFS forms, policies, and procedural documents in order to expose the policing mechanisms enacted by DCFS. Particularly, I highlight instances of subjectivity where biases can be enacted. As a white person who does not experience the harms of racial bias, I recognize that my lived experiences do not inform the criteria which I use to decipher racial bias. It is for this reason that I consulted a wealth of literature on racism in surveillance and policing to inform this lens.²⁴

Finally, in order to explore conceptions of safety now and in an abolitionist world, I interviewed those who were directly involved in defining safety for themselves or their child (survivors of the family regulation system), those who defended parents in asserting the validity and safety of the families that they created (family defense attorneys), and those who acted on

²³ Haraway, Donna. "Situated Knowledges: The Science Question in Feminism and the Privilege of Partial Perspective," *Feminist Studies* 14, no. 3 (1988): 575-99.

²⁴ Including, but not limited to, Beth Richie's *Arrested Justice* (2012), the African American Policy Forum's 2015 report: "Black Girls Matter: Pushed Out, Overpoliced, and Underreported," and Natalie J. Sokoloff's "The Impact of the Prison Industrial Complex on African American Women" (2004).

behalf of the state to define what safety means and who can provide it (family regulation system workers). Using these perspectives, I invite us to imagine an abolitionist world where harm is effectively addressed, fewer and fewer people become system-involved, and communities are strong and accountable.

During interviews I enacted intentions to practice feminist interviewing as best as possible, while recognizing that my execution was not and cannot be perfect. My whiteness, class privilege, and role as a researcher all equip me to wield social power. Though participants remain anonymous in this publication and interviews were completed with the consent of the participants, the subject matter of interviews was oftentimes personal and sensitive. I aimed to follow feminist interviewing best practices by disclosing my argument and resultant bias at the start of each interview, scheduling and locating interviews around the convenience of participants (including making space for participants' children to be present during interviews), and providing compensation regardless of the length of the interview or the content which the interviewee shared with me.²⁵ I understand these steps as harm reduction, recognizing that mining individuals' personal and professional experiences for my academic pursuits is inherently exploitative and reifies a power system that is not wholly avoidable.

Because this project focuses on a form of state repression that disproportionately impacts Black mothers, I invoke critical race theorists who adeptly identify that law and corresponding legal systems (like the family regulation system) both construct and uphold racial hierarchy.²⁶ Additionally, this project seeks to affirm the wisdom of women of color feminists, particularly Black feminists such as Barbara Ransby, Patricia Hill Collins, and Barabara Smith. My work

²⁵ Sharlene Nagy Hesse-Biber *Feminist Research Practice: A Primer*, second ed (Thousand Oaks, CA, SAGE Publications, 2013).

²⁶ Ian Haney-López, *White by Law: The Legal Construction of Race* (New York University Press, New York, 2006).

grows out of the foundational work of those who identify the insidious double-bind of intersecting oppressions that women of color experience, with attention to the historic exploitation of Black women throughout enslavement.

Perhaps most central to this project is the methodology of abolition, of dismantling systems that segregate, discriminate, and perpetuate violence and beginning anew with systems that uplift, and build justice rather than undermine it. Liberals and conservatives alike criticize abolition for being too radical, idealistic, or unrealistic. What they miss is that it is this idealism that is at the core of what abolition means. As Morgan Bassichis, Alexander Lee, and Dean Spade ask in their chapter of *Captive Genders*: “Building an Abolitionist Trans and Queer Movement with Everything We’ve Got,” “What would it mean to *embrace*, rather than *shy away from*, the impossibility of our ways of living as well as our political visions? What would it mean to desire a future that we can’t even imagine but we are told couldn’t ever exist?”²⁷ Abolitionist scholar and critical race theorist David Stovall summarizes this, stating that as abolitionists, “we should also entertain a process that is willing to ‘demand the impossible.’”²⁸ While abolition can be literal, and have tangible goals to dismantle institutions like prisons or immigrant detention facilities, it is also a more conceptual project of imagining the world we want to live in and identifying small steps we can take to bridge the difference between that world and the world that we’re living in currently.

²⁷ Morgan Bassichis, Alexander Lee, and Dean Spade, “Building an Abolitionist Trans and Queer Movement with Everything We’ve Got,” in *Captive Genders: Trans Embodiment and the Prison Industrial Complex*, ed. Eric A. Stanley and Nat Smith (Chico, CA; AK Press, 2011), 36.

²⁸ David Stovall, “Critical Conversations: Dr. David Stovall Abolitionist Visions of 'School': Justice and the Imperative of Critical Consciousness” (lecture, John L. Warfield Center for African & African American Studies, University of Texas at Austin, September 18 2019).

Chapter Outline

This thesis is broken into three chapters that contextualize, frame, and imagine solutions to the query of how to keep children safe in a world where abolition is realized.

Chapter one frames child removal throughout U.S. history as a racialized genocidal project. This chapter traces a long lineage of white state actors removing children from racialized families which were constructed as “deviant,” starting with chattel slavery and Indian boarding schools. This fed into neoliberal policy shifts in the late 20th century which made common the practice of utilizing “personal responsibility” rhetoric to rationalize the removal of children, and informed the contemporary culture surrounding child removal: it is one’s individual responsibility to be a “fit” parent, regardless of the logistical barriers they face, and if they cannot overcome those barriers then they do not deserve to be a parent. The chapter connects this history to the present-day separation of parents and children at the U.S./Mexico border, and identifies how the tools that enable present-day formalized child removal by the family regulation system originate with this history.

Chapter two builds on many prominent scholars (such as Angela Davis, Erica R. Meiners, and Dorothy Roberts) to explain the connection between the prison industrial complex and the present-day family regulation system. Expanding on compelling evidence about the demographic similarities between the family regulation system and the incarcerated population, as well as emerging literature about the foster care-to-prison pipeline, I examine how the family regulation system operates as a policing and surveilling body by discursively analyzing forms, policies, and procedural documents that are used by the Illinois DCFS. I identify particular mechanisms through which the genocidal project of child removal (outlined in chapter one) persists today.

Finally, chapter three builds on the experiences and input of interviewees to attempt to formulate an answer to my research question: how do we keep kids safe in an abolitionist world? After interviewing harsh critics, staunch advocates, and survivors of the family regulation system, I explore themes interview themes that highlight where our current system succeeds and fails, and what is needed to keep children safe. I employ the abolitionist practice of long term visionary imagining, asking interview participants “in your ideal world...” or “if you had a magic wand... how would you keep kids safe?”

Conclusion

In this thesis I work to deconstruct the history and mechanisms of the family regulation system, and through this process I determine that its investments in surveillance, regulation, and punishment render the family regulation system an extension of the carceral state. Building on the wisdom of abolitionists who teach us that surveillance, regulation, and punishment do not address but actually enable harm, I extrapolate that the family regulation system does not keep us safe either. I recall those individuals who have wrongfully had their parental rights terminated, who called for help and were met with punishment, or who did not call for help for fear of punishment. Enacting the abolitionist practice of *imagining*, I explore what a world without carceral systems might look like, a world where calling for help results in tangible solutions.

CHAPTER ONE: HISTORY

“The [family regulation] system is ... very effective in taking Black and Brown children and children from poor white parents away. It's not so effective in raising those children and keeping them safe. But it does as good of a job as the mission schools did or the border camps or anything else we do that separates children and parents.”

- Family defense attorney

It is essential to contextualize the present-day separation of families of color in this longer history: parents who have been constructed as deviants have been surveilled and regulated for centuries. The practice of white elites removing children from queer subjects, namely impoverished parents and parents of color, predates the founding of the U.S. The practice of regulating families can be seen in chattel slavery, at Indian boarding school, in Native American child welfare policies, and at the U.S./Mexico border today. We cannot understand the present-day family regulation system until we recognize that it is enabled by the construction of people of color as criminals, and understand contemporary family regulation as a current iteration of a legacy of cultural genocidal.

A complete history of child removal is beyond the scope of this project, but it is impossible to understand contemporary child removal without recognizing how it builds on a genocidal legacy of dismantling families and their cultures. A one-to-one comparison of the conditions of enslavement or the abuses in Indian boarding schools with 21st century family separation by Illinois DCFS would be inappropriate; the circumstances today are undeniably different, and often less physically violent. But the tools that are used to rationalize present-day child removal – such as constructing parental deviance and weaponizing “personal responsibility” rhetoric – originate with enslavement and Indian boarding schools.²⁹ When

²⁹ It is worth noting that though the ideology originates with enslavement and Indian boarding schools, the rhetorical framing of parental deviance and “personal responsibility” rhetoric did not develop until the Reagan era, which I will discuss at greater length in the upcoming neoliberal policy history section.

analyzing the mechanisms of the Illinois DCFS and the prison nation it is useful to understand what historical systems have informed and upheld these mechanisms. Further, emergent data about intergenerational trauma reminds us that these histories are not left in the past, as there are links between these histories and the present moment: the traumatic legacies of family separation re-emerge through the formalized family regulation system today.³⁰

*Chattel Slavery 1619 – 1865*³¹

The U.S. legacy of a white ruling class removing children from marginalized parents who were constructed as deviant and unfit began with chattel slavery, which reached what is now known as the U.S. in 1619. White enslavers used family separation as a tool of social control over enslaved Africans, who were not afforded the same rights to family unity. This practice of using family removal as a violent tool to subjugate enslaved Africans is an origin point of intergenerational trauma that persists in the family regulation system today.

Enslaved Africans were constructed as deviant, unintelligent, and criminal.³² Through this construction, enslaved persons' subjugation and exploitation were rationalized as the unavoidable consequence of their personal deficits. Accordingly, enslaved persons' non-existent rights to family unity were deemed to be the result of their deviance and parental unfitness. Of course, the actual rationale behind the separation of enslaved families was the exploitation of their bodies and their labor, and the profit that white enslavers made from trading young

³⁰ Amy Bombay, Kim Matheson, and Hymie Anisman, "Intergenerational Trauma: Convergence of Multiple Processes among First Nations peoples in Canada," *Journal of Aboriginal Health* 5, no. 3 (2009).

³¹ For the scope of this thesis, I am specifically referring to slavery during the colonial and antebellum eras, though I would be remiss not to acknowledge that enslavement persists presently all over the world, including in the U.S., particularly through the trafficking and labor exploitation of migrants. This range of dates starts at the 1619 origin of the formalized transatlantic slave trade and ends at the 1865 ratification of the Thirteenth Amendment, ending chattel slavery. It is important to recognize that while the transatlantic slave trade was legally halted in 1808, recent evidence and anecdotes from Zora Neale Hurston's *Barracoon* about the Clotilda slave ship tells us that this practice persisted illegally until 1860.

³² *13th*, directed by Ava DuVernay (2016; Los Gatos, CA: Kandoo Films), Netflix Streaming.

enslaved persons with other white enslavers. As a result, enslaved children were frequently removed from their families.

Enslaved parents' rights to custody were trivialized as they worked tirelessly to keep their family unified. Historian Wilma King's 2011 work *Stolen Childhood: Slave Youth in Nineteenth-Century America* indicates that child removal was a present and haunting part of enslaved parents' daily realities: "a parent's most difficult job was to prevent separations."³³ King is attentive to the trauma that enslaved parents experienced as a result of these painful separations, which she illustrates through the example of one enslaver named Northup and an enslaved woman named Eliza:

The trauma of separation and the fear of never seeing family members again were pervasive within the slave community. Northup admitted that he had "never seen such an exhibition of intense, unmeasured, and unbounded grief" as that displayed by Eliza. The distraught mother constantly talked of her children, Northup wrote, and "often to them as if they were actually present."³⁴

Enslaved parents regularly endured the trauma of having white enslavers' views of their children as means to capital value overpower the relationship they had with their child. Black people in the U.S. have experienced and inherited the trauma of family separation since their forced relocation to what is now known as the U.S.

As a result of the conditions of their bondage, enslaved children lived in constant fear of removal from their families. King writes that "Children who were afraid that they would be separated from family members often hid themselves, particularly in the presence of whites they did not know. They feared that the white strangers were traders who had come to take them or their loved ones away."³⁵ Enslaved children's anxiety was evidence of the precariousness of the

³³ Wilma King, *Stolen Childhood: Slave Youth in Nineteenth-Century America* (Bloomington, Indiana University Press, 2011), 240.

³⁴ Ibid, 240.

³⁵ Ibid, 241.

Black family, and the longstanding trauma that Black families in the U.S. have endured. As enslaved parents felt anxiety which they passed onto their enslaved children, this anxiety continued intergenerationally. Emergent findings about intergenerational trauma, paired with demographics which indicate that the majority of social workers are white, and given that many families in low-income communities of color have repeat involvement with social services it is clear that this kind of anxiety is well-founded and still relevant today.³⁶

Families that come in contact with the Illinois DCFS experience a new iteration of the trauma that previous generations experienced: the stability of their family is uprooted, and family members are forced to fight for their family's unity. Then and now, Black families are disproportionately likely to have their children removed by the family regulation system. In 2018 Black youth made up 23 percent of the youth in foster care, despite comprising only 14 percent of the national youth population. One family defense attorney made a remark about families she interacts with in her work presently that drew parallels to Northup's aforementioned observations about the emotional process of the grieving mother, Eliza. She said that "it's very common for people to spiral out of control when their kids are taken. Because obviously it's traumatic." This trauma is central to the experience of Black parents in the U.S. from 1619 to now: throughout history, the Black family has been threatened.

In response to this precariousness, Black parents who are often forced to comply with dominant white systems. Out of desperation, some enslaved parents resorted to infanticide in

³⁶ Amy Bombay, Kim Matheson, and Hymie Anisman, "Intergenerational Trauma: Convergence of Multiple Processes among First Nations peoples in Canada," *Journal of Aboriginal Health* 5, no. 3 (2009).; Melissa Dolan et al., "NSCAW II Baseline Report: Caseworker Characteristics, Child Welfare Services, and Experiences of Children Placed in Out-of-Home Care," Office of Planning Research and Evaluation, Administration for Children and Families, Report #2011-27e. 2011. https://www.acf.hhs.gov/sites/default/files/opre/nscaw2_cw.pdf; Beth Richie, *Arrested Justice: Black Women, Violence, and America's Prison Nation*, (New York, New York University Press, 2012).

order to prevent enslavers from removing their children.³⁷ But in order to stay alive and together, Black parents had few choices but compliance. King describes how parents facing separations often had to “set aside their own personal pride and [seek] viable alternatives.”³⁸ King goes on to write about one individual’s success: the story of Lucy Skipwith, who persuaded her enslaver not to sell her daughter in 1859, “by arguing that the girl was better off in her home.”³⁹ Through strategic persuasion, Skipwith was able to get her enslaver to pursue the outcome she desired. But her argument had to rest on what was most advantageous, not the inherent validity of her right to custody or the immorality of the child’s removal – not to mention the immorality of slavery in general. While enslaved parents had to perform compliance with the validity of their bondage, (disproportionately Black) parents involved with the Illinois DCFS have to prove the legitimacy of their right to custody by demonstrating their “fitness” as parents, working to overcome their historic construction as deviants and criminals.

Indian Boarding Schools 1880s – 1950s

Similar to the impacts on Black families, we can see how the removal of Native American children and their placement in boarding schools was a tool to dismantle Native American cultural values, religions, and ways of living by constructing them as deviant and un-American. In an attempt to resolve “the Indian problem” after Reconstruction, white reformers and abolitionists looked at the presence of Native Americans on land that colonizers sought to occupy and the distinct cultural differences between Native Americans and white settler-colonizers and identified that mass displacements and murders were not a solution, but an immoral genocide. Instead, they advocated for what they perceived as a more “progressive”

³⁷ Wilma King, *Stolen Childhood: Slave Youth in Nineteenth-Century America* (Bloomington, Indiana University Press, 2011), 239.

³⁸ *Ibid*, 240.

³⁹ *Ibid*.

response: assimilation.⁴⁰ The title of Captain Richard H. Pratt's now infamous speech "Kill the Indian, Save the Man" indicated that instead of supporting a physical genocide of "men," he advocated for a cultural genocide of "Indians."⁴¹ This belief was held in Illinois, too, as indicated by a source in Margaret Jacobs' *White Mother to a Dark Race*: "'There is but one policy possible if we are to do the Indians any good,' editorialized one newspaper in Illinois, 'and that is to divide them up and get one Indian family away from another and get them mixed up with white people.'"⁴²

This practice of getting Native Americans "mixed up with white people" was enacted through the forced placement of Native American youth in boarding schools where they were taught Christian values, and stripped of their Native American cultural practices, beliefs, and presentations. By indicating that Native American culture was something to be dismantled, white settler colonizers implied that there was something inherently wrong with Native culture. Through these sentiments, they constructed Native American culture as deviant. Famous photos like Figures 1 and 2 show the impact of this cultural genocide, and the way it imposed strict white expectations of "normalcy" on Native American youth.⁴³

⁴⁰ Margaret D. Jacobs, *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Postwar World* (Lincoln, University of Nebraska Press, 2014).

⁴¹ Richard H. Pratt, "Kill the Indian, and Save the Man" (speech, George Mason University, 1892).

⁴² Margaret D. Jacobs, *White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940* (Lincoln, University of Nebraska Press, 2009), 26-27.

⁴³ John N. Choate, *Navajo Students with Richard Henry Pratt*, 1882, black and white print, The Archives & Special Collections, Waidner-Spahr Library, Dickinson College, <http://carlisleindian.dickinson.edu/teach/analyzing-and-after-photographs-exploring-student-files.>; John N. Choate, *Navajo Students*, 1882, black and white print, The Archives & Special Collections, Waidner-Spahr Library, Dickinson College, <http://carlisleindian.dickinson.edu/teach/analyzing-and-after-photographs-exploring-student-files.>



Figures 1 and 2: Photographs "Navajo Students with Richard Henry Pratt, 1882 [Before]" and "Navajo Students, 1882 [After]" taken at the Carlisle Indian Industrial School, commissioned from John N. Choate by Richard H. Pratt in 1882. Made publicly available by the Archives & Special Collections at the Waidner-Spahr Library at Dickinson College.

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These 1882 “before” and “after” photos depict a class of Navajo children at the Carlisle Indian Industrial School, an off-reservation Indian boarding school which Richard H. Pratt (quoted above and pictured in Figure 1) founded.⁴⁴ The “before” photo exoticizes and demonizes the Navajo children's natural adornments, making them fixable facets of their life “before” which are to be washed away and corrected for their more assimilationist life “after.” The “after” photo exemplifies the “successful” assimilation of the Navajo children through the distinct changes in their attire, hair length, posture, and location. Instead of posing in the outdoors, exemplifying their “wildness” the children sit straight-backed, inside, wearing tight button up suits for the boys and a dress for the girl. The heightened distinctions between the “girl” attire and the “boy” attire, as well as the clear masculinization of the boys through the removal of their hair exemplifies the role of gender regulation in the process of assimilation. The tense postures indicate the behavioral regulation that was expected by the program. Jacobs contextualizes boarding schools’ imposition of white western culture within the larger history of the United States at that time, understanding the individual injustices enacted on each child as part of a larger project of nation building, and of creating a national identity built on “a unified sense of the nation based on whiteness and modernity.”⁴⁵ Through lauding whiteness, Indian boarding schools simultaneously denigrated and “othered” indigenous cultures, indicating their inferiority by explicitly tearing them apart.

In addition to teaching Native American children white settler-colonizer culture, Indian boarding schools also denied parents the opportunity to pass their own cultural values onto their children. These schools constructed white supremacist institutions and their staff as superior

⁴⁴ Ibid.

⁴⁵ Margaret D. Jacobs, *White Mother to a Dark Race: Settler Colonialism, Maternalism, and the Removal of Indigenous Children in the American West and Australia, 1880-1940* (Lincoln, University of Nebraska Press, 2009), 63.

caretakers to the children's own families. Much like family separations throughout enslavement, Indian boarding schools were undeniably traumatic for parents and children alike. Recent retrospectives indicate that there was rampant physical, mental, and sexual violence throughout these facilities.⁴⁶ By denying parents the opportunity to socialize their own children, and exposing children to intensive violence, Indian boarding schools caused intergenerational trauma, similar to that experienced by people who were enslaved.

Removal of Native American Youth 1950s – 1978

Though the majority of Indian boarding schools closed in the 1950s, their genocidal legacy continued in a series of welfare policy decisions until a sharp halt due to the 1978 Indian Child Welfare Act. These policy shifts mark the beginning of a period of neoliberal rhetoric which no longer explicitly deems racialized parents unfit, but instead constructs an individualist perspective that effective parenting is one's "personal responsibility" regardless of the institutional barriers that make parenting challenging. The long and unjust history of welfare inaccessibility and impoverishment of Native Americans has contributed to the construction of Native peoples as unfit parents and Indian reservations as unsafe environments for child-rearing.

After terminating tribal recognition for 109 tribes and transferring jurisdiction of Indian affairs from federal to state governments, Native Americans' dependence on welfare increased and so "the BIA devised a solution in 1958 that appealed to both federal cost cutters and cash-strapped state agencies: the Indian Adoption Project. This project promoted the placement of Indian children in non-Indian adoptive families; it looked to the ultimate private sector to take over the expense of raising Indian children and assimilating them once and for all."⁴⁷ By

⁴⁶ See chapter two of Andrea Smith's book "Conquest: Sexual Violence and American Indian Genocide" (2005), titled "Boarding School Abuses and the Case for Reparations."

⁴⁷ Margaret D. Jacobs, *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Postwar World* (Lincoln, University of Nebraska Press, 2014), 6.

renaming the custody of Native American children, the U.S. government portrayed Native American families as a barrier to its financial solutions. On the contrary, non-Indian (often white) adoptive families who had the wealth to adopt were seen as deserving parents, and saviors of children who came from unfortunate circumstances.

This culmination of financial troubles and non-Indian adoptions resulted in a continuation of the perceived “Indian problem,” this time the “problem” being Native Americans’ financial insecurity and inability to achieve independence of welfare services. These economic struggles reinforced the aforementioned “personal responsibility rhetoric,” and were seen as the fault of financially unstable and unfit Native American parents, not the unavoidable consequences that emerge from surviving a series of disavowed land treaties, resource-deprived reservations, and limited welfare support. As a result, Native Americans’ financial insecurity was used to justify the removal of Native American children by the family regulation system at alarming and disproportionate rates.

In response to this child removal crisis, the Indian Child Welfare Act (ICWA) was passed in 1978. The ICWA’s purpose is “to protect the best interest of Indian Children and to promote the stability and security of Indian tribes and families by the establishment of minimum Federal standards for the removal of Indian children and placement of such children in homes which will reflect the unique values of Indian culture.”⁴⁸ The passage of this act was Congress and the public’s first acknowledgement that the impacts of the Indian Adoption Project – and the longer history of displacing and dismantling families – was detrimental. Jacobs describes the impact of the Congressional hearings as shocking: “Many social workers, adoptive families, and nonprofit agency directors were accustomed to seeing themselves as caring rescuers. Now some perceived

⁴⁸ The Indian Child Welfare Act, 25 U.S.C. 1902 (1978).

themselves anew through Indian eyes: as child snatchers.”⁴⁹ For the first time, the American public understood child removal as a tool of cultural genocide as opposed to a benevolent mission to remove children from horrific cruelties.

This public reckoning was short-lived, however, as this question of saviors versus captors was raised again in the 2013 Supreme Court case *Adoptive Couple v. Baby Girl* case. In this case a non-Native family adopted a multi-racial baby who had Cherokee heritage, despite the objections of her Cherokee father. Because the Cherokee father relinquished custody to the birth mother during her pregnancy and then reversed his decision when he was served with the adoption papers four months after her delivery, the attempted adoptive family argued that they had a right to this baby, as they had been a more present part of her life than her father, once again invoking a “personal responsibility” rhetoric to fault Native persons. Scholar Alyosha Goldstein writes that “*Adoptive Couple*, and the protracted legal and jurisdictional struggles in its wake, has much to do with the reassertion of white heteronormative rights to possess and to deny culpability for the ongoing consequences of colonization and multiple forms of racial violence in the present moment.”⁵⁰ Much of the public – and the Supreme Court’s ultimate decision – were in support of the white adoptive parents. *Adoptive Couple* shows that white adoptive parents are still understood as generous baby-savers, and that social workers did not internalize the awakening that occurred during the Indian Child Welfare Act hearings.

The American public has yet to recognize that reallocating children of color to white parents is not in children’s best interest. While representing the majority opinion, Justice Samuel Alito wrote that “We further hold that [the Indian Child Welfare Act] — which conditions

⁴⁹ Margaret D. Jacobs, *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Postwar World* (Lincoln, University of Nebraska Press, 2014), 128.

⁵⁰ Alyosha Goldstein, “Possessive Investment: Indian Removals and the Affective Entitlements of Whiteness,” *American Quarterly* 66, no. 4 (2014): 1077.

involuntary termination of parental rights with respect to an Indian child on a showing that remedial efforts have been made to prevent the ‘breakup of the Indian family’ — is inapplicable when, as here, the parent abandoned the Indian child before birth.”⁵¹ This belief, which condemns the Native father’s parenthood, was upheld despite social workers’ 1978 realization that Native American parents understand them as “baby snatchers” who do more to cause harm than address it. This contradiction and unwillingness to learn from the past raises the question: was providing for the welfare of families ever the state’s true goal?

Neoliberal Policy History 1970s – 1997

From chattel slavery to the present-day, the white U.S. government has systemically dismantled Black and Native families, rendering them disposable and undeserving of resources. A series of policy decisions between 1970 and 1997 and recent data regarding the impacts of said policies demonstrates how a neoliberal policy regime crafted by the federal government built up the United States prison nation through crime acts and hindered social service access for impoverished people of color through child welfare acts. These policies incarcerated Black people at disproportionate rates and constructed impoverished Black people as unfit parents, resulting in the removal of Black youth and their placement in the care of white foster parents, and ultimately, the dismantling of the Black family.⁵² Particularly, these policies reflected a neoliberal shift away from social service provision towards a system that emphasized “personal responsibility.” Instead of identifying white supremacist systemic injustices as legitimate barriers to effective parenting, this neoliberal policy regime criminalized Black people and constructed

⁵¹ “Adoptive Couple v. Baby Girl,” 570 US 637 (2013) (Samuel Alito, concurring opinion).

⁵² As I will discuss in the following chapter, Black people are not the only racial group to be incarcerated at disproportionate rates, and it is crucial not to essentialize or reduce racial disparities in this way. However, because many of the policies discussed in this section targeted Black families, I focus on data about Black Americans in this section.

the struggles of impoverished parents of color as their own fault, making hegemonic the idea that Black people are inherently inferior parents. Further, these policies employed the white-dominated practice of adoption in order to rescue Black youth from the supposed ills of impoverished Black homes, framing white parenthood as a yardstick to which all other parents should be measured.

Understanding Racialized Crime Acts and the Prison Nation

Three acts from the 1970s through the 1990s characterized the racially biased and increasingly punitive neoliberal approach to crime, which disproportionately impacted Black people. Though neoliberalism is a wide-reaching system with vast impacts, its effects on the U.S. prison nation manifested through the 1970 Controlled Substances Act, the 1986 Anti-Drug Abuse Act, and the 1994 Violent Crime Control Act. As a result, this era saw rapid growth in which offenses were criminalized, how severely they were criminalized, and the population of prisons. First, the 1970 Controlled Substances Act instated “schedules” of urgency for various drugs, which grouped drugs according to their perceived level of danger compared to their potential medical benefits, and had corresponding stipulations about how each schedule of drugs was criminalized.⁵³ This 1970 act was passed one year prior to President Nixon’s declaration of a “War on Drugs,” which poverty scholars presently understand as a racialized war on poor people.⁵⁴ Next, the rhetoric of the 1986 Anti-Drug Abuse Act made the racialized dimension of neoliberalism especially salient by inordinately punishing crack offenses (which were associated

⁵³ History.com Editors, “War on Drugs,” History.com, A&E Television Networks, May 31, 2017, <https://www.history.com/topics/crime/the-war-on-drugs>.

⁵⁴ Ed Vulliamy, “Nixon’s ‘war on drugs’ began 40 years ago, and the battle is still raging,” *The Observer*, July 23, 2011; Elizabeth Hinton, *From the War on Poverty to the War on Crime: the Making of Mass Incarceration in America* (Cambridge, MA: Harvard University Press, 2017).

with Black drug users) to cocaine offenses at a rate of 100:1.⁵⁵ Later, the 1994 Violent Crime Control Act expanded the reach of the death penalty and imposed the infamous three-strikes policy, mandating that those incarcerated in federal prisons for three or more felonies are to be incarcerated for life without parole.⁵⁶ The racialized nature of these three acts – and policing more broadly – implicated that Black communities experienced the brunt of this heightened incarceration, and were thus constructed as deviant.

Amongst other impacts, these policies contributed to an unprecedented proliferation of incarceration rates, seeing that the U.S. prison population reached the largest in the world.⁵⁷ Eric Schlosser described this astronomical growth, setting the scene in his 1998 “The Prison-Industrial Complex:” “In the mid-1970s the rate [of incarceration] began to climb, doubling in the 1980s and then again in the 1990s.”⁵⁸ Schlosser goes on to highlight that Black men were disproportionately incarcerated throughout this period.⁵⁹ The neoliberal crime control policy regime stemming from the 1970s created an incarceration epidemic that continues to plague Black Americans to this day, both through the systemic removal (via incarceration) of Black parents from their families and through the ideological construction of Black people as criminals.

Examining the Concurrent Decline of the Welfare State

Simultaneously, this same neoliberal policy regime realigned child welfare policies, shifting the focus from a “helping” system to a punishment and removal system, which also unequally impacted Black families. More aligned with the “helping” approach, the 1980

⁵⁵ Michelle Alexander, *The New Jim Crow: Mass Incarceration in the Age of Colorblindness* (New York: New Press, 2010), 5.

⁵⁶ Ranya Shannon, “3 Ways the 1994 Crime Bill Continues to Hurt Communities of Color,” *Center for American Progress*, May 10, 2019.

⁵⁷ Eric Schlosser, “The Prison-Industrial Complex,” *The Atlantic*, Dec 1998.

⁵⁸ *Ibid.*

⁵⁹ *Ibid.*

Adoption Assistance and Child Welfare Act allocated \$3.3 billion to a federal matching fund for state social services, vastly enhancing the capacity of the child welfare system to provide assistance to families in poverty.⁶⁰ The 1980 act worked to remedy the troubling history of federal subsidies given to states with high foster care populations, which unintentionally incentivized child removal without any good faith family preservation efforts. Instead this bill bolstered and encouraged family reunification services. The Adoption Assistance and Child Welfare Act reflected a more liberal welfare approach: supporting families who struggle to get by in a system that deems wealth a prerequisite to successful parenting. But this open-handed child welfare program and the accompanying ideologies did not withstand the era of Reaganomics. Reagan's presidency and his undermining of the Adoption Assistance and Child Welfare Act represented the end of the "helping" approach to child welfare, curtailing a broad social service system that would have supported impoverished families, instead implying that it was not the state's responsibility to support parents, but parents' own responsibility to achieve success.

The following 1997 Adoption and Safe Families Act (ASFA) reflected and put into law a more punitive, removal-focused approach, eroding the 1980 focus on family reunification in favor of a response that punished "noncompliant" parents with the termination of their parental rights. The ASFA required the termination of parental rights for any parent whose child spent 15 of the most recent 22 months in foster care. Given the Reagan and Clinton administrations' gutting of welfare services, low-income families were without help and as a result, were unable to meet the needs of their children. As children were removed in response to parents' inability to materially provide for their children, the window of opportunity for regaining custody

⁶⁰ *Adoption Assistance and Child Welfare Act, Conference Report on H.R. 96-900*, 96th Cong. (1980).

narrowed. A decline in welfare services correlated to an increase in child removal, which was justified by framing impoverished parents' inability to access social services as child neglect. As a result, parental rights are terminated and children are swiftly adopted by families who would not need to access welfare in the first place: predominantly white and wealthy people.⁶¹ The ASFA put into policy the Reagan-era undercutting of child welfare, leading to the fragmentation of welfare-dependent families.

Concurrently, the aforementioned crime acts criminalized a wider array of offenses, accelerating rates of incarceration and lowering the threshold for deeming someone "criminal," making narratives of Black deviance even wider reaching. The window for regaining custody of one's child decreased, as did access to social services which can make regaining custody more feasible, such as food stamps, and public housing. These cutbacks made it less and less possible for parents of color to prove their parental capabilities to the state, which implicated that parents who did not need to prove their parental capabilities – those whose demographics (white, wealthy) reflected the demographics of the very policymakers who concocted such legislation – were able to adopt those children. This policy regime enabled the formation of white families while targeting Black families.

The Impacts of the Neoliberal Policy Regime on the Black Family

The ideological components of the neoliberal system contributed to a demonization of Black parents. While journalistic sources articulate the positive correlation between family preservation and a generous welfare state, few identify a lack of welfare as punitive. In her 2002 *Shattered Bonds: The Color of Child Welfare*, prominent legal scholar Dorothy Roberts discusses the impacts of neoliberal ideology on Black parents, commenting on the tangible harms

⁶¹ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* (New York, Basic Books, 2002), x.

of the neoliberal “personal responsibility” ideology. Roberts explains, “because the system perceives ... harm to children as parental rather than societal failures, state intervention to protect children is punitive in nature.”⁶² She highlights how in order to rationalize a system that accelerates terminating parental rights, the state must blame inadequate parents instead of its own policy failures. This implies that those parents whose rights are terminated are deserving of this tragedy, that the loss of their rights is naturalized through the criminalization of their own deficiencies.

These deficiencies are often reified through tropes of missing Black fathers, which are present throughout popular media and were reified by former President Barack Obama’s repeated insistence that more present Black fathers could solve crime rates, an idea he debuted in a 2008 speech in which he called Black absent fathers “boys instead of men.”⁶³ Though tropes of “missing Black fathers” are pervasive, the notion of Black parents as absent does not stop at fathers, as mothers are increasingly removed from their children’s lives, as well. In her “The Impact of the Prison Industrial Complex on African American Women” (2004), Natalie J. Sokoloff explains the intersection of custody laws and maternal incarceration. Sokoloff explains that incarcerated mothers of minors (who make up 70 percent of the female inmate population) are at risk of losing custody of their children.⁶⁴ Sokoloff writes,

Reunification laws became even more punitive in 1997 under the Adoption and Safe Families Act (ASFA), which states that if a mother does not have contact with a child for six months, she can be charged with ‘abandonment’ and lose rights to her child. Likewise, if a child has been in foster care for fifteen of the prior twenty-two months, the state may begin proceedings to terminate parental rights.⁶⁵

⁶² Ibid, 90-91.

⁶³ Mychal Denzel Smith, “The dangerous myth of the ‘missing black father,’” *PostEverything*, *The Washington Post*, Jan 10 2017, <https://www.washingtonpost.com/posteverything/wp/2017/01/10/the-dangerous-myth-of-the-missing-black-father/>.

⁶⁴ Natalie Sokoloff, “The Impact of the Prison Industrial Complex on African American Women,” *Souls* 5, no. 4 (Dec 1, 2004): 35.

⁶⁵ Ibid.

This passage explains how child welfare policy can have punitive impacts on mothers that are similar to the effects of racially biased crime acts. This punitive system creates a cyclical situation where Black mothers are criminalized and incarcerated, they are deemed absent mothers, and then they are once again punished through the removal of their children. This cycle is especially concerning when considered alongside data regarding the life outcomes for removed youth, which will be discussed at greater length in chapter two.

How Black Families' Fragmentation Upholds White Families' Supremacy

Dorothy Roberts describes how the white family is reinforced through systemic advantages and less discrimination. Black families are less likely to receive reunification services than white families, Black youth are disproportionately represented in foster care, and youth in foster care are inordinately likely to be incarcerated.⁶⁶ When Black families do not receive reunification services, or when Black parents are unable to comply with the narrow stipulations of their reunification, their parental rights are terminated and their child is put up for adoption. As is described above, white people make up the majority of adoptive parents in the United States.

Dorothy Roberts explains how the reallocation of Black children to white families upholds white supremacist stereotypes about white people's superior parenting capabilities. Roberts responds to this concerning pattern of removal and relocation, noting that "the child welfare system ... compounded the effects of discrimination on Black families by taking children from their parents, allowing them to languish in a damaging foster care system or to be adopted by *more privileged people*."⁶⁷ It is this emphasized portion which I find particularly

⁶⁶ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* (New York, Basic Books, 2002), vi.

⁶⁷ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* (New York, Basic Books, 2002), emphasis added, ix-x.

concerning, as this pattern perpetuates the neoliberal “personal responsibility” ideology by relocating those children born to parents who the state deems unfit to the homes of parents presumed to be more qualified, which in practice is white parents. Through this practice of criminalization and removal, the U.S. state deems white people to be more proficient and more deserving parents.

The U.S. neoliberal policy regime enacted through crime and child welfare acts discriminates against people of color broadly, but particularly it disproportionately targets Black Americans, making them more susceptible to criminalization and punitive practices of child removal. This practice results in a cyclical system that places Black children with white families who the state sees as more moral, less deviant, and more competent parents. Despite the fact that I have only described the perpetuation of the neoliberal policy regime through the 1990s, and the reality that the U.S. prison population is currently slowly declining, contemporary debates around healthcare and incarceration demonstrate that carceral disparities and social service shortcomings remain persistent today. Particularly, the practice of adoption is still dominated by white people, and this disproportionality is on the rise. In fact, 2011 findings from the Early Child Longitudinal Studies Program, – a U.S. study using data about kindergarteners to study adoption patterns, – indicate that 77 percent of adoptive mothers are white compared to 39 percent of adopted kindergartners.⁶⁸ Further, the percentage of non-white kindergartners that were adopted by white mothers rose from 34 percent in 1999 to 51 percent in 2011.⁶⁹ The impacts of these draconian policies continue to enable the proliferation of white families today.

⁶⁸ Nicholas Zill, “The Changing Face of Adoption in the United States,” Institute for Family Studies, Aug 8, 2017, <https://ifstudies.org/blog/the-changing-face-of-adoption-in-the-united-states>.

⁶⁹ Ibid.

Practicing child welfare in a neoliberal state is intrinsically linked to a prison nation which treats Black families as though they are disposable, and results in the valorization of the white family.

Family Separations at the U.S./Mexico Border 2016 – Present

When the Trump administration began separating children and parents at the U.S./Mexico border and instituting a “zero tolerance” policy on immigration, public discourse about what rights parents had to their children and what constituted a “good parent” erupted. Conservative pundits argued that those who crossed the U.S./Mexico border without documentation were criminals, and that by acting in ways that they deemed “unlawful” they endangered their children and forfeited their parental rights. By removing children from their parents’ custody and failing to provide any clear documentation that would ensure their smooth reunification, the Trump administration implied that Latinx migrant parents were unfit.

In a poignant analysis of this practice and its resultant implications, Adela C. Licona and Eithne Luibhéid argued that:

The forced separation of migrant families at the border fits into the United States’ long history of treating enslaved families as property whose members can be sold away from one another; forcing Native American children into boarding schools designed to violently strip away their language, culture, identity, family and community ties; [and] immigration policies designed to prevent immigrants of color from settling and forming families.⁷⁰

Licona and Luibhéid contextualize family separations at the U.S./Mexico border within this larger project of cultural genocide. By stripping immigrant children of access to their parents, Immigration and Customs Enforcement (ICE) also severs children’s connections to their cultural heritage, preventing the continued development of these distinct cultural identities within the U.S. Licona and Luibhéid continue:

⁷⁰ Adela C. Licona and Eithne Luibhéid, “The Regime of Destruction: Separating Families and Caging Children,” *Feminist Formations* 30, no. 3 (2018): 45-46.

[The United States has a long history of] punitive, deeply inadequate social welfare policies; and domestic policies that punish, impoverish, incarcerate, and destroy poor, queer, indigenous, and racialized US citizen families in part by cultivating a cradle-to-prison pipeline that makes the United States the most incarcerated nation in the world.⁷¹

Licona and Luibhéid connect cultural genocide to incarceration, recognizing that the same mechanisms that dismantle families through the removal of children set children up to feed into systems of incarceration (prisons and migrant detention facilities). Family separation dismantles cultures and incarcerates families.

Through the enforcement of his “zero tolerance” policy, Trump used child removal to incentivize compliance with the white nation state. He defended the family separation policy, stating that “If they feel there will be separation, they don't come.”⁷² In this statement, Trump patently acknowledges that he is using separation of undocumented immigrant families as a threat to discourage subversion of U.S. immigration policy. Using inverse logic, unified families are an incentive of behavioral compliance. In this way, child removal is used as a tactic to enforce normative behavior that does not subvert state expectations.

Trump signed an order halting his policy of family separation in June of 2018 after widespread public outcry about ICE’s failure to use adequate systems of documentation and tracking that would make reunification of families possible. However, as of December of 2019, 1,100 families had been separated at the border since Trump’s 2018 order. Recent reporting indicates that family separations at the border persist today due to a technicality through which children can be removed if parents are deemed “unfit to care for a child” by border patrol agents. Not only are these border patrol agents unqualified to make these highly subjective judgments

⁷¹ Ibid, 46.

⁷² Vivian Salama, “Trump Defends Separating Families at the Border,” U.S., *The Wall Street Journal*, Oct 13 2018. <https://www.wsj.com/articles/trump-defends-separating-families-at-the-border-1539464658>.

– though I would not argue that family regulation caseworkers are qualified to make these judgments either, which I will elaborate on in chapter two – but further, they are a criminal law enforcement agency dictating who has the right to be a parent, which is technically a civil matter.⁷³ After border patrol makes these judgments, some children languish in detention facilities with substandard qualities of living (including alarming health conditions), and others are placed with foster families, which reifies all the aforementioned notions of saviorism, which are only amplified by the public construction of migrant parents as “criminal.”⁷⁴ Regardless of the public perception, children placed in both foster families and detention facilities face rampant physical and sexual abuse.⁷⁵ Family separation, situated amongst more explicit abuses, is yet another tool of state violence to punish deviance.

Conclusion

Black enslaved parents’ experiences; the difficulties endured by Native American youth in Indian boarding schools; the challenges Native American parents endured to navigate welfare disintegration; the longstanding impacts of the neoliberal policy regime; and migrant families’ recent experiences at the U.S./Mexico border indicate that throughout history, family separation has been a tool wielded by a white ruling class to enforce behavioral regulation. Family regulation has been developed as a tool to squash the subversion of queer subjects who live

⁷³ Adam Edelman, “Trump signs order stopping his policy of separating families at border,” 2018 Top 100, *NBC News*, June 20 2018. <https://www.nbcnews.com/politics/immigration/trump-says-he-ll-sign-order-stopping-separation-families-border-n885061>; John Washington, “The Government Has Taken at Least 1,100 Children From Their Parents Since Family Separations Officially Ended,” *The Intercept*, Dec 9 2019, <https://theintercept.com/2019/12/09/family-separation-policy-lawsuit/>.

⁷⁴ Caitlin Dickerson, “‘There Is a Stench’: Soiled Clothes and No Baths for Migrant Children at a Texas Center,” *The New York Times*, June 21 2019, <https://www.nytimes.com/2019/06/21/us/migrant-children-border-soap.html>.

⁷⁵ Daffodil J. Atlan, “Migrant kids split at border were harmed in foster care, claims say,” *Politics, USA Today*, Aug 16 2019, <https://www.usatoday.com/story/news/politics/2019/08/16/immigrant-children-separated-border-abused-foster-care-claims/2027970001/>; Matthew Haag, “Thousands of Immigrant Children Said They Were Sexually Abused in U.S. Detention Centers, Report Says,” *The New York Times*, Feb 27 2019. <https://www.nytimes.com/2019/02/27/us/immigrant-children-sexual-abuse.html>.

outside the norms upheld by the nation-state. Parenthood and family unity has historically been constructed as an incentive for behavioral compliance. The threat of family separation is a consequence for challenging the state's notions of "healthy" or "unhealthy" families, and a tool of cultural genocide. This practice has only become more insidious as the neoliberal policy regime has shifted popular rhetoric to focus on the "personal responsibility" of individual parents, obscuring the systemic harms of the family regulation system and misconstruing them as the inevitable repercussions for a series of individual shortcomings. The current situation at the U.S./Mexico border; the contemporary persistence of neoliberal policy regimes; the intergenerational trauma that echoes from these historical injustices; and the U.S.'s alarming incarceration crisis indicate that these tools of regulation are not solely located in the past.

CHAPTER TWO: THE PROBLEM

“So when does the punishment stop?”
– Survivor of the family regulation system

Introduction

The harmful legacy that follows centuries of child removal throughout U.S. history manifests today through the formalized family regulation system. In Illinois this is called the Department of Children and Family Services (DCFS). Unsurprisingly, the racial disparities that were prevalent throughout historical instances of family regulation are ever-present today. Further, the punitive aspects of the family regulation system have only become more evident, as the family regulation system and the criminal punishment system have become demographically, ideologically, practically, and functionally intertwined.

Beyond their demographic similarities, the family regulation system and the criminal punishment system are founded on the same ideological underpinnings: that there is a “right” way to behave, and that surveillance, regulation, and punishment will ensure that individuals behave in that “right” way. As a result, both systems put this ideology into practice by surveilling, regulating, and punishing queer subjects, or those who are deemed non-compliant. Once individuals are involved with one system or the other, there are many functional pathways through which one can become dual-involved. This chapter examines these links, and how both the family regulation system and the criminal punishment system prioritize behavioral regulation over family well-being.

Illinois Department of Children and Family Services 101

Family Regulation by the Numbers

Analyzing the family regulation system is difficult because of how convoluted and confusing the system’s mechanisms actually are, so I begin by characterizing what the family

regulation system is, who is involved, and how it works. Through the policy shifts described in the previous chapter, the family regulation system has become the state's primary response to child maltreatment in the United States.⁷⁶ Its interventions, like parenting classes, intact family services (focused on keeping the child in the home), and child removal, are primarily triggered by mandatory reporters. Mandatory reporting laws require that adults in children's lives (such as teachers, law enforcement, and pediatricians) report child maltreatment to their local child protective services. These reports (called "referrals") may or may not be anonymous. Nationally, there were 4.1 million referrals in 2017, alleging the maltreatment of 7.5 million children, which is nearly 10 percent of the child population. The number of referrals has increased every year since 2013, despite a decrease in the national child population, indicating an increasing reliance on CPS to address poverty and family dysfunction.⁷⁷ As chapter one demonstrated, this increase in child removal has occurred simultaneously with a severe diminishment in welfare services over the past 40 years. Recent data indicates that expansive welfare services correlate to lower foster care placement.⁷⁸ This finding, paired with data about the likelihood that low-income families will interact with the family regulation system, could indicate that the exacerbation of poverty resulting from welfare attenuation and the increase in child removals are correlated.⁷⁹

The Illinois DCFS received 268,406 referrals in fiscal year 2019, meaning that over 250,000 teachers, pediatricians, or counselors called alleging that children they came in contact

⁷⁶ U.S. Department of Health and Human Services, Children's Bureau, "About CAPTA: a legislative history," Child Welfare Information Gateway, 2019. <https://www.childwelfare.gov/pubPDFs/about.pdf>

⁷⁷ U.S. Department of Health & Human Services, et al., "Child Maltreatment 2017," 2019. <https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>.

⁷⁸ Frank Edwards, "Saving Children, Controlling Families: Punishment, Redistribution, and Child Protection" *American Sociological Review* 81, no. 3 (2016): 575-595.

⁷⁹ Emily Putnam-Hornstein and Barbara Needell, "Predictors of child protective service contact between birth and age five: An examination of California's 2002 birth cohort," *Children and Youth Services Review* 33, no. 8, (2011): 1337-1344.

with were being abused or neglected.⁸⁰ When compared to other states, there are unusually few DCFS caseworkers per Illinois child in poverty. Considering the high rates of correlation between poverty and child neglect cases, it makes sense that Illinois had an uncommonly high rate of caseloads per caseworker each year between 2003 and 2015.⁸¹ One former DCFS investigator described the position as requiring both “hard work” and “heart work.” In addition to the exhaustion that results from the labor required by the job, she said that “to see the babies, to hear some of the mama's stories, some of the daddy's stories ... would tug at your heart.” This emotionality convinced this retiree that DCFS caseworkers ought to have significantly more infrastructure and support around them, which makes it especially concerning that Illinois has fewer DCFS supervisors per Illinois child in poverty than most states.⁸² This demand-to-supervisor ratio indicates that caseworkers are both overburdened and under-supervised. Perhaps unsurprisingly, Illinois had lower median caseworker tenure than most states.⁸³ In order to fully conceptualize the gravity of the impact that these employees – and the family regulation system more broadly – have on millions of families each year it is necessary to understand the actual mechanisms of the system.

Family Regulation Mechanisms

In order to demonstrate how family regulation interventions often play out, I constructed the composite of Jessica, a nine-year-old whose story is informed by the statistical norms of most American child maltreatment cases in 2017. I use the example of Jessica to highlight that while

⁸⁰ Illinois Department of Children & Family Services, “Six-Year Statistics on Hotline Call and Intake Volume,” 2020.

https://www2.illinois.gov/dcf/aboutus/newsandreports/Documents/ESS_Intake_Events.pdf.

⁸¹ Erica Meiners and Charity Tolliver, “Refusing to be Complicit in our Prison Nation: Teachers Rethinking Mandated Reporting,” *Radical Teacher* no. 106 (2016): 106-114.; Frank Edwards and Christopher Wildeman, “Characteristics of the front-line child welfare workforce,” *Children and Youth Services Review* no. 89 (2018): 13-26.

⁸² Ibid.

⁸³ Ibid.

Jessica’s situation is “normal,” it is still immensely traumatizing. Further, I contrast this example with the many dismaying ways that family regulation interventions often play out, demonstrating that ineffective, messy, and unjust situations are “normal” and occur frequently, too.

Family regulation interventions are complex and convoluted. The policies that govern each intervention can vary widely from state to state, and as described in chapter one, differ entirely for Native American youth who belong to federally recognized tribes due to the 1978 Indian Child Welfare Act – though it is worth mentioning that there are no federally recognized tribes in Illinois. To complicate things further, the laws and formal policies that govern family regulation interventions are frequently disregarded by caseworkers.⁸⁴ While there is no single reason why caseworkers disregard Illinois’ DCFS policies, – though the aforementioned statistics about case overload may be an indicator as to potential reasons – this disregard can easily be excused when a caseworker emphasizes the expediency and severity with which child maltreatment ought to be addressed.

Generally, family regulation cases follow a procedure that roughly follows the stages visualized in Figure 3. This infographic shows that of the 7.5 million children nationally who were referred to CPS in 2017, 57.6 percent were indicated, which means that the details described in the initial referral were substantial enough to warrant an investigation. Of those initial 7.5 million, 17 percent were deemed “victims,” which means that the investigation ultimately determined that they were victims of child abuse and/or neglect. It was determined that 3.6 percent of the 7.5 million children who were initially referred had to be placed in foster care.

⁸⁴ Diane Redleaf, *They Took the Kids Last Night: How the Child Protection System Puts Families at Risk* (Santa Barbara, CA, Praeger, 2018), 35.

Like 74.9 percent of American child victims, Jessica was referred to Illinois' DCFS due to suspected neglect.⁸⁵ In Illinois, neglect is defined as “the failure of a parent or caretaker to meet ‘minimal parenting’ standards for providing adequate supervision, food, clothing, medical care, shelter or other basic needs.”⁸⁶ While “‘minimal parenting’ standards” are quite vague, in Jessica’s case, one of her elementary school teachers observed that she was listless in class, and frequently complained of hunger. Suspecting neglect, Jessica’s teacher called the Illinois DCFS and made a report. Nationally, 19.4 percent of reports come from education personnel like Jessica’s teacher.⁸⁷ After describing the circumstances to DCFS personnel, Jessica’s case became indicated. In Illinois, a caseworker must respond to an indicated referral by attempting to make contact with the potential victim within 48 hours, then completing a safety assessment within 24 hours of meeting the child.⁸⁸

⁸⁵ U.S. Department of Health & Human Services, et al., “Child Maltreatment 2017,” 2019.
<https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>.

⁸⁶ “Child Protection,” Illinois Department of Children and Family Services, accessed April 6, 2020,
<https://www2.illinois.gov/dcfs/safekids/reporting/Pages/index.aspx>.

⁸⁷ U.S. Department of Health & Human Services, et al., “Child Maltreatment 2017,” 2019.
<https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>.

⁸⁸ State of Illinois, Illinois Department of Children and Family Services, “CFS 1441 – Child Endangerment Risk Assessment Protocol: Safety Determination Form,” updated Feb, 2019.
https://www2.illinois.gov/dcfs/aboutus/notices/Documents/cfs_1441_child_endangerment_risk_assessment_protocol_%28fillable%29.pdf.

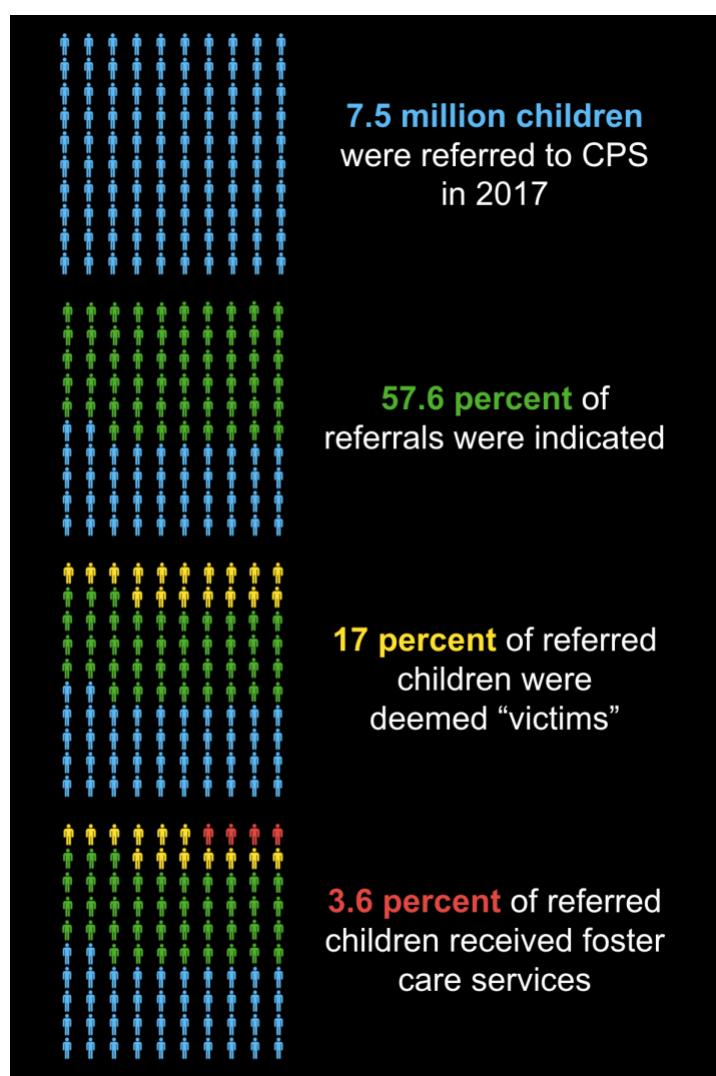


Figure 3: Visual representation of FFY 2017 data derived from the National Child Abuse and Neglect Data System, published in the Department of Health and Human Services' 2017 "Child Maltreatment" report. Graphic produced by author.

In Jessica's case, a caseworker met her at school and interviewed her, asking her questions about her home life and inspecting her body for injuries. Jessica described loving her mother Alicia, being happy at home, and sometimes having to watch her baby brother while her mother worked late nights. The caseworker then visited Jessica's home, asking Alicia questions about Jessica, her brother, her father, the family's health, their financial situation, who Alicia's nearby friends and family members are, what her relationships with those people are like, and

how she parents Jessica. The caseworker searched her house, including her kitchen, her medicine cabinets, and her drawers. Alicia had a right to refuse this search, but with the threat of losing her child looming, Alicia immediately complied. The caseworker did not find an adequate supply of food for the children, or diapers for Jessica's infant brother. She took note of several empty liquor bottles in a trash can and a vague comment Alicia made about a history of depression. The caseworker determined that Jessica's comments and her observations from the home visit were enough to conclude that both Jessica and her younger brother were victims of neglect and endangerment of child safety.

What constitutes a safety threat, how that is assessed, and how the state intervenes to mitigate the safety threat varies widely from state to state. Interventions can include – but are not limited to – connecting families to welfare services (such as food stamps), mandating parenting courses, and child removal. Any time a referral is indicated, a caretaker's name will be placed on the Illinois State Central Register, a register of individuals alleged of child maltreatment. Policy states that their name will remain there for between 5 and 50 years depending on the circumstances of the maltreatment. This register contributes to the surveillance of parents, and can have consequences for queer subjects, parents whose parenting is deemed deviant by the state, as the register can be accessed by potential employers. One caseworker's subjective judgment can lead to decades of surveillance and persecution for a parent.

It is essential to understand that the overworked employees of the Illinois DCFS enact their biases in the workplace. As was mentioned in chapter one, data out of Michigan (as no comparable report exists for Illinois) indicates that social workers are more likely to decide that Black youth would be more successful if removed from their family of origin, and less likely to

provide in-tact family services to Black families.⁸⁹ Racial disparities are prevalent at every stage of the family regulation intervention, from referral to child removal.⁹⁰ Black youth are overrepresented in foster care: despite making up only 14 percent of the national youth population, Black youth made up 23 percent of the youth in foster care as of 2018. While there is a disproportionate amount of data demonstrating the disparities between Black and white youths' experiences, racial disparities extend beyond this Black-white binary, as can be seen in Figure 4.

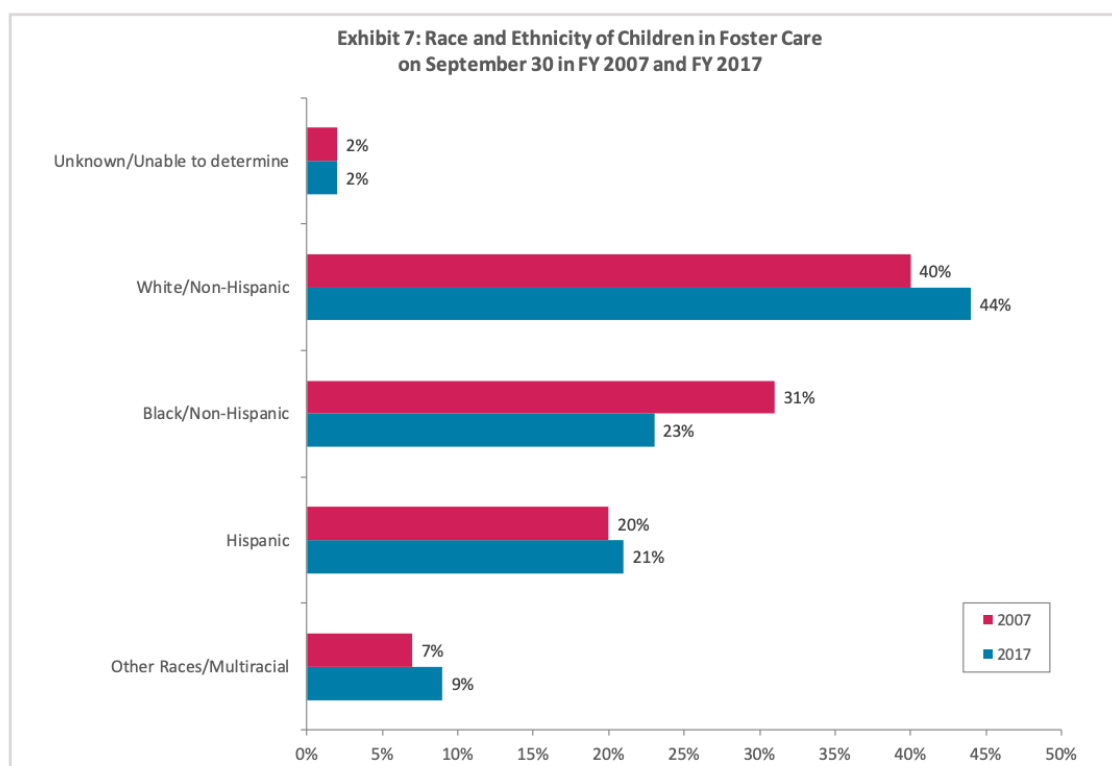


Figure 4: Graph depicting racial demographic data derived from the Adoption and Foster Care Analysis and Reporting System, published in the Child Welfare Information Gateway's 2017 "Foster Care Statistics Report."

Credit to the Child Welfare Info Gateway. The publication in which this graph appears is available online at <https://www.childwelfare.gov/pubs/factsheets/foster/>.

⁸⁹ The Center for the Study of Social Policy, "Race Equity Review: Findings from a Qualitative Analysis of Racial Disproportionality and Disparity for African American Children and Families in Michigan's Child Welfare System," 2009. <https://praxisinternational.org/wp-content/uploads/2015/12/MichiganReportJan09.pdf>.

⁹⁰ John Fluke et al., "A Research Synthesis on Child Welfare Disproportionality and Disparities," *The Alliance for Racial Equity in Child Welfare*, 2010. Published Conference Paper. Center for the Study of Social Policy, The Annie E. Casey Foundation, The Alliance for Racial Equity in Child Welfare, Washington, DC, December 2011.

In 2017, 23.7 percent of child victims were removed from the home, including the 269,690 children who entered foster care that year.⁹¹ While this figure represents only 3.6 percent of the initial 7.5 million children that were referred to CPS in the first place, the impacts of these family disruptions are life-altering for children and families alike. These demographics indicate that the consequences of family regulation interventions disproportionately impact children and families of color. The way that Jessica's family's intervention with the state would conclude is dependent on their identity factors. To illustrate the significance of these differences, I will lay out two possible endings to Jessica's intervention with the state.

Assuming Jessica's family is not white and does not have wealth privilege, the caseworker is more likely to remove Jessica and her infant brother from their mother's home and place them in foster care. Her mother was placed on the State Central Register, given assistance accessing child welfare services like Temporary Assistance for Needy Families and the Supplemental Nutrition Assistance Program (food stamps), and mandated to attend parenting classes. The caseworker conflated Alicia's history of depression and the empty liquor bottles as substantial cause to mandate attending Alcoholics Anonymous meetings. Alicia faced barriers that made it difficult for her to attend parenting classes and AA meetings: her chronic illness made it difficult to stand and walk at times, she struggled to afford transportation to the classes (which were often located inconveniently), and she had difficulty getting time off from work.

These obstacles made it impossible for Alicia to complete the mandated programming within 15 months of the referral. At this point, the Illinois DCFS began taking steps towards terminating her parental rights. Jessica and her mother were both devastated. Jessica and her

⁹¹ U.S. Department of Health and Human Services, et al., "The AFCARS Report: Preliminary FY 2017 Estimates as of August 10, 2018 - No. 25" (Annual FY AFCARS Report, 2019), 80.
<https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport25.pdf>

brother were inconsolable upon finding out that they would not return to their mother's home, as the caseworker noted during one of their weekly supervised visits. Illinois' DCFS dismantled a family, irreparably impacting Jessica, her brother, and her mother alike.

If Jessica's family is white or has wealth privilege, then they are likely to receive leniency – though Alicia would still end up on the State Central Register because the investigation was indicated. The caseworker may have connected Alicia to welfare services if she had financial need for them. The caseworker would not perceive the empty liquor bottles and mention of periodic depression as sufficient cause to mandate attending AA classes. Perhaps the caseworker would have done more to help Alicia access the classes or made a more dedicated effort to provide reunification services. Alicia had relative ease driving to parenting classes, and the absence of mandated AA meetings decreased the constraints on her time. Thanks to her wealth privilege, Alicia hired a family defense attorney who provided supportive representation in the civil courts and successfully helped her reunify with her children after a few months.

It is worth noting that Illinois is one of the only states that has been successfully sued for punishing impoverished people by removing their children.⁹² The Norman consent decree emerged out of that case, which now prevents caseworkers from removing children for solely poverty-based reasons and created new services for low-income system-involved families.⁹³ While removals for solely poverty-based reasons are not allowed, one's interpretation of what constitutes a "poverty-based reason" is subjective: does this only mean that parents cannot be punished when they have the literal inability to buy something? Or does this refer to a more expansive set of challenges, like when parents leave their children unsupervised while they work

⁹² *Norman v. McDonald*, 739 F. Supp. 1182 (N.D. Ill. 1990); 930 F. Supp. 1219 (N.D. Ill. 1996).

⁹³ "Norman Services," Illinois Department of Children and Family Services, revised Nov, 2018, <https://www2.illinois.gov/dcfs/lovinghomes/families/Documents/NormanServices.pdf>.

a job for more than the standard forty hours per week, when a parent twists their kid's arm as a form of discipline because they are exhausted, stressed about money, and too tired to think of non-corporal consequences? Individual biases against impoverished people can warp how a caseworker perceives non-poverty circumstances, too. Alicia's story showed how poverty might impact how a caseworker perceived the severity of risk posed by one's mental illness.

Impoverished parents are further disadvantaged due to their potential inability to hire an attorney, so not only are impoverished parents at risk of unfair treatment by the state, they may not be able to afford to advocate against this inequity. The identities one holds radically changes their experience of interacting with the family regulation system.

Shortcomings of the Family Regulation System

There is agreement from child welfare advocates across the board that the family regulation system is failing. A retired Illinois Department of Children and Family Services caseworker told me that after working for the system for over 40 years, she felt that the Illinois DCFS “[missed] the mark” about 30 percent of the time.⁹⁴ She was quick to acknowledge that “there's too many children that we know have been further harmed, whether it was physically or emotionally.”⁹⁵ While I struggle to understand how so many individuals can work to uphold a system that they see as ineffective, I recognize the power of a clear shared intention: keeping children safe. Difficulties arise when different parties, with different motives and unique backgrounds, attempt to reach consensus regarding *how* to keep children safe. As a result of the discrepancies in opinions between various systems' players, individuals' biases are enacted throughout family regulation interventions.

⁹⁴ Anonymous interview participant #9 (former DCFS employee) in discussion with the author, February 2020.

⁹⁵ Ibid.

The bias that Illinois' DCFS caseworkers enact is evidenced in their policies and procedural documents. DCFS employs vague, biased, and fear-mongering rhetoric to disproportionately criminalize socially marginalized families and caretakers and encourage their compliance with DCFS's decisions. Further, DCFS often does not follow the policies and procedures outlined in their documents, implying that DCFS is exempt from the same legal compliance that it asks of system-involved families.

Illinois' DCFS begins an intervention within 24 hours of receiving a referral (from schools, caseworkers, pediatricians, police, and the like) The intervention starts with the completion of a form: the CFS 1441, pictured below (see Figure 5.) CFS 1441 is a "Child Endangerment Risk Assessment Protocol Safety Determination Form." Illinois' DCFS caseworkers use this form to evaluate whether or not a child is safe or in need of an intervention. If a child is deemed safe, the case is considered "unsubstantiated." If not, the case is deemed "indicated," in which case the caseworker goes on to make a "Safety Plan" outlining which intermediary steps will be taken until the perceived safety threats are resolved, or removal and relocation is pursued. When removal is pursued, a parent's parental rights may be terminated, meaning the state no longer recognizes a relationship between that parent and their child(ren). The grounds for termination of parental rights (TPR) are laid out in the Illinois Adoption Act, which I will analyze in conjunction with the CFS 1441 form. These documents define the family regulation system's procedures. Both of the individuals that I interviewed who had been through this system described their experiences as punitive.⁹⁶ One former caseworker even acknowledged

⁹⁶ Anonymous interview participant #8 (survivor of the family regulation system) in discussion with the author, February 2020.; Anonymous interview participant #10 (survivor of the family regulation system and parent advocate) in discussion with the author, February 2020.

that the system punishes lower income families and those who have fewer resources.⁹⁷ Across the board, family defense attorneys agreed with this conclusion: Illinois' DCFS safety assessments (and the resultant safety plans) are both biased and punitive.

SECTION 1. SAFETY ASSESSMENT			
Part A. Safety Threat Identification			
Directions: The following list of threats is behaviors or conditions that may be associated with a child being in immediate danger of moderate to severe harm. NOTE: At the initial safety assessment, all alleged child victims and all other children residing in the home are to be seen, and if verbal, interviewed out of the presence of the caretaker and alleged perpetrator. If some children are not at home during the initial investigation, do not delay the safety assessment. Complete a new safety assessment on the children who are not home at the earliest opportunity only if the safety assessment changes. If there is no change, indicate so in the "Reclassify Participant" box in PART B.2. For all other safety assessments, all children residing in the home are to be seen, and if verbal, interviewed out of the presence of the caregiver and alleged perpetrator. When assessing children's safety, consider the effects that any adults or members of the household who have access to them could have on their safety. Identify the presence of each factor by checking "Yes," which is defined as "clear evidence or other cause for concern."			
1.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household whose behavior is violent and out of control.
2.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household is suspected of abuse or neglect that resulted in moderate to severe harm to a child or who has made a plausible threat of such harm to a child.
3.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household has documented history of perpetrating child abuse/neglect or any person for whom there is reasonable cause to believe that he/she previously abused or neglected a child. The severity of the maltreatment, coupled with the caregiver's failure to protect, suggests child safety may be an urgent and immediate concern.
4.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Child sex abuse is suspected and circumstances suggest child safety may be an immediate concern.
5.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household is hiding the child, refuses access, or there is some indication that a caregiver may flee with the child.
6.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Child is fearful of his/her home situation because of the people living in or frequenting the home.
7.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household describes or acts toward the child in a predominantly negative manner.
8.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household has dangerously unrealistic expectations for the child.
9.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household expresses credible fear that he/she may cause moderate to severe harm to a child.
10.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household has not, will not, or is unable to provide sufficient supervision to protect a child from potentially moderate to severe harm.
11.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household refuses to or is unable to meet a child's medical or mental health care needs and such lack of care may result in moderate to severe harm to the child.
12.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household refuses to or is unable to meet the child's need for food, clothing, shelter, and/or appropriate environmental living conditions.
13.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household whose alleged or observed substance abuse may seriously affect his/her ability to supervise, protect or care for the child.
14.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour or member of the household whose observed or professionally diagnosed or documented mental/physical illness or developmental disability seriously impairs his/her ability to meet the immediate needs of the child.
15.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	The presence of violence, including domestic violence, that affects a caregiver's ability to provide care for a child and/or protection of a child from moderate to severe harm.
16.	Yes <input type="checkbox"/>	No <input type="checkbox"/>	A caregiver, paramour, member of the household or other person responsible for a child's welfare engaged in or credibly alleged to be engaged in human trafficking poses a safety threat of moderate to severe harm to the child.

Figure 5: Excerpt from the February 2019 update of the Illinois Department of Children and Family Services' "CFS 1441 Child Endangerment and Risk Assessment Protocol Safety Determination Form," titled "Section 1. Safety Assessment, Part A. Safety Identification." Made publicly available by the Illinois Department of Children and Family Services. https://www2.illinois.gov/dcf/aboutus/notices/Documents/cfs_1441_child_endangerment_risk_assessment_protocol_%28fillable%29.pdf

⁹⁷ Anonymous interview participant #9 (former DCFS employee) in discussion with the author, February 2020.

The discriminatory and punitive nature of DCFS is especially evident in their safety planning documents. The “Child Endangerment Risk Assessment Protocol Safety Determination Form” determines if a child is at risk by using a list of DCFS-determined “safety threats.” It is worth noting before analyzing the document in detail that risk assessments, though growing in popularity, are heavily biased, frequently disproportionately targeting queer subjects, and failing to enact the “objectivity” they purport to advance.⁹⁸ An analysis of the language of the forms reveals the mechanisms through which racial bias is enacted by family regulation system caseworkers. One of the first “safety threat” criteria is whether or not a household member’s “behavior is violent and out of control.” Contending with violence – while a serious issue that undoubtedly impacts children’s safety – is also perceived in highly subjective ways. It is reminiscent of 2017 American Psychological Association research which demonstrates that Black men are perceived as larger and more threatening than white men.⁹⁹ Additionally, due to disproportionate incarceration rates, people of color are also more likely to have a “documented history of perpetrating child abuse/neglect,” further stacking the odds against parents of color.¹⁰⁰

Another perceived safety threat is if “a caregiver, paramour or member of the household is hiding the child, refuses access.” Though this may be a safety threat, it is also consistent with national patterns which reflect that people of color are less likely to be trusting of police and social services.¹⁰¹ This distrust makes sense when considered alongside the long history of white

⁹⁸ Derek Gilna’s “Computer Risk Assessments Gaining Popularity in Granting Paroles” (2016) in *Prison Legal News* explains how risk assessment systems function, and Erica Meiners’ “How ‘Risk Assessment’ Tools Are Condemning People to Indefinite Imprisonment” (2016) in *Truthout* shows how risk assessment materials are used to disproportionately incarcerate gay and marginalized persons.

⁹⁹ John Paul Wilson et al., “Racial Bias in Judgments of Physical Size and Formidability: From Size to Threat,” *Journal of Personality and Social Psychology* 113, no. 1 (2017): 59-80.

¹⁰⁰ Marc Mauer and Ryan S. King, “Uneven Justice: State Rates of Incarceration by Race and Ethnicity,” *The Sentencing Project Report* (2007). <https://www.issuelab.org/resources/695/695.pdf>.

¹⁰¹ “Police: Fieldwork Dates: 30th October – 2nd November 2018,” *YouGov* (2018). [https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/8kifg8dsee/Results%20for%20YouGov%20OmniBus%20\(Police\)%20257%202.11.2018.xlsx%20%20%5BGroup%5D.pdf](https://d25d2506sfb94s.cloudfront.net/cumulus_uploads/document/8kifg8dsee/Results%20for%20YouGov%20OmniBus%20(Police)%20257%202.11.2018.xlsx%20%20%5BGroup%5D.pdf)

interventions into families of color, and the realities of intergenerational trauma, as described in the previous chapter. This skepticism of white authorities connects to the intergenerational trauma that lasts from enslavement, as many Black children saw white authorities as threats to their safety, as was described in chapter one. This intergenerational trauma may lead people of color to be hesitant to allow DCFS caseworkers into their homes.

One Illinois' DCFS survivor I spoke to remarked on the ways in which she experienced racial bias in her individual case with DCFS.¹⁰² When she was incarcerated, her daughter was removed from her custody and placed with her ex-partner and his wife. The biological parents and the daughter were Black, but the step-mother was white. Though the step-mother had previously been indicated for child maltreatment, and the daughter frequently reported to her birth mother that her step-mother was abusing her – which the birth mother repeatedly communicated to DCFS – the step-mother was never adequately assessed as a caretaker. After further abuse, the daughter died of abuse-related health complications. In the resultant investigation, it was discovered that the step-mother was previously indicated for child maltreatment, and her phone was full of incriminating videos of herself abusing the daughter. Despite this horrific oversight, the system has never formally made any amends to the birth mother for the negligence which resulted in the death of her daughter. When we spoke, she had yet to receive justice or accountability, and she felt that this was because she is Black and the step-mother is white.

In addition to the racism present throughout the “Child Endangerment Risk Assessment Protocol Safety Determination Form,” there is also rampant classism present throughout the document. For example, safety threat 8 specifies that a “member of the household has

¹⁰² Anonymous interview participant #8 (survivor of the family regulation system) in discussion with the author, February 2020.

dangerously unrealistic expectations for the child.” “Dangerously unrealistic expectations” can vary widely depending on the age and maturity of the child, and can also depend on the cultural context in which a child is raised, as different cultures have different expectations around child development. The actions that frequently trigger this indication include having children cook for themselves or perform household tasks at early ages, stay alone unsupervised for extensive lengths at early ages, or care for siblings of similar ages and maturity levels when they are young. Many of these actions are frequently required of children who live in poverty, as their parents may rely on them for assistance while they work outside the home to support the family.

Often times, parents’ efforts to support the family financially are efforts to prevent being classified by indications like 14, household member “is unable to meet a child’s medical or mental health care needs,” or 15, “unable to meet the child’s need for food, clothing, shelter, and/or appropriate environmental living conditions.” Though family regulation system caseworkers frequently work to connect caregivers to resources (like free or affordable childcare, All Kids [Illinois’ children’s Medicaid program], or food stamps), the interruption of parental care until these services are provided can be emotionally devastating, and traumatic, for parents and children alike.

As was mentioned above, the Norman consent decree prohibits removal of children from parents who are not receiving public assistance and are unable to provide housing or basic necessities due to financial insecurity. Despite this decree, the visibility of poverty can invite biases like those described here. One family defense attorney described how easily allegations of “inadequate supervision” can be lobbed at parents as “an easy catchall” for various neglect-related offenses. She continued, “You hear about somebody who parks a car and just runs into the grocery store for a minute and leaves the child in the car. And [then] if you have a white

suburban mom who lives in a large house they can leave their child unattended for more than five minutes just by virtue of being in different parts of the house.”¹⁰³ Particularly, this attorney attends to the way that impoverished parents experience consequences for behaviors that would be written off as normal if conducted by a wealthier parent. This example illustrates how marginalized families are hyper vulnerable to criminalization by the family regulation system.

The Illinois DCFS purports itself as an agency that creates and preserves safety for families. In practice, it punishes poor people for surviving their circumstances, and regulates families’ behavior according to a set of vague guidelines which disproportionately target people of color and low-income people. DCFS’s policies and procedures leave ample space for caseworkers’ individual biases to decide which families receive interventions, and how impactful those interventions are. This pattern of behavioral regulation raises the question: is DCFS ensuring safety, or seeking compliance from queer subjects by enforcing normativity on families that are seen as “deviant”?

Intersection of Incarceration and Family Regulation

As stated above, the criminal punishment and family regulation systems are linked demographically, ideologically, practically, and functionally. On a demographic level, both the family regulation system and the criminal punishment system disproportionately impact populations marginalized persons, as was illustrated in previous chapters. Dorothy Roberts describes the victimization of impoverished Black people by the family regulation system in *Shattered Bonds* (2002), and 2011 data from Putnam-Hornstein and Needell identifies poverty as a risk factor for family regulation system-involvement.¹⁰⁴ In *Golden Gulag* (2007) Ruth Wilson

¹⁰³ Anonymous interview participant #1 (family defense attorney) in discussion with the author, January 2020.

¹⁰⁴ Dorothy Roberts, *Shattered Bonds: The Color of Child Welfare* (New York, Basic Books, 2002).; Emily Putnam-Hornstein and Barbara Needell, “Predictors of child protective service contact between birth

Gilmore illustrates how the prison system disproportionately impacts poor people and people of color alike.¹⁰⁵ Adding to these similarities, Frank Edwards' research identifies policy regimes that bolster the prison industrial complex as a risk factor for child removal; according to his findings, states that have higher rates of incarceration place children in foster care at higher rates than states with expansive welfare services.¹⁰⁶

The ties between the family regulation system and the prison industrial complex do not stop at demographic comparisons. The systems are related not only because the same *groups* of people are involved with each, but their functional links often ensure that the very same *individuals* occupy each system, as youth in foster care are more likely to go on to be incarcerated and incarcerated people are disproportionately likely to have been in foster care during adolescence.¹⁰⁷ A study of youth from Illinois and surrounding states indicated that by their mid-20s, over half of youth who were in foster care became incarcerated, evidencing the existence of a "foster care-to-prison pipeline."¹⁰⁸ "Foster care-to-prison pipeline," a term that has only emerged in the past few years, borrows from the "school-to-prison pipeline," or the tendency of schools to disproportionately punish Black youth, to escalate punishment of Black

and age five: An examination of California's 2002 birth cohort," *Children and Youth Services Review* 33, no. 8, (2011): 1337–1344.

¹⁰⁵ Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley, University of California Press, 2007).

¹⁰⁶ Frank Edwards, "Saving Children, Controlling Families: Punishment, Redistribution, and Child Protection" *American Sociological Review* 81, no. 3 (2016): 575-595.; Kelley Fong "Concealment and Constraint: Child Protective Services Fears and Poor Mothers' Institutional Engagement" *Social Forces* 97, no. 4 (2019): 1785-1809.

¹⁰⁷ Youngmin Yi and Christopher Wildeman, "Can Foster Care Interventions Diminish Justice System Inequality?" *The Future of Children* 28, no. 1 (2018): 37-58.

¹⁰⁸ Mark E. Courtney et al., "Midwest Evaluation of the Adult Functioning of Former Foster Youth: Outcomes at Age 26" (Chicago, Chapin Hall, University of Chicago, 2011). <https://www.chapinhall.org/wp-content/uploads/Midwest-Eval-Outcomes-at-Age-26.pdf>

youth to the involvement of the criminal punishment system, thus introducing youth of color to the criminal punishment system at disproportionate rates.¹⁰⁹

Critical race theorist David Stovall challenges the idea of the school-to-prison pipeline, arguing that the focus on the ways that the school system introduces children to the criminal punishment system is too narrow. Instead, Stovall writes of the “school-to-prison nexus,” which offers a broader examination of the ideological and practical similarities between schools and prisons: how both systems regulate behavior, teach compliance, and socialize students (particularly students of color) into viewing themselves as subjects who respond to the whims of those in charge (namely teachers and administrators), not individuals with agency. Many of the same individuals appear in both systems due to functional mechanisms like the foster care-to-prison pipeline, mandatory reporting laws, and the intersection between criminal and civil legal cases. Further, their experiences in each system have ideological and practical similarities, as both systems operate to identify deviant behavior, then punish and “correct” that deviance. It is these ideological and practical similarities that are best understood through the analytic of the foster care-to-prison nexus.

Many individuals are in the midst of both civil and criminal cases related to the situations that led the family regulation system to intervene. During an interview, one family defense attorney described how challenging navigating both civil and criminal cases can be, as the counsel that she gives to people facing civil cases differs from how she advises those in criminal cases. She said that the intersection between civil and criminal systems “puts parents really in a double-bind because in a criminal case they really aren't supposed to talk because of their fifth

¹⁰⁹ Kimberlé Williams Crenshaw et al., “Black Girls Matter: Pushed Out, Overpoliced, and Underprotected” *African American Policy Forum*, Center for Intersectionality and Social Policy Studies, (2015). https://www.atlanticphilanthropies.org/wp-content/uploads/2015/09/BlackGirlsMatter_Report.pdf

amendment right to remain silent. But in a DCFS case ... the best advice is for them to talk and to cooperate.”¹¹⁰ This quote came from one of several attorneys who was comparing the civil versus criminal systems’ treatment of families. While most of the family defense attorneys I spoke with were not particularly confident in the efficacy of either system, many remarked that the criminal system provides much more clarity and infrastructure to those who are involved in criminal proceedings than the civil system does.

Another family defense attorney was concerned about the fact that parents involved in DCFS “don’t have access to counsel.” She continued:

They don't have access to social workers or advocates of any sort. And [during] that time period, ... what they tell the Department of Children and Family Services, ... is critical later on. And when you come up, if it does become a legal case and then the only thing they have to argue or defend themselves, it ends up being their word against the department's, the state, the state versus this individual.

This family defense attorney explains that though the criminal system is certainly discriminatory as well, it is the subjectivity and the lack of standardization that one experiences across the family regulation system, – and the civil system more broadly – that make its structure so punitive. Both of the family regulation system survivors I spoke to indicated that they felt punished by Illinois’ DCFS. One of the individuals I spoke to, a formerly incarcerated mother, made the remark that became the epigraph of this chapter: she stated that after feeling the weight of the intersecting challenges that accompanied being multiply system-involved she often asked herself “so when does the punishment stop?” When examining the harms of the family regulation system, it is crucial to focus on the disproportionately harmful impacts of the system on individuals who are additionally involved with the criminal punishment system.

¹¹⁰ Anonymous interview participant #2 (family defense attorney) in discussion with the author, January 2020.

For many parents involved with the criminal punishment system, incarceration is a de facto TPR. In addition to possibly becoming incarcerated for the act that led the state to remove one's child, parents can lose their parental rights due to their (potentially unrelated) incarceration. One family defense attorney who particularly advocates for the rights of incarcerated mothers told me, "We don't sentence people and when they take a plea for something, say to them 'and by the way also, as part of your six month sentence in jail or prison we're going to take away your children.' Can you imagine if we actually required [that]?"¹¹¹ She remarked on the secrecy of this system, that she was convinced that if prosecutors in court rooms handed down TPR alongside incarceration for an unrelated offense, the public would be up in arms. But because of the less public nature of the family regulation system (and civil cases more broadly), in her eyes no one knows and thus, no one cares. Another attorney I spoke with called the family regulation system a "ghost system": even though it is not explicitly criminal, it haunts people in the same way, but is not visible in plain sight.¹¹²

The twenty-two grounds for TPR laid out in the Illinois Adoption Act are the architecture that shape the double-bind parents who are involved in both the criminal punishment and family regulation systems experience. Many of these twenty-two grounds disproportionately impact incarcerated or formerly incarcerated parents. For example, ground M is "Failure by a parent (i) to make reasonable efforts to correct the conditions that were the basis for the removal of the child from the parent during any 9-month period following the adjudication of neglected or abused minor ... or (ii) to make reasonable progress toward the return of the child to the parent

¹¹¹ Anonymous interview participant #6 (family defense attorney) in discussion with the author, January 2020.

¹¹² Anonymous interview participant #1 (family defense attorney) in discussion with the author, January 2020.

during any 9-month period following the adjudication of neglected or abused minor.”¹¹³ Making “reasonable progress” often requires fulfilling court-mandated parenting programs that are not available in prisons, and communicating with the child and the family regulation system to demonstrate their commitment to “correct the conditions that were the basis for the removal of the child.”¹¹⁴

In order to satisfy the criteria of Ground M, one must adhere to communication standards that may be customary for the free world, but are often unattainable for people who are incarcerated. Incarceration relies on the social and geographic isolation of incarcerated people as another tool of punishment. Additionally, incarceration is a very costly practice, which means that prison speculators are constantly looking out for ways to maximize prisons’ profitability. As a result, accessing modes of communication like email, phone calls, and video chats is often quite expensive. Snail mail is usually the most affordable form of contact, but due to mail screening processes this can take considerable lengths of time. Similarly, stints in solitary confinement, or routine relocation of inmates within the prison can hinder their ability to maintain communication. It is for these reasons that many DCFS caseworkers remark that they ought to just move forward with TPR prior to a parents’ incarceration, effectively foreclosing the opportunity for reunification.¹¹⁵

While family regulation disproportionately harms all who are constructed as “deviants,” those who are deemed “deviants” by the state, at the whim of the state due to incarceration, and/or those who are multiply system-involved are the most vulnerable to the systems’ harms. Incarcerated parents are treated as non-parents by the system even prior to the termination of

¹¹³ Illinois Adoption Act, 750 ILCS 50/24 (1960).

¹¹⁴ Ibid.

¹¹⁵ Anonymous interview participant #6 (family defense attorney) in discussion with the author, January 2020.

their parental rights. This treatment, paired with the social stigma and isolation that incarcerated people face, puts incarcerated parents at a remarkable disadvantage.

Conclusion

Survivors of the system, employees of the system, and family defense attorneys alike all shared that a primary concern of theirs was how system-involved parents often become resigned and “give up.” System-involved parents often feel that they can never successfully leave a system that does not seem like it intends to help them succeed. This sentiment that the system is “unbeatable” is a testament to how ineffective DCFS is: systems built to strengthen families should not make families feel weak and defeated. How can parents trust an agency to help them build safer home environments if they do not feel supported by that agency?

While the Illinois Department of Children and Family Services purports to ensure safety, this is rarely its practice, as its procedures are designed to regulate and punish families. While there are services that DCFS provides which can be tangibly beneficial (especially assistance accessing welfare services), as a state agency, all of its services are in pursuit of a model of safety that is endorsed by the state. I wonder what DCFS says to parents who teach their children to avoid police because of the fatal impacts that police have in their community, given that the criminal punishment and family regulation systems so often collaborate on cases. I think of parents who spank their kids, not because it is their preferred method of parenting, but because they fear the horrific stories of cops intervening during children’s tantrums in schools and public places and want their child’s potentially attention-grabbing behavior to end immediately, they feel they have no other options.¹¹⁶ And what of parents who are distrustful of medical providers

¹¹⁶ One sensationalized incident of police intervening on children having tantrums is outlined in Mihir Zaveri’s “Body Camera Footage Shows Arrest by Orlando Police of 6-year-old at School” (2020) in *The New York Times*.

due to the historical objectification and experimentation that has been enacted onto marginalized bodies?¹¹⁷ While refusing western medical care to a child is considered to be a “safety threat” to DCFS, these queer subjects’ subversive actions might be pursued with the safety of the child in mind, too. How do we hold the complexities of competing definitions of safety? Can an agency which strives to provide a standardized model of safety ever offer individualized solutions that will ameliorate harm in every complex circumstance?

¹¹⁷ One example of medical abuse of people of color is the Tuskegee Syphilis Experiment, which Vann R. Newkirk II describes in his “A Generation of Bad Blood” (2016) in *The Atlantic*.

CHAPTER THREE: REACHING TOWARDS SOLUTIONS

“Of course we want to burn it down, burn all the prisons down, but that's not going to happen. It takes everybody doing their part. That's what abolition looks like. Everybody being a stakeholder in this fight towards justice and imagining a world without prisons or jails and creating a space for it to happen.”

– Survivor of the family regulation system

The family regulation system is not a successful response to child maltreatment, and it perpetuates the very carceral logics that prison abolitionists seek to liberate us from. Illinois’ DCFS is entrenched in a long history of family regulation, surveillance, discipline, abuse, cultural genocide, and white supremacy. Further, DCFS is ineffective, punitive, and deeply intertwined with the carceral system. If we are to realize the objectives of abolition, the current system of family regulation cannot exist. All this said, it is undeniable that there are instances in which, for whatever reason, parents and caretakers cannot or will not keep their children safe. In these instances, *something* must be done to keep kids safe. In an abolitionist world where we recognize that systems rooted in white supremacy, punishment, and regulation do not make us safer, how do we keep children safe?

Applying an abolitionist methodology to the Illinois DCFS does not mean immediately dismantling the department and moving on. Instead, family regulation abolition is a long term project that asks us to imagine the world we want to live in and then work backward from there, thinking through the steps we need to take in order to build that world. I return to this quote from Morgan Bassichis, Alex Lee, and Dean Spade’s chapter in *Captive Genders*: “What would it mean to *embrace*, rather than *shy away from*, the impossibility of our ways of living as well as our political visions? What would it mean to desire a future that we can’t even imagine but we are told couldn’t ever exist?” Through this process of *imagining*, and pushing our imaginations

beyond the traditional capacities of what we are told is possible, we are able to discover possibilities we may not have previously considered. By “*embracing ... the impossibility of our ways of living as well as our political visions*” we enable opportunities for radical, expansive, and transformational growth.

Thinking beyond the systems we currently live in is easier said than done, especially when the systems at hand are deeply entrenched in bureaucracy. In interviews, many of the solutions that individuals raised were reformist, focused on fixing small functions of an already dysfunctional system instead of imagining a world without dysfunctional systems. The former Illinois DCFS caseworker and investigator who estimated that DCFS made the circumstances worse in 30 percent of cases, stated that despite having retired and no longer occupying a role where she is a mandated reporter, she still regularly makes DCFS reports. I asked how she justified calling a system that she felt was so faulty. She responded, “I have to keep calling them because I can't take everybody home with me!”¹¹⁸ Clear that she could not ameliorate child maltreatment cases on her own, she was desperate for help from others.

As I will argue later in this chapter, I would posit that “help” could come from any number of sources including friends, neighbors, and community members. Curious if this option was of interest to her, I asked, “If there was an alternative system that you thought was more effective, would you turn to that instead?” She responded, “Probably both. And more. I think I would probably do DCFS *and* as opposed to DCFS *or*, you know? ... I don't know the new group. So I'm gonna try this one out ... I'll call them and the police. I'm gonna call this and option B.”¹¹⁹ This participant was intent that she needed to call for help, and that she wanted as

¹¹⁸ Anonymous interview participant #9 (former DCFS employee) in discussion with the author, February 2020.

¹¹⁹ Ibid.

many systems involved as possible, despite the fact that she viewed DCFS as frequently ineffective. Motivated by a desire to help, but unable to imagine solutions other than system-based responses, she was willing to accept something imperfect, something that – by her estimates – perpetuated harm in 30 percent of cases.¹²⁰ I push for a new response, where we refuse to invest in systems that we believe perpetuate harm, where we strive for something more helpful, effective, and just.

In my argument for abolition, I aim to hold the complexity of condemning oppressive systems while simultaneously recognizing the positive intentions that motivate many of the individuals who advocate in favor of these systems. This retired caseworker wanted to rely on broken systems because she personally could not “take everybody home” and ameliorate their situation herself. She wants to help these children as best she knows how, and after spending decades working for Illinois’ DCFS, helping the best she knows how requires relying on police and policing. A family defense attorney remarked on this complexity:

It's difficult. ... Most people are afraid of harm. And it's very unsettling to think [that] we don't know exactly how to prevent it. And I think a lot of people are comforted by some of these systems' existence. Because that's the answer. Like that's how you handle harm. If something's going on with the child, I call DCFS. If something's going on, I'll call the police. ... A lot of us in the advocacy space, it's not that we're saying we want anyone to be harmed, it's just that these systems that folks are made to believe protect against harm, don't actually. They cause additional harm.¹²¹

Both interview participants acknowledged the harms in each situation: the potential harm of child maltreatment as well as the potential harm of DCFS interventions. But it is this withdrawal, this willingness to accept the potential of systemic harm in the hopes of ameliorating individual

¹²⁰ Ibid.

¹²¹ Anonymous interview participant #1 (family defense attorney) in discussion with the author, January 2020.

harm, that I want to push back against. What if we demanded something “impossible:” a system for keeping children safe that does not cause any harm?

Where do we go from here?

Abolishing family regulation requires a long process of building communities that can flourish without depending on systems that regulate, incarcerate, and punish. Critics of abolition are often quick to demand immediate replacements, viewing abolition as a project with an end date as opposed to a lifelong vision that we build each day. As the epigraph at the start of this chapter stated, “abolition looks like ... imagining a world without prisons or jails and creating a space for it to happen.” In addition to this process of imagining, I want to focus on the practice of “creating a space for [abolition] to happen.” By creating the world we need to thrive without DCFS, the need for DCFS becomes obsolete. In the process of making DCFS obsolete, we build the alternatives that we need to thrive. The process of making broken systems obsolete is what makes the abolition of those systems possible.

In what follows, I recommend a series of non-reformist reforms, a term originally coined by Ruth Wilson Gilmore, which Dan Berger, Mariame Kaba, and David Stein define as, “measures that reduce the power of an oppressive system while illuminating the system’s inability to solve the crises it creates.”¹²² Non-reformist reforms are another way to describe the intermediate steps between the present-day and abolition; they are steps that chip away at the institution over time. These non-reformist reforms are intended to both illuminate the inefficiency of the family regulation system and the power of radical communities committed to change. I return once again to the epigraph, emphasizing that abolition requires “everybody

¹²² Dan Berger et al., “What Abolitionists Do,” *Jacobin* August 24, 2017, <https://www.jacobinmag.com/2017/08/prison-abolition-reform-mass-incarceration>.

being a stakeholder in this fight towards justice.” Abolition is not a practice for just those directly impacted, but for everyone who is committed to building and living in a more just world.

In thinking about how to frame these next steps, I borrow from Black and Pink, a group of queer, radical, grassroots organizers working to abolish the prison system and their report about the conditions of incarceration for LGBTQ+ people, “Coming Out of Concrete Closets.” In this report, they state, “While we remain committed to the abolition of prisons, we recognize that ... ending the daily suffering of LGBTQ prisoners is also an urgent necessity. We are convinced that such reforms are not necessarily incompatible with an abolitionist politics, provided that they do not create new barriers or prisons that we will need to tear down in the future.”¹²³ They divide their advocacy priorities into immediate, intermediate, and long-term steps, reiterating that abolition is a daily practice, building towards a lifelong project. Accordingly, I identify three key themes: ending child maltreatment, decreasing system involvement, and building strong communities, which I address using the aforementioned timescale.

Immediate Steps

End Child Maltreatment: Actually Address Harm

On a fundamental level, parents cannot be effective caretakers when they do not have the resources to meet their children’s needs. As chapter two illustrated, many of DCFS’s stated “safety threats” are associated with poverty. When asked about solutions to the injustices of family regulation, one family defense attorney was clear that “we have to ... make sure that we’re not punishing people for surviving their economic circumstances.” Accordingly, it is vital to make sure that parents have the resources that they need to raise their children.

¹²³ Jason Lydon et al., “Coming Out of Concrete Closets: A Report on Black and Pink’s National LGBTQ Prisoner Survey,” *Black and Pink*, (2015) 6. <https://www.issuelab.org/resources/23129/23129.pdf>.

In order to help parents have the resources that they need, welfare must be more available. Parents in Illinois may access an array of welfare services, including Temporary Assistance for Needy Families, social security benefits, Earned Income Tax Credits, Child Care Assistance Program funding for childcare, Supplemental Nutrition Assistance Program (SNAP) benefits (also known as food stamps), and additional SNAP benefits for women, infants, and children (WIC). Listed altogether, these benefits sound expansive and generous, but in practice they are small, have short time limits, and are accompanied by a string of stipulations that often make them inaccessible. Further, recent Trump administration legislation changed limitations around SNAP eligibility, which may cause up to 140,000 Illinois residents to lose their benefits.¹²⁴ As it stands, welfare is not expansive or accessible enough to provide struggling parents the support that they seek.

People involved with the family regulation system often report that they do not have the resources they need in order to make the changes required of them. While the Illinois DCFS is supposed to help families navigate the welfare system, DCFS does not address welfare scarcity, leaving many unsupported. Particularly, formerly incarcerated persons remark that DCFS is unable to meet their needs. One formerly incarcerated mother commented, “I don't have any support from the agencies. I've got community support. I've got people around me that are lifting me up, but I got these agencies that are requiring things of me, tearing me down.”¹²⁵ Another shared that oftentimes “service providers and even institutions aren't equipped to provide that support because they haven't been trained on a lot of issues that women who ended up in their

¹²⁴ Sarah Schulte, “Trump’s new food stamps rule could affect up to 140k people in Illinois,” *WLS-TV*, Dec 4, 2019. <https://abc7chicago.com/5733983/>.

¹²⁵ Anonymous interview participant #8 (survivor of the family regulation system) in discussion with the author, February 2020.

care are faced with on an everyday basis.”¹²⁶ In order to reasonably expect parents’ quality of parenting to improve, they must have access to wider resources that meet their specific needs and unique circumstances. Thus, it is essential to decrease time limits on welfare services, expand the stipulations that determine who qualifies to receive welfare services, and expand what welfare services are available, particularly for parents currently in and coming out of prisons. Housing, health care, and food are essential human rights, and must be available to all. As wards of the state, incarcerated and formerly incarcerated people are particularly vulnerable and especially reliant on social services, so their needs must be centered in the development of welfare policies.

Decrease System Involvement: Abolish Mandatory Reporting

Mandatory reporting laws lead an inordinate number of individuals to become involved in the family regulation system and/or the criminal punishment system. First conceived of in the 1960s, child maltreatment was originally viewed as a seemingly infrequent issue that pediatricians sought to solve by reporting bruises and marks they found during routine examinations to a family regulation agency.¹²⁷ Six decades later, 7.5 million children are referred into the family regulation system each year, many of them by mandatory reporters.¹²⁸ We now understand that child maltreatment is neither simple nor infrequent, and as a result mandatory reporting has become a wide-reaching set of policies requiring a diffuse network of individuals who work with children to report any suspected child maltreatment to their local family regulation entity. Presently, mandatory reporting policies require that adults who work with

¹²⁶ Ibid

¹²⁷ Yvonne Goldsberry, “The Deterrent Effect of State Mandatory Child Abuse and Neglect Reporting Laws on Alcohol and Drug Use During Pregnancy; Appendix A: History of Mandatory Child Abuse and Neglect Reporting Laws.” (doctorate thesis, George Washington University, 2001).

¹²⁸ U.S. Department of Health & Human Services, et al., “Child Maltreatment 2017,” 2019. <https://www.acf.hhs.gov/cb/research-data-technology/statistics-research/child-maltreatment>.

children (teachers, pediatricians, counselors, etc) report signs of child maltreatment to their local child protection agency.

These policies make it so that these people who would not conventionally think of themselves as state actors (these teachers, pediatricians, and so on) can end up triggering state interventions that they might not even understand the full implications of. Failure to report can jeopardize a professional's employment. 18 states and Puerto Rico utilize "universal mandated reporting," which requires that any person over 18 in that state must report suspected child maltreatment, regardless of their profession or proximity to the child(ren) in question (Child Welfare Information Gateway, 2015). This expansive policy regime results in the undue influence of supposed protection systems in individuals' lives, expanding this system of policing, surveilling, and regulating families. The outcomes of mandatory reports vary, and it bears repeating that over 42 percent of them are screened out, meaning that they are never pursued.¹²⁹ But for the 57.6 percent of referrals that are indicated, the ensuing investigations alone can be highly traumatizing for parents and children alike, not to mention the trauma of a family separation, or parental incarceration.

Mandatory reporting laws, while they purport to help connect unsafe individuals to help, make many feel less safe. Recent data from "The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change" (2019) indicates that mandatory reporting laws make survivors of intimate partner violence less likely to seek help, particularly due to laws criminalizing "child exposure to domestic violence" or "failure to protect," through which survivors of intimate partner violence

¹²⁹ Ibid.

can be criminalized for “allowing” their child to witness their own victimization.¹³⁰ In Illinois, “child exposure to domestic violence” laws criminalize parents who allow children up to 18 to see or hear intimate partner violence.¹³¹

Abolishing mandatory reporting laws would decrease the number of people who become system-involved. Reports would then come from concerned individuals as opposed to scared mandatory reporters who follow a “better safe than sorry” policy when reporting, taking the risks to their own employment more seriously than the risks to a child’s well-being. Abolishing mandatory reporting would also increase survivors’ comfort seeking help when they need it.¹³² It is for this reason that I advocate that individuals who work with children receive adequate training on risks to children’s safety (including wealth disparity, racism, heterosexism, and other oppressive systems) and then seek out community supports when they notice indicators that concern them.

Build Strong Communities: Find Our People

Creating strong communities that look out for each other’s children can remedy many of the concerns that the Illinois DCFS labels “safety threats.” One survivor of the family regulation system said that in her eyes, the solution to child maltreatment was communities where struggling parents felt “no shame, no guilt.”¹³³ This mother is involved in a support group for formerly incarcerated women, many of whom are mothers. She offered this group as a possible

¹³⁰ Carrie Lippy et al., “The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change,” *Journal of Family Violence* 35 (2020).

¹³¹ U.S. Department of Health & Human Services, et al., “Child Witnesses to Domestic Violence,” 2016 <https://www.childwelfare.gov/pubPDFs/witnessdv.pdf#page=3&view=Summaries%20of%20State%20laws>.

¹³² Carrie Lippy et al., “The Impact of Mandatory Reporting Laws on Survivors of Intimate Partner Violence: Intersectionality, Help-Seeking and the Need for Change,” *Journal of Family Violence* 35 (2020).

¹³³ Anonymous interview participant #10 (survivor of the family regulation system and parent advocate) in discussion with the author, February 2020.

example, describing the power of this community, and the support that they were able to provide each other as women who had similar lived experiences. She talked about how effective the group was for offering guidance, how the younger women in the group “soak up everything. ... They listen to the older women ... to figure out the different pathways ... and what can prevent them [from reoffending].”¹³⁴ It is through this community of care that they are finding how to meet their needs, not through systems that surveil or discipline them.

An aforementioned study by Dorothy Roberts corroborated a comment made by one of the people I interviewed, who said that “in our community, people will call the child welfare system on you just because they don't like you and report you.”¹³⁵ In this individual's area, DCFS was used as a weapon in interpersonal disputes. In the strong communities that I am advocating for, individuals will have interpersonal relationships with each other that can withstand conflict, and when conflict occurs, they will have the skills or the resources they need to navigate conflict resolution. By reducing these weaponized reports, less people will become system-involved. By building up these interpersonal relationships, parents will have a community they can count on to support them with child rearing.

In this supportive community, parents and caretakers will have a network they can reach out to when they need support, and fellow community members will also be able to engage directly with parents when they are worried about a child's well-being. Through their strong community, they will have the resources amongst themselves to step in when they are concerned, and to have their intervention motivated by a sincere sense of care as opposed to a disciplinary system that steps in when certain arbitrary “safety risk” criteria are met then leaves when system

¹³⁴ Anonymous interview participant #10 (survivor of the family regulation system and parent advocate) in discussion with the author, February 2020.

¹³⁵ Ibid.

requirements are fulfilled, as opposed to building and maintaining a relationship with the family before, during, and after the intervention.

“Building strong communities” can be a vague statement with little practical advice behind it, because there is little consensus around what “community” means. How do we navigate many competing definitions of “community,” which can variably refer to affinity or identity-specific groups, spiritual institutions, friend networks, or neighborhoods? How do we transform acquaintances into “community members”? Community organizer Mia Mingus raised similar question to these in a post she wrote for the Bay Area Transformative Justice Collective (BATJC), “a community collective of individuals, based out of Oakland, CA that is working to build and support transformative justice responses to child sexual abuse.”¹³⁶ Mingus recognizes that:

Although “community” is a word that we use all the time, many people don’t know what it is or feel they have never experienced it. This became increasingly confusing as we used terms such as “community accountability” or “community responses to violence” and encouraged people to “turn to their communities.”¹³⁷

Mingus acknowledges that when attempting to respond to violence, conflicting or vague understandings of community can be a hurdle. It is for this reason that planned or explicitly labeled support resources can be so beneficial, especially for individuals sharing experiences, like new parenting.

New parent groups do exist in Chicago, but they often fall into one of two categories: charity models where individuals with social power determine how to distribute resources to those without social power, or inaccessible, predominantly white and wealthy costly groups that

¹³⁶ “Who we are,” Bay Area Transformative Justice Collective, accessed March 14, 2020. <https://batjc.wordpress.com/>

¹³⁷ Mia Mingus, “Pods and Pod Mapping Worksheet,” *Bay Area Transformative Justice Collective*, June, 2016. <https://batjc.wordpress.com/pods-and-pod-mapping-worksheet/>.

parents buy into. I push for something beyond charity, something beyond inaccessible parental care, something that works for parents, by parents, that reflects the realities that real parents are actually experiencing. One model to look to for this kind of structure is Families of Color Seattle (FOCS), which is led by mothers of colors, centers building community with other families of color as part of their work, and provides trainings and programming for schools and organizations that aim to dismantle racism, identifying racism as a barrier to effective parenting.¹³⁸ Their parenting groups operate on a sliding scale financial model, and center race and identity as a central part of their curriculum. A proliferation of these by-parent, for-parent groups can alleviate the anxieties and isolation of parenting, mitigating the harm that families experience. While non-profits will not lead the revolution, groups like FOCS are a non-reformist reform that can help parents of color navigate the real struggles that they are facing right now.¹³⁹

While support groups are limited in their reach and their accessibility, needing support is universal. As Mingus writes, the reality is that many people are socially isolated and do not have access to communities, or are part of communities that may not be centered around or accessible to parents. It is for this reason that formalized community parenting spaces like FOCS can be a helpful first step towards finding our people.

Intermediate Steps

End Child Maltreatment: Decouple Social Services and Policing

Increasingly, mandatory reporting systems and reformist efforts to make police and prisons more “helpful” have led to an intersection between social services and policing. This is present through the functional mechanisms of the system (for example, therapists have to call the

¹³⁸ “Home,” Families of Color Seattle, accessed March 22, 2020, <https://www.focseattle.org/>.

¹³⁹ See Myrl Beam’s “Gay Inc: The Non-profitization of the Queer Movement” (2018) for more on the ills of the non-profit industrial complex.

police if their clients divulge particular information, etc) and felt experiences; both of the survivors of the family regulation system that I interviewed described their experiences with the system as punitive. This sentiment is reinforced by all of the systemic and functional links between the family regulation system and the police/prison system described in chapter two, and Kelley Fong’s research which suggests that welfare-dependent families are more likely to come in contact with the family regulation system.¹⁴⁰ The interwovenness of these systems is concerning, especially in light of the fact that individuals who reach out to social services seeking help may end up referred into punitive DCFS interventions. In this way, individuals are criminalized as a result of seeking help.

Identifying responses to child maltreatment that are decoupled from police and policing could start with looking to the distinctions that Dean Spade makes between mutual aid and social services. Spade and the Big Door Brigade define mutual aid as:

When people get together to meet each other’s basic survival needs with a shared understanding that the systems we live under are not going to meet our needs and we can do it together ... by actually building new social relations that are more survivable.

Spade is explicit that mutual aid is both a form of care and a political project that subverts the “systems we live under.” In a blog post, Spade differentiates between mutual aid and social services through the table shown in Figure 6 comparing the traits of each:¹⁴¹

Mutual Aid	Social Services
Values self-determination for people impacted or targeted by harmful social conditions	Offers “help” to “underprivileged” absent of a context of injustice or strategy for transforming conditions; paternalistic; rescue fantasies and saviorism

¹⁴⁰ Kelley Fong “Concealment and Constraint: Child Protective Services Fears and Poor Mothers’ Institutional Engagement” *Social Forces* 97, no. 4 (2019): 1785-1809.

¹⁴¹ Dean Spade, “Mutual Aid Chart,” *News*, Dec 4, 2019, <http://www.deanspade.net/2019/12/04/mutual-aid-chart/>.

Tendency to assess the work based on how the people facing the crisis the organization wants to stop regard the work	Tendency to assess the work based on opinions of elites: political officials, bureaucrats, funders, elite media
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Figure 6: Chart excerpted from Dean Spade's December 2019 personal blog post titled "Mutual Aid Chart."

Mutual aid centers an approach that is led by impacted people, and that is assessed by “the people facing the crisis.” By centering the outcomes that impacted people want, support networks become more tailored to resolving crises for those impacted by them than seeking compliance with an idealized outcome, one that is often defined by “elites: political officials, bureaucrats, funders, elite media.” When outsiders identify the outcomes and social services rely on those outsiders for funding and other resources, the role of social service providers shifts from helping impacted individuals reach the outcomes they seek to ensuring service recipients’ compliance with the goals that the outsiders have set.

When describing how to dismantle the relationship between policing and the Illinois DCFS, one family defense attorney stated that in her eyes, a key to achieving justice is “to make reunification the actual genuine goal,” that instead of punishing people by terminating parental rights for failing to meet arbitrary deadlines (e.g. having one’s children in foster care for 15 out of 22 months) the system would work towards reunification for as long as families identify reunification as their goal. This attorney maintained the long-term perspective, continuing that the next step is “to make it into such a situation that we don’t remove kids, that we instead have the support in communities to be able to keep families together.” As an interim step before abolishing state-sanctioned child removal, providing families resources to meet their self-identified needs instead of punishment, – thus decoupling social services and policing – is a vital step towards abolition.

Decrease System Involvement: Reconceptualize Parenting, Reclaim Safety

In order to make the family regulation system obsolete, we have to unlearn the ideologies that uphold its functioning. In *Golden Gulag*, Ruth Wilson Gilmore explains that the prison system relies on the public's belief that prisons keep us safe by isolating the "terrible few" who cause harm.¹⁴² Unlike police, the family regulation system does not patrol or search for crime – or in its case, child maltreatment – so even more than the police, the family regulation system relies on a trusting public that reports child maltreatment because they believe that the family regulation system will protect children from the "terrible few" who perpetrate child maltreatment. By reframing the way we conceive of the family regulation system, shifting from viewing it as a neutral helping system to understanding it as an extension of the police state, a body that perpetuates harm, we chip away at the rationale that enables the Illinois DCFS to dismantle families.

Central to changing our understanding of the family regulation system is rethinking how we perceive those who perpetuate child maltreatment. By internalizing this carceral logic that there are a "terrible few" irredeemable parents opposing models of ideal parenthood, – which are defined by the standards that DCFS holds parents to – we reinscribe the very logics that make an epicenter of harm like the family regulation system possible. Parents uphold this rhetoric by judging others and themselves, clambering to stay in the graces of "good" parenthood. Through this scramble to weed out "good" from "bad" and avoid being seen as "bad," we strengthen the family regulation system, and by strengthening the family regulation system we accept what Meiners describes as "more of the same" tired approaches to violence and harm.¹⁴³ We deny

¹⁴² Ruth Wilson Gilmore, *Golden Gulag: Prisons, Surplus, Crisis, and Opposition in Globalizing California* (Berkeley, University of California Press, 2007).

¹⁴³ Erica R. Meiners, "Ending the School-to-Prison Pipeline/Building Abolition Futures," *The Urban Review* 43, no. 4 (2011): 559.

ourselves the question, can a system that we fear and desperately avoid interacting with actually keep us safe?

What if, instead of accepting the model of safety that is handed down by police and family regulation caseworkers alike, we thought critically about what safety would look like to us? What if we condemned family separation of all sorts, naming family separation as a safety risk to everyone involved?¹⁴⁴ One of my interviewees told a heart wrenching story of the emotional impact of losing custody of her children. She described herself as lucky; while recovering from her addiction, she had family members who could take her children in as next-of-kin, so she was able to see them as often as she wanted. Even then, she described the way this process harmed her:

The most harmful thing was seeing my name being removed from the birth certificate as being their mom. And that hit me in a downward spiral where I, you know, just sulked in shame. ... My children asked me to do things for example, like 'go and pick up my birth certificate.' And when I went to do that, I couldn't do it because I was no longer on the birth certificate as being their mom. And I didn't find that out until I got there.¹⁴⁵

I would posit that having to confront that you are no longer legally recognized as the mother to your children in front of some strangers in a licensing office is not only harmful, but a safety threat for a parent. This is corroborated by anecdotal evidence from a family defense attorney who has worked closely with incarcerated mothers, who described how family separation often exacerbated pre-existing issues like mental health disorders and substance abuse. What if we acknowledged that parents with substance abuse challenges and their children may require

¹⁴⁴ As I will unpack later in this chapter, this question is asked rhetorically, ambitiously, and aspirationally, to encourage us to continue this practice of imagining an "impossible" abolitionist world. I do not propose to halt all family separation tomorrow, but I argue that the steps laid out in this chapter would get us closer to a world where such a question would not be so ambitious.

¹⁴⁵ Anonymous interview participant #10 (survivor of the family regulation system and parent advocate) in discussion with the author, February 2020.

support, while simultaneously insisting that being separated from one's children does not bring about "safety"? What if we condemned family separation as a safety measure altogether?

While I push us to dream of the impossible, a world where family separation never has to take place, we still live in a world where this is not the case, where there are times at which children and parents cannot remain in the same place. It is these moments where we can reframe our understanding of people who cause child maltreatment, shifting away from viewing them as the "terrible few," instead understanding them as struggling community members who could use help, and shift to a more communal approach to caretaking. We can look towards queer, non-conformist families as models of this communal approach.

Despite the proliferation of "it takes a village" rhetoric to describe the impossibility of childrearing as an independent venture, "the village" is commonly understood as a collection of friendly accomplices who are assisting a nuclear family in their process of child rearing, as opposed to a more communal project of child raising. As Valerie Lehr writes in "Queer Family Values: Debunking the Myth of the Nuclear Family" (1999), "The extension of marriage and family rights to gays and lesbians would serve to foreclose serious questioning of the values embedded within current understandings of marriage and family. Such foreclosure would mean that the extension of rights will have taken away the possibility of enhancing freedom."¹⁴⁶ Assimilationist politics demanding the integration of gays and lesbians into traditional iterations of family creation condemn the possibility of radically reimagining the family unit in ways that deny the possible freedoms that might emerge from embracing queer families' noncongruence. By looking to queer families that reject heteronormative, monogamous, nuclear models of family, we can consider new ways of being free: raising children more communally, more adults

¹⁴⁶ Valerie Lehr, *Queer Family Values: Debunking the Myth of the Nuclear Family* (Philadelphia, Temple University Press, 1999), 14-15.

to share the responsibility of childrearing, and allowing for shifting expectations on caregiving adults that more realistically meet the needs of that individual at any given time.

What possibilities emerge when we understand parenting as a communal project that relies on support from more than just one or two parents? What freedoms do we allow ourselves when we – parents or not – understand parenting as a monumental challenge, and offer one another support through the challenge? If parents with addictions felt no shame or fear of consequences when admitting that they need treatment, or if single mothers were not scared to admit that they struggle to manage their temper when they have gone days without child care assistance, then perhaps parents would feel safe seeking support instead of silently and shamefully continuing behaviors that could harm their children, getting us closer to our goal of eradicating harm against children.

Build Strong Communities: Strengthen Our “Pods”

In her reimagining of community, Mingus proposes “pods” as a solution to the vagueness of “community.” Mingus describes “pods” as “the people that you would call on if violence ... happened to you; ... if you wanted support in taking accountability for violence; ... or if someone you care about was being violent or being abused.”¹⁴⁷ Through using this BATJC “pods” framework, and their “pod mapping” exercise (see Figures 7 and 8) which guides individuals through building pods, the need to turn to systems in order to address harm diminishes, once again rendering DCFS obsolete.¹⁴⁸

¹⁴⁷ Mia Mingus, “Pods and Pod Mapping Worksheet,” *Bay Area Transformative Justice Collective*, June, 2016. <https://batjc.wordpress.com/pods-and-pod-mapping-worksheet/>.

¹⁴⁸ Ibid.

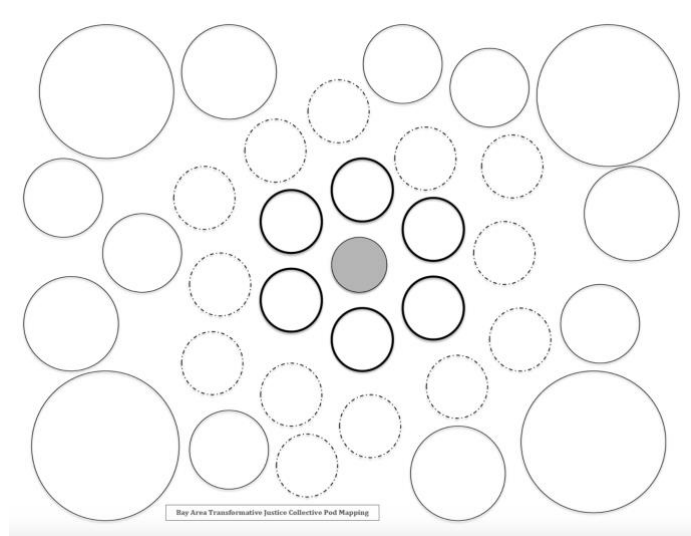
The BATJC understands “pods” as more than just the people you attend religious services with, or who live in proximity to you, but a group of people who can offer more concrete forms of support. Mingus writes:

Using the language of “pods” was a way to meet people where they were and reveal what was already working in their intimate networks. People *already had individuals in their lives they would turn to when violence happened (even if it was just one person)*. So this is where we needed to focus our work, instead of trying to build new relationships with strangers who might share a political analysis, but had no relationship to each other, let alone trust. We set out to build *through our relationships and trust*. We then worked to support our folks in cultivating a shared analysis and framework for understanding intimate and sexual violence through many things, most notably our transformative justice studies.¹⁴⁹

While support groups like the aforementioned FOCS can provide very targeted care and support, pods are the next level of community because they are built on a foundation of “relationships and trust.” Accordingly, building pods requires time, which is why support groups like FOCS can be a wonderful immediate step on the path towards a strong pod, and a strong community more broadly.

¹⁴⁹ Ibid.

Mingus and BATJC identify that once relationships and trust are solid, “cultivating a shared analysis and framework for understanding ... violence” is key to transforming a



- 1) Write your name in the middle grey circle.
- 2) The surrounding bold-outlined circles are your pod. Write the names of the people who are in your pod. We encourage people to write the names of actual individuals, instead of things such as “my church group” or “my neighbors.”
- 3) The dotted lines surrounding your pod are people who are “movable.” They are people that *could be moved* in to your pod, but need a little more work. For example, you might need to build more relationship or trust with them. Or maybe you’ve never had a conversation with them about prisons or sexual violence.
- 4) The larger circles at the edge of the page are for networks, communities or groups that could be resources for you. It could be your local domestic violence direct service organization, or your cohort in nursing school, or your youth group, or a transformative justice group.

Figures 7 and 8: Pod Map and corresponding Pod Mapping activity instructions, excerpted from Mia Mingus’ June 2016 blog post titled “Pods and Pod Mapping Worksheet,” posted to the Bay Area Transformative Justice Collective blog.

collection of relationships into a pod.¹⁵⁰ In her “Punks, Bulldaggers, and Welfare Queens,” Cathy Cohen lays out an analysis that could unite communities who are resisting the family regulation system. Cohen pushes back against the idea of a unified “queer community” that works towards a communally-agreed upon vision of justice. She argues that white wealthy gays are not unified with the needs of poor queers of color, and that while “welfare queens” might not have queer-

¹⁵⁰ Ibid.

inclusive politics, “welfare queens” might have more in common with poor queers of color than wealthy white gays ever will. It is for this reason that Cohen lays out a set of transformational queer politics, that punks, bulldaggers, and welfare queens may all be able to get behind:

By transformational, again, I mean a politics that does not search for opportunities to integrate into dominant institutions and normative social relationships, but instead pursues a political agenda that seeks to change values, definitions, and laws which make these institutions and relationships oppressive.¹⁵¹

Cohen’s conception of justice is congruent with abolitionist politics in its refusal to reiterate dysfunctional and “dominant institutions,” instead “[changing] values, definitions, and laws which make these institutions and relationships oppressive.” By creating a shared understanding that the family regulation system is a “dominant institution” that prescribes “normative social relationships,” and building communities or pods that are unified in this shared politic, the family regulation system loses its reporting constituency, and thus, its power.

Strong communities take shape not only in their spoken values but also in the actions and interactions that define the community. These abolitionist values can be put into practice through mutual aid, through relying on friends and neighbors to meet one another’s basic needs, lending each other supplies, resources, and carework. Mutual aid has entered the public eye as mutual aid campaigns have proliferated since the emergence of COVID-19. Through Google forms and supply drives, communities are coming together to take care of each other in the absence of a unified state response. By refusing to rely on the state as a system of protection, enacting the practices on the left side of the chart in Figure 6, communities can create the alternatives that are necessary to render the Illinois DCFS defunct. If communities take actions to meet each other’s needs, then state systems like the family regulation system lose their reliant constituency.

¹⁵¹ Cathy Cohen, “Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?” *GLQ: A Journal of Lesbian and Gay Studies*, 3, no. 4 (1997): 444-445.

Long Term Vision

End Child Maltreatment: Abolish Oppression

If we are to reclaim definitions of safety, then we will recognize that raising children under violent oppressive systems like white supremacy is dangerous. SisterSong, a reproductive justice collective of women of color, defines reproductive justice as “the human right to maintain personal bodily autonomy, have children, not have children, and parent the children we have in safe and sustainable communities.” In order to parent children in safe and sustainable communities, we must eradicate oppression. White supremacy is lethal, both in that it rationalizes racialized violence and also creates conditions of chronic stress which hinder the health of people of color.¹⁵² If the ability to live a long life is part of what we understand as raising healthy children, then we cannot raise healthy children under white supremacy. Experiencing poverty under neoliberalism creates endless barriers to the attainment of a healthy and long life. Accordingly, wealth disparity must be eradicated, too.

We must abolish poverty so that no one has to “survive” their economic circumstances. Defining poverty and why it exists is a complex project that exceeds the boundaries of this thesis, but on a cursory level poverty abolition can include:

- Wide-reaching wealth redistribution
- Reparations for queer subjects (particularly for Black Americans, descendants of slavery, and Native Americans)
- Equitable hiring practices (which requires decolonized notions of “professionalism,” “success,” “hireability,” and related concepts)
- Accessible workplaces that are actually functional for people with disabilities

¹⁵² Charisse Jones and Kumea Shorter-Gooden, *Shifting: The Double Lives of Black Women in America* (New York, Harper Collins, 2009): 120-146.

- Universal basic income
- Absolvment of student debt
- Universal health care

Many of the items on this list require extensive policy initiatives, but as the epigraph states, abolition “takes everybody doing their part.” So while wealth redistribution would be made more feasible if the federal government enacted expansive taxation of the wealthy, individuals with wealth can choose to redistribute their money through charitable donations or direct support of individuals who are in need.

For example, nearly 5,000 individuals in the Seattle area pay “Real Rent” by making recurring monthly donations to the Duwamish Tribal Services in an effort to pay homage to the Duwamish people who were displaced by the colonization of their land, especially in light of the absence of formal reparations or recognition by the federal government.¹⁵³ The same goes for enforcing higher standards of equity in workplaces. Though expansion of the 1990 Americans with Disabilities Act or enforcement of its current provisions might expedite these goals, communities can collectively mobilize without the federal government.

In a step towards poverty abolition, Chicago has enacted a policy decision that has been widely dreamed of but under-utilized: a formalized reparations program.¹⁵⁴ Thanks to the advocacy of the Chicago Torture Justice Center, the city has set aside \$5.5 million total for the Black people who were accused of crimes and survived torture underneath the leadership of former Chicago Police Department detective and area commander Jon Burge. Burge both encouraged and enacted the horrific physical and sexual abuse of hundreds of Black people,

¹⁵³ “Home,” Real Rent Duwamish, accessed March 22, 2020, <https://www.realrentduwamish.org/>.

¹⁵⁴ Peter C. Baker, “This, Too, Was History: The battle over police-torture and reparations in Chicago’s schools,” Politics, *The Point*, 18 (2019). <https://thepointmag.com/politics/this-too-was-history-battle-police-torture-reparations-chicago-schools/>

evoking false confessions by incentivizing victims with the promise of ceasing further torment. Those who can show that they survived his brutalization can receive up to \$100,000, free tuition at any city college in Chicago, and free therapy at a psychological counseling center. While no sum of money can undo the trauma of torture and racist violence, the Jon Burge reparations project is a step towards a larger project of repatriation of land, wealth, and other resources by government entities that perpetuate racist harm. This process of reallocating resources as a step towards accountability is a vital step towards justice.

Reading about the Jon Burge reparations project, I am reminded of the mother I described in the previous chapter, whose daughter was murdered by her ex's new wife while she was incarcerated, pleading with DCFS caseworkers to listen to her daughter's concerning remarks and go check on her. While both surviving police torture and losing your daughter to an abuser are devastating traumatic experiences, they are unique circumstances which I do not attempt to equate. But the underlying similarity is that both are instances of racist violence. The mother in this story not only has not received the justice or accountability she desires, but she is unable to regain custody of her son from the very same system that placed her daughter in harm's way, all because of logistical barriers which make finding employment, accessing mandated parenting classes and therapies very difficult. When will this mother receive her reparations? There will not be justice until there is accountability on the part of the Illinois DCFS.

When asked what she would do if she could radically reimagine the family regulation system as it currently exists, one family defense attorney said:

I think if I waved a magic wand – well, I'm really dreaming – we would have addressed and ... worked through the generations of systemic harm that had been done. Because the dream would be "what would it look like if you're not starting at the point of being underneath generations of trauma as you're fighting through these systems." ... I think

the dream would be starting fresh... which I know is wildly unrealistic. ... The dream is not forgetting the history, but getting to a place of healing.¹⁵⁵

What would it look like to reach a place of healing? To reach a place where people are done recovering from the oppressive pains they experience every day, a place, as this attorney said, where the starting point is not “underneath generations of trauma”? While healing cannot be bought, admitting wrongdoing and investing in that acknowledgment is possible. DCFS cannot heal broken bonds overnight, and it cannot resurrect children that died in its care. But what can the Illinois DCFS do for families who are still reeling from the impacts of its involvement in their lives? Justice lies in the answer to that question.

Decrease System Involvement: Abolish the Family Regulation System

We have arrived at the part of the long-term project of abolition where we can deem the family regulation system obsolete. In order to achieve obsolescence we provided families with the resources they need to be effective parents, decreased referrals into the system by abolishing mandatory reporting and rethinking when we make a report, built strong communities and pods that can support struggling parents and intervene in instances of child maltreatment, and abolished oppression. Now that we have actualized these visions, we can abolish the family regulation system.

It is important to reiterate that by abolishing the family regulation system I do not mean that we can ignore child maltreatment when it occurs, assume that it is no longer an issue, or stop responding to instances of child maltreatment. Though it may be less frequent, we cannot assume that the psychological underpinnings of why some people are driven to hurt others will ever disappear – though eliminating chronic stresses like resource scarcity and oppression may

¹⁵⁵ Anonymous interview participant #1 (family defense attorney) in discussion with the author, January 2020.

substantially diminish them. By calling for the abolition of the family regulation system, I aim to do away with responses to maltreatment that surveil, punish, and dismantle families, particularly families of those most marginalized: queers, people of color, and poor people. Though we can believe in all the benefits of an abolitionist world, this does not mean that child maltreatment will not persist for any number of reasons, or that we can realistically build a world where this is entirely eliminated.

In order to distinguish between an abolitionist world, and a world without harm, I borrow from José Esteban Muñoz's rhetoric in *Cruising Utopia*, inviting us to understand a world without violence as a "warm illumination of a horizon imbued with potentiality."¹⁵⁶ We can keep a world without harm and violence on the horizon, as something we are always reaching for, and understand that in order to get there we must dismantle the oppressive systems that we currently endure by embracing abolition, halting our reliance on systems that perpetuate more harm and violence on an institutional level. Thus, systems to respond to child maltreatment are still vital, which is why we can look to community responses.

Build Strong Communities: Community Responses to Child Maltreatment

The bereaved family regulation system survivor who lost her daughter to a failed intervention remarked that "justice for me would be, you know, making sure everybody's aware of what's going on. ... It's your business. These are our children. It's all of our business."¹⁵⁷ In her vision of justice, communities that are invested in one another's well-being and children's safety are a central part of the solution. This survivor lays out a very anti-American, anti-neoliberal cultural shift, from individualist "personal responsibility" rhetoric to collectivist "*our*

¹⁵⁶ José E. Muñoz, *Cruising Utopia: The then and there of Queer Futurity* (New York: New York University Press, 2009), 1.

¹⁵⁷ Anonymous interview participant #8 (survivor of the family regulation system) in discussion with the author, February 2020.

children. ... *our* business” rhetoric, which is reminiscent of the cultural values of some of the indigenous groups which were dismantled through the colonizing practices described in chapter one.¹⁵⁸ The cultural shift she describes is possible: in an abolitionist world, we rely on each other – our friends, families, communities, and pods – to keep us safe, not the state.

While harm, violence, and maltreatment towards all (children included) will likely persist in some forms in this world, we leave behind responses to that violence that surveil and punish. Instead, we practice radical care, sincere accountability, and transformative approaches to harm as a response to this violence, a series of practices that fall under the umbrella of transformative justice.¹⁵⁹ generationFIVE, a group that is working to “end the sexual abuse of children within five generations,” defines transformative justice as follows:

Transformative Justice seeks to provide people who experience violence with immediate safety and long-term healing and reparations while holding people who commit violence accountable within and by their communities. ... Transformative Justice also seeks to transform inequity and power abuses within communities.¹⁶⁰

Transformative justice is not an “alternative” to policing and prisons, because it operates on fundamentals of equity, anti-violence, and justice – things the prison system could never conceive of. Like accountable communities, transformative justice is not utopian. It is messy, and there are situations in which survivors are not open to participating in accountability processes, where they want punishment, isolation, and pain for the individual who caused them harm. There are instances in which individuals who have caused harm are not interested in being accountable for the impact of their actions. While powerful, transformative justice does not

¹⁵⁸ Ibid.

¹⁵⁹ One can find more about transformative justice in Mariame Kaba’s blog post “Transformative Justice” (2012) on her blog *Prison Culture* and in adrienne maree brown’s blog post “What is/isn’t transformative justice?” (2015) on her blog *adrienne maree brown*.

¹⁶⁰ Sara Kershner et al., “Toward Transformative Justice: A Liberatory Approach to Child Sexual Abuse and other forms of Intimate and Community Violence,” *generationFIVE*, 2007.

pretend to have all the answers and it does not pretend to offer “solutions” to every situation. Transformative justice responds to individual instances of violence, it is not a “systemic” response, it is an individualized response, and so it acknowledges that it may not be able to offer the solutions in these seemingly unaddressable cases.

As Mingus’s argument above posits, it is at the least unrealistic, at the most harmful to rely on a fictionalized notion of a utopian “community” that will solve all of each other’s issues without a hitch. There will be conflicts, and there will be disagreements. Cohen reminds us that while we can understand both welfare queens and bulldaggers as queer in terms of their resistance to and marginalization by the state, “a woman's dependence on state financial assistance in no way secures her position as one supportive of gay rights and/or liberation. ... only an articulation and commitment to mutual support can truly be the test of unity when pursuing transformational politics.”¹⁶¹ We cannot assume that one’s marginalization inherently makes them a comrade in the struggle for liberation. We cannot run the risk of disillusioning ourselves by awaiting the sudden emergence of a romanticized harmonious community, but we can individually practice a “commitment to mutual support,” and through this build unity that works towards transformational politics.

These transformational politics can be put into praxis, and already have been by groups like BATJC, Project NIA’s NYC Transformative Justice Hub, and CUNY’s Community Justice Collaborative. Further, these groups have gifted us with an incredible wealth of toolkits and resources, making these groups reproducible and accessible.¹⁶² Particularly, I look to the

¹⁶¹ Cathy Cohen, “Punks, Bulldaggers, and Welfare Queens: The Radical Potential of Queer Politics?” *GLQ: A Journal of Lesbian and Gay Studies*, 3, no. 4 (1997): 462.

¹⁶² Some useful toolkits to look to are: INCITE! Women of Color Against Violence’s “Community Accountability Working Document” (2003), Creative Interventions’ “Creative Interventions Toolkit: A Practical Guide to Stop Interpersonal Violence” (2012), generationFIVE’s “Ending Child Sexual Abuse: A Transformative Justice Handbook” (2017), and Barnard Center for Research on Women’s “Building Accountable Communities” series (2018-present).

aforementioned generationFIVE as an example. generationFIVE – and similar groups – offer us a model that is using transformative justice principles and practices to address violence. Through a transformative justice lens, they center the needs of survivors and simultaneously recognize the realities of abusers and community members who are proximate to the violence to identify solutions that will both repair and transform the harm that has occurred, building sustainable solutions like new ways of communicating and being together that will impact the community far after the harm has occurred. Like Mingus described, transformative justice processes can begin with a need for survivor support, or the desire of an individual to take accountability for the harm they’ve caused.¹⁶³ Using these approaches helps us understand harm as both a serious circumstance warranting intervention, and a reality of being in relation to others. Transformative justice offers space for abusers to take accountability for their actions, creating a society in which admitting to and addressing the harm that one has caused is both common and generative. By turning to strong communities that are dedicated to transformative justice, we can work to ameliorate harm and end child maltreatment while realizing our dreams of living in an abolitionist world where we do not rely on police, prisons, or the family regulation system.

Conclusion

Every person who interacts with children, parents, or families can be “a stakeholder in this fight towards justice.” Doing one’s part “in this fight” can be as passive as reconceptualizing our expectations of what parenting should look like, or as active as providing emotional, financial, or tangible support to parents who are struggling through offering services or participating in accountability processes.

¹⁶³ Mia Mingus, “Pods and Pod Mapping Worksheet,” *Bay Area Transformative Justice Collective*, June, 2016. <https://batjc.wordpress.com/pods-and-pod-mapping-worksheet/>.

These individual steps are not an unequivocal fix but small efforts towards actually addressing harm, decreasing system involvement, and making DCFS obsolete. While there are currently (and will continue to be) situations in which the steps outlined in this chapter do not ameliorate the harm, the goal is not to fix each individual situation but to build a series of responses which decrease our reliance on the current (broken) systems, and make DCFS obsolete. Like transformative justice, abolition must be dynamic and emergent. The ideas outlined in this chapter are located in the realities of 2020 – the Trump administration, the COVID-19 pandemic, a resurgence of nationalism, to name a few factors. To be effective, responses to harm must be reimagined regularly to adapt to evolving circumstances.

CONCLUSION: VISUALIZING ABOLITION

“Another world is not only possible, she is on her way. On a quiet day, I can hear her breathing.”¹⁶⁴

– Arundhati Roy, political activist and author

I return to the story of Jessica and Alicia from chapter two, grounding the visions of the abolitionist world described in chapter three by reimagining their experience in this more just world. Once again, I emphasize that Jessica’s story is a composite, which means that the solutions described here would not only ameliorate Jessica’s situation, but also the situations of those whose actual lived experiences inform her story. Like 19.4 percent of child maltreatment cases, Jessica’s circumstances were referred to DCFS by her teacher. The caseworker who investigated Jessica’s situation found significant enough evidence to deem Jessica and her infant brother “victims of neglect and endangerment of child safety.”

As stated in chapter three, abolition is a constant daily struggle, and it is not an expedient or linear path towards justice. If it were to take place linearly, I would quickly revisit Jessica’s story and write that in an abolitionist world her teacher would not be a mandated reporter, and so Jessica never would have become system-involved in the first place. But this is a negligent oversimplification, as a central part of this abolitionist vision is actually addressing harm. The goal is not merely that families never become system-involved, and then languish in perilous situations without state intervention. The goal is that we address the harm without the state.

If mandatory reporting policies were abolished, then Jessica’s teacher never would have made that report, but she may have still felt concerned about the listlessness that she was noticing in class, and rightfully so. In this vision of collectivism, Jessica’s teacher would

¹⁶⁴ Arundhati Roy, “Speech to the People’s University of the Occupy Movement” (transcribed speech, People’s University in Washington Square, November 16, 2011).

understand that Jessica's well-being was her priority, and so she would have asked Jessica how things were going at home or called Alicia to see if things were alright. By being more connected to her community, the teacher would be aware of community resources that Alicia and Jessica could benefit from and could refer them to these, or help them meet with a school counselor or social worker who could help them navigate accessing welfare services.¹⁶⁵ By stepping in immediately to provide support based on Jessica and Alicia's honest disclosure of their circumstances – honesty that is enabled by the knowledge that this teacher and counselor are here to help, not to report – Jessica's situation would be quickly ameliorated. Jessica would never have to endure the experience of being questioned and physically examined by a stranger (a DCFS caseworker), and Alicia would not feel as though she was being accused when her home was searched. No one in their family would have to endure the trauma of investigation and separation from one another.

The welfare services that Alicia was given help accessing would make it easier to have an adequate supply of diapers, food, and other necessary childcare items for her children. Hopefully, Alicia and her children would have a large community outside of school that they could turn to, as well. If Alicia had a pod of people around her that she trusted, she would have a community who she could reach out to and say, without shame or fear of judgment, "I am struggling to take care of my kids." Maybe Alicia's pod would include neighbors who could step in to watch Jessica and her brother on the nights when Alicia was working late. Friends from their church could offer Alicia emotional support and home-cooked meals through her separation

¹⁶⁵ One can learn more about the movement to replace police officers stationed in schools with school counselors at Project NIA's "Yes To Counselors, No To Cops" (2013) campaign blog, or read about the school-to-prison pipeline in The Center for Popular Democracy and the Urban Youth Collaboratives' report "The \$746 Million a Year School-to-Prison Pipeline: The Ineffective, Discriminatory, and Costly Process of Criminalizing New York City Students" (2017).

from Jessica's father. Through a strong community and adequate welfare services, Alicia and her children could get the support they needed to thrive. With the support she needed in place, Alicia would be able to provide her children with the kind of care she intended to.

In the initial family regulation investigation, the majority of the response was focused on Jessica and her experience. In this imagined abolitionist world, the solution is focused more on Alicia, understanding parents as active agents within an interdependent family unit. This reinforces what many family defense attorneys told me when asked how their work advances children's safety: "I keep children safe by supporting parents." This sentiment is reflective of a larger shift towards understanding family systems' and their interdependence holistically. This is also seen in the proliferation of social justice movements that center mothers. #BlackLivesMatter and its emergence after Michael Brown's death centered his mother, Lesley McSpadden, and her grief. She spoke on behalf of all mothers of children lost to police violence, framing police brutality as a family issue. Chicago's Moms United Against Violence and Incarceration carries this mantle as a "membership based organization that builds the collective strength and power of mothers."¹⁶⁶ This idea of injustice as a threat to families is upheld by the Little Village Environmental Justice Organization, a Chicago-based environmental justice group organizing in a predominantly working-class Latinx area that characterizes its mission as building "a sustainable community that promotes the healthy development of youth and families."¹⁶⁷ Understanding strong families as central players in the fight towards justice is a growing belief, as is the understanding of injustice as an obstacle to healthy family development.

¹⁶⁶ Moms United Against Violence and Incarceration, "About," Facebook bio, accessed April 14, 2020, https://www.facebook.com/pg/MomsUnitedChi/about/?ref=page_internal.

¹⁶⁷ Little Village Environmental Justice Organization, "Mission & Vision Statement," *Our Mission*, accessed April 16, 2020, <http://www.lvejo.org/our-mission/mission-vision-statement/>.

The family regulation system is an epicenter of injustice and trauma, a unit that undermines queer subjects and dismantles marginalized families. While it purports itself as a vehicle for children's safety, it functions like the police in that it surveils and punishes families for their noncompliance with social norms as opposed to uplifting families by providing them the resources they need. While the Illinois DCFS has been beneficial in some individual circumstances, it is a bureaucratic body that points parents towards lengthy and often unfulfilling welfare application portals at best. At its worst, it is a tool of cultural genocide, a source of trauma and pain for parents and children, and an obstacle to community resilience.

The evils of DCFS and of the prison system are growing everyday. Just this year, DCFS has launched a digital portal for reporting suspected child abuse or neglect, making it even easier to join the ranks of the diffuse family regulation surveillance network. The growing reach of the family regulation system dovetails with the growing prison nation. The carceral system's growth is evidenced by a recent Sentencing Project report which found that the rate of female incarceration increased by over 700 percent between 1980 and 2016.¹⁶⁸ Given that 70 percent of incarcerated women are mothers of children under 18, we can see that systems that punish parents are growing side-by-side.¹⁶⁹

As I conclude this thesis, the U.S. is struggling to react to the COVID-19 pandemic. The federal government has been slow to act, leaving many of the agencies that comprise the family regulation system and the carceral system to determine their own path forward. In the past several weeks, many jurisdictions have put a moratorium on in-person visits for parents whose children are in foster care. Some jurisdictions offer video visits instead, others offer no

¹⁶⁸ The Sentencing Project, "Incarcerated Women and Girls," Washington, DC. (June 2019).

¹⁶⁹ Natalie Sokoloff, "The Impact of the Prison Industrial Complex on African American Women," *Souls* 5, no. 4 (Dec 1, 2004).

alternatives. No emergency Adoption and Safe Families Act legislation has been passed, and statutory timelines have not been delayed.¹⁷⁰ If no modifications are made to policies like the Illinois Adoption Act, then the forced separation of families in the midst of the pandemic can be deemed parental absence, which is considered to be sufficient rationale to justify termination of parental rights.

Simultaneously, after the Cook County jail in Chicago was deemed a top U.S. hotspot for the virus in early April 2020, a federal judge denied a bid for a mass release of individuals detained at the facility.¹⁷¹ In the following weeks, as devastating outbreaks emerging at prisons and jails across the nation are met with silence from public officials who have the ability to approve mass clemency campaigns, the criminal punishment system reaffirms its role as a “death-making” machine. The state is showing its inability to effectively respond to safety threats by recycling the tired logic of incarceration. Public officials deem incarcerated people as bigger threats to public safety than a highly contagious virus, so they leave incarcerated people and the staff who enter and exit the facility to continue spreading the virus in close proximity. In early April a group of individuals in Brooklyn were arrested for violating social distancing orders and placed in jail cells without masks or soap.¹⁷² As jurisdictions respond to the threat of COVID-19 by trying to arrest and punish those perceived as “spreaders” (a perception that is steeped in racism) the pandemic shows the depths of the state’s investment in carceral responses.

¹⁷⁰ Michelle Chan, “Pandemic Shutdown Separates Parents From Their Children in the Foster System,” News Analysis, Education & Youth, *Truthout*, April 13, 2020, <https://truthout.org/articles/pandemic-shutdown-separates-parents-from-their-children-in-the-foster-system/>.

¹⁷¹ The New York Times, “Coronavirus in the U.S.: Latest Map and Case Count,” *The New York Times*, updated April 27, 2020, <https://www.nytimes.com/interactive/2020/us/coronavirus-us-cases.html>.; Josh McGhee, “Federal judge denies mass release at Cook County Jail, named ‘top U.S. hot spot’ for COVID-19,” *Coronavirus, Chicago Reporter*, April 9, 2020, <https://www.chicagoreporter.com/federal-judge-denies-mass-release-at-cook-county-jail-named-top-u-s-hot-spot-for-covid-19/>.

¹⁷² Alice Speri, “NYPD’s Aggressive Policing Risks Spreading the Coronavirus,” *The Intercept*, April 3, 2020, <https://theintercept.com/2020/04/03/nypd-social-distancing-arrests-coronavirus/>.

The coronavirus pandemic shows that the state is more committed to its agenda of punishment than to bringing about actual safety.

Throughout the pandemic, the family regulation system has adhered to the same carceral logics. Disregarding the emotional needs of parents or children involved with the foster care system by dropping visits altogether shows that the family regulation system has little investment in the emotional well-being of families. Policymakers' and welfare advocates' failure to delay TPR timelines illustrate that they are more committed to enforcing policy and maintaining an already-dysfunctionally status quo than reacting dynamically or situationally. These trends remind us that the struggle towards true safety, protecting ourselves from systems that prioritize state interests over public safety, and abolition has never been more urgent, and so the objectives outlined in chapter three are paramount. Families must be protected at all costs, today, tomorrow, and every day.

Throughout writing this thesis, I frequently look up at the poster seen in Figure 9, a graphic made by Roger Peet that reads "less locks, more keys."¹⁷³ This has been especially encouraging to me these last several weeks in quarantine, as I witness what appears to be two waves of devastation happening around me: the first in reaction to the new state of morbidity that we live in, the second in reaction to the state's disorganized response and the unsettling revelation that the state cannot and will not keep all of us safe. The state's response has generated more locks: new hotlines where individuals can wait to talk to more bureaucrats about their suspected systems, more criminalization, and growing lists of sanitary supplies to purchase. Recognizing that "locks" (surveillance, regulation, punishment) have not made us safer, I ask of us, how can we make more keys?

¹⁷³ Roger Peet, *Less Locks, More Keys*, June 2016, woodblock print, Portland, OR.; More of Peet's art can be accessed through his website: <https://toosphexy.com/>



Figure 9: Roger Peet's June 2016 piece "Less Locks, More Keys." Made in collaboration with the Justseeds' Artists Cooperative, in support of an "End Mass Incarceration" campaign: the June 11th, 2016 International Day of Solidarity with Anarchist Prisoners. <https://justseeds.org/graphic/less-locks/>

APPENDIX A: GLOSSARY

Term	Definition
Carceral system	More expansive than “criminal punishment system,” “carceral system” can be used to understand carcerality and all its intersections, including smaller forms of behavioral regulation or punishment (e.g. parking enforcement, transit fare enforcement, private security forces) and parallel systems which similarly socially isolate and punish those who are deemed “offenders” (e.g. the family regulation system and K-12 school administrators).
Child Protective Services (CPS)	The national network of local child protection agencies which variably identify child maltreatment, intervene in child maltreatment cases, remove children, and cooperate with law enforcement to punish parents.
Criminal punishment system	Mariame Kaba’s preferred term for the collection of system (police, courts, prisons) which respond to acts that are deemed as “criminal” and result in arrest or incarceration. Used as an alternative to “criminal justice system” to indicate that the system’s priority is punishment, not justice.
Child welfare	Though “child welfare” is often used as a catchall term to refer to CPS, in this thesis I use the term “family regulation system” instead. I use “child welfare” to denote welfare services which benefit children (can be federal or state-specific). e.g.: Temporary Assistance for Needy Families, Supplemental Nutrition Assistance Program (SNAP, AKA food stamps), SNAP for Women Infants and Children, Earned Income Tax Credit, Illinois All Kids health insurance, Child Care Assistance Program, social security benefits, etc.
Illinois Department of Children and Family Services (AKA the Illinois DCFS, Illinois’ DCFS, DCFS)	The Illinois-specific branch of CPS.
Prison industrial complex	“Prison industrial complex” denotes how the “carceral system” is an industry, and often one that profit can be derived from.

	E.g., tickets and fines generate revenues for local or state governances, prison labor often generates revenues for private companies (a notorious example is the lingerie brand Victoria's Secret using incarcerated laborers to assemble their garments), private companies are contracted by governments to build prisons, provide food to prisoners, private technologies are sold to police to surveil the population, and 8.2 percent of incarcerated people are held in private prisons, which are operated by private, profiteering corporations instead of the government. ¹⁷⁴
Prison nation / carceral state	These terms build on the previous definitions of "criminal punishment system," "carceral system," and "prison industrial complex" to specifically connote the way that the mechanisms of policing, surveillance, punishment, and regulation are enmeshed throughout the fabric of the nation-state.
System-involved	Referring to an individual, a group of individuals, or a family. Individuals who are being intervened upon by, investigated by, receiving services from, or incarcerated by a state-operated system, namely the family regulation system or the prison system.

¹⁷⁴ Patrick McGeehan, "Police Slowdown Cost New York City an Estimated \$5 Million in Lost Fines," *The New York Times*, Jan 14, 2015, <https://www.nytimes.com/2015/01/15/nyregion/police-slowdown-cost-new-york-city-an-estimated-5-million-in-lost-fines.html>; Tim Requarth, "How Private Equity Is Turning Public Prisons Into Big Profits," *Jails and Prisons*, *The Nation*, May 13, 2019, <https://www.thenation.com/article/archive/prison-privatization-private-equity-high/>; George E. Sexton, "Work in American Prisons: Joint Ventures with the Private Sector," *National Institute of Justice, U.S. Department of Justice, Office of Justice Programs*, Nov 1995, <https://www.ncjrs.gov/pdffiles/workamp.pdf>; Kara Gotsch and Vinay Basti, "Capitalizing on Mass Incarceration: U.S. Growth in Private Prisons," *The Sentencing Project*, August 2, 2018, <https://www.sentencingproject.org/publications/capitalizing-on-mass-incarceration-u-s-growth-in-private-prisons/#IV.%20Private%20Contractors%20and%20their%20Expanding%20Reach.>; The Sentencing Project, "Private Prisons in the United States," Washington, DC, Oct 24, 2019, <https://www.sentencingproject.org/publications/private-prisons-united-states/>.

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