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## KEYNOTE

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#### **STRENGTHENED BONDS: ABOLISHING THE CHILD WELFARE SYSTEM AND RE-ENVISIONING CHILD WELL-BEING**

#### **HOW I BECAME A FAMILY POLICING ABOLITIONIST**

Dorothy Roberts\*

My book *Shattered Bonds: The Color of Child Welfare*, published in 2001, documented the racial realities of family policing in America. At the time, more than a half million children had been taken from their parents by child protection services (CPS) and were in foster care.<sup>1</sup> Black families were the most likely of any group to be torn apart. Black children made up nearly half of the U.S. foster care population, although they constituted less than one-fifth of the nation's children.<sup>2</sup> That made them four times as likely to be in foster care as white children. Nearly all of the children in the foster care system in Chicago, where I was living at the time, were Black.<sup>3</sup>

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<sup>1</sup> DOROTHY ROBERTS, SHATTERED BONDS: THE COLOR OF CHILD WELFARE 8 (2001) [hereinafter ROBERTS, SHATTERED BONDS]. See also *Foster Care*, CHILD TRENDS DATABANK (May 24, 2018), <https://www.childtrends.org/indicators/foster-care> [https://perma.cc/KL2M-554N] (providing additional data and trends in foster care through 2017).

<sup>2</sup> ROBERTS, SHATTERED BONDS, *supra* note 1, at 8.

<sup>3</sup> *Id.* at 9.

I first became aware of foster care's racial dimension when I was working on my 1997 book *Killing the Black Body*. I had been researching the prosecutions of hundreds of Black mothers across the country for using crack cocaine while pregnant. Racist myths about them giving birth to so-called "crack babies"—described as irreparably damaged, bereft of social consciousness, and destined to delinquency—had turned a public health crisis into a crime.<sup>4</sup> I saw the prosecutions as part of a long legacy of oppressive policies, originating in slavery, that devalued Black women and denied their reproductive freedom.

That's when I discovered that thousands of Black mothers were having their newborns taken from them because of positive drug tests and realized that child removal was even more widespread and, in some ways, more devastating than the prosecutions. The system's racial divide was obvious to me as soon as I started observing child welfare proceedings in Chicago. As I later wrote in *Shattered Bonds*:

Spending a day at dependency court in any major city and you will see the unmistakable color of the child welfare system. Dependency court is where judges decide the fate of children who have been taken into state custody because their parents are charged with abusing or neglecting them. Nearly every family in these urban courts is Black. If you came with no preconceptions about the purpose of the child welfare system, you would have to conclude that it is an institution designed to monitor, regulate, and punish poor Black families.<sup>5</sup>

Twenty years later, Black communities are still targeted for child welfare intervention. Although Black children were only 14% of children in the United States in 2018, they made up 23% of children in foster care.<sup>6</sup> More telling are recent data indicating

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<sup>4</sup> DOROTHY ROBERTS, *KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY* 150–201 (1997).

<sup>5</sup> ROBERTS, *SHATTERED BONDS*, *supra* note 1, at 6.

<sup>6</sup> *Child Population by Race in the United States*, KIDS COUNT DATA CTR., ANNIE E. CASEY FOUND., <https://datacenter.kidscount.org/data/tables/103-child-population-by-race#detailed/1/any/false/1729,37,871,870,573,869,36,868,867,133/68,69,67,12,70,66,71,72/423,424> [<https://perma.cc/KAM5-KH8Y>] (last visited June 10, 2021); *Children in Foster Care by Race and Hispanic Origin in the United States*, KIDS COUNT DATA CTR., ANNIE E. CASEY FOUND.,

children's chances of landing in foster care at some point while growing up. According to a 2014 study, about 15% of Native children and 11% of Black children could expect to enter foster care before their eighteenth birthday.<sup>7</sup> The rate for white children, about one in twenty, was remarkably lower, reflecting America's racial hierarchy, but still incredibly high.<sup>8</sup>

I spent time with Black mothers whose children had been taken from them and learned that what's called child protection is no social service system. It's a multi-billion-dollar apparatus that relies on terrorizing families by taking their children away or weaponizing their children with the threat of removal to impose intensive surveillance and regulation on them.

In my introduction to *Shattered Bonds*, I concluded:

The color of America's child welfare system is the reason Americans have tolerated its destructiveness. It is also the most powerful reason to finally abolish what we now call child protection and replace it with a system that really promotes children's welfare.<sup>9</sup>

In this Keynote, I renew my call to abolish the family policing system. This time, however, I don't argue for replacing it with another reformed state system. We need to build a radically re-imagined way of caring for children and their families.

Three things happened since the publication of *Shattered Bonds* that solidified my abolitionist perspective. There were numerous reform efforts to reduce what became known as racial disproportionality in foster care; the prison abolition movement expanded; and organizing by parents and children impacted by the child welfare system strengthened.

Since I wrote *Shattered Bonds*, "racial disproportionality" has become a buzzword in child welfare research and

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<https://datacenter.kidscount.org/data/tables/6246-children-in-foster-care-by-race-and-hispanic-origin?loc=1&loct=1#detailed/1/any/false/37,867,38/2638,2601,2600,2598,2603,2597,2602,1353/12992,12993> [https://perma.cc/EWB2-WA3B] (last visited June 10, 2021).

<sup>7</sup> Christopher Wildeman & Natalia Emanuel, *Cumulative Risks of Foster Care Placement by Age 18 for U.S. Children, 2000–2011*, PLOS ONE, March 2014, at 1, 5.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> ROBERTS, SHATTERED BONDS, *supra* note 1, at x.

policymaking. State child welfare departments and non-profit organizations have launched numerous projects across the nation to reduce the foster care population, along with its racial disparities.<sup>10</sup> Over the last two decades, I participated in many of these reform efforts to improve foster care.

I served for nine years on a task force to implement the settlement agreement in a class action lawsuit brought in 1998 by children's rights advocates against the Department of Social and Health Services (DSHS) in Washington state, *Braam v. State of Washington*.<sup>11</sup> The department's treatment of children in foster care was so horrendous that the children's lawyers claimed it violated the state constitution. The named plaintiff, Jessica Braam, had been tossed among foster homes more than thirty times.

In 2004, after six years of litigation, the children's attorneys reached an agreement with DSHS to resolve the lawsuit by handing the problems over to a panel of five mutually-agreed-upon national experts.<sup>12</sup> I accepted an invitation from the children's attorneys to be one of their choices. The Braam Oversight Panel worked with the DSHS Children's Administration and the children's attorneys to develop a complicated plan with outcomes, benchmarks, and action steps to improve health care for foster children, lower CPS worker caseloads, enhance foster parent training, and decrease the number of children who ran away from foster care.<sup>13</sup> Then for

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<sup>10</sup> See, e.g., CHILD WELFARE INFO. GATEWAY, ADDRESSING RACIAL DISPROPORTIONALITY IN CHILD WELFARE (2011), [http://centerforchildwelfare.org/kb/dispr/racial\\_disproportionality2011.pdf](http://centerforchildwelfare.org/kb/dispr/racial_disproportionality2011.pdf) [https://perma.cc/GB7F-8YST]; *Disproportionality*, CHILD WELFARE LEAGUE OF AM., <https://www.cwla.org/our-work/advocacy/race-culture-identity/disproportionality/> [https://perma.cc/H7TA-AQAS] (last visited June 10, 2021); ANNIE E. CASEY FOUND., DISPARITIES AND DISPROPORTIONALITY IN CHILD WELFARE (2011), <https://assets.aecf.org/m/resourcedoc/AECF-DisparitiesAndDisproportionalityInChildWelfare-2011.pdf> [https://perma.cc/3QBN-WM6D].

<sup>11</sup> *Braam Settlement Agreement*, WASH. STATE DEP'T CHILD., YOUTH & FAMS., <https://www.dcyf.wa.gov/practice/practice-improvement/braam-settlement-agreement> [https://perma.cc/8SUZ-DLB9] (last visited June 10, 2021).

<sup>12</sup> *Id.*

<sup>13</sup> See *Braam Performance Dashboard*, WASH. STATE DEP'T CHILD., YOUTH & FAMS. (Mar. 31, 2017), <https://www.dcyf.wa.gov/sites/default/files/pdf/braam0317Perdashboard.pdf> [https://perma.cc/D892-4XMM]

nearly a decade, we monitored the state's progress in performing the action steps, meeting the benchmarks, and achieving the outcomes. After dozens of meetings with administrators and attorneys at a hotel across from the SeaTac airport, we calculated some progress on some of the measures.<sup>14</sup> But, we were unable to fix the long list of deficiencies that harmed children placed in the state's custody.

The *Braam* settlement is not exceptional. Over the last thirty years, states across the nation have been sued for running child welfare systems that severely harm children. The child welfare departments in numerous states are currently governed by court-monitored agreements arising out of class action lawsuits requiring them to make massive reforms. While some systems have failed for decades to live up to old settlement agreements, others have been brought to court recently for the same problems endemic to foster care. The Illinois Department of Children and Family Services is operating under more than ten consent decrees, one of which was filed in 1988.<sup>15</sup>

As child welfare departments around the country have shrunk their foster care populations in response to fiscal and justice concerns, they have simultaneously expanded their invasion into the private lives of marginalized communities through investigations and coercive service provision. Under federal law, every state must identify "mandated reporters," people who work in professions that put them in contact with children, such as teachers, health care providers, social services staff, and daycare workers, and require them, under certain circumstances, to report suspected child abuse and neglect to government authorities. CPS treats these reports like accusations to be investigated, not requests for help. Mandated reporting therefore drives parents from the very service

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(listing some of the Braam Oversight Panel's outcomes, benchmarks, action steps, and goals).

<sup>14</sup> See, e.g., *id.* (describing some of the progress toward the Braam Oversight Panel's goals).

<sup>15</sup> *Can You Share a Summary of Child Welfare Consent Decrees?*, CASEY FAM. PROGRAMS (July 10, 2019), <https://www.casey.org/consent-decree-summary/> [<https://perma.cc/DJ4Y-ESSX>]. See also *Reform Based on Litigation*, CHILD WELFARE INFO. GATEWAY, <https://www.childwelfare.gov/topics/management/reform/litigation/> [<https://perma.cc/8QQN-KGCB>] (last visited June 10, 2021).

providers that are most likely to support them.<sup>16</sup> Enlisting service providers in CPS surveillance deters families from seeking needed assistance and ruins their relationship with families, thereby weakening their capacity to improve children's welfare. Providing services within a punitive family policing system thwarts the potential for schools, health care clinics, and social programs to be caring hubs of community engagement that non-coercively help families meet their material needs.<sup>17</sup>

And the racial disparities in family surveillance persist. More than half of Black children are subjected to a CPS investigation at some point during their childhoods.<sup>18</sup> I learned that trying to reform the system can strengthen it. We can't tinker with the flaws of a system designed at its roots to police poor, Black, Indigenous, and other marginalized families as a way of maintaining a racial capitalist system.

Also in the twenty years since *Shattered Bonds* was published, the prison abolition movement expanded dramatically. Some activists mark its launch at an international conference and strategy session—*Critical Resistance: Beyond the Prison Industrial Complex*—held at the University of California at Berkeley in September 1998. Formed in 1997, the Critical Resistance organizing collective gathered more than 3,500 activists, former prisoners, lawyers, and scholars over three days “to address the alarming growth of the prison system, popularize the idea of the ‘prison industrial complex,’ . . . and make ‘abolition’ a practical theory of change.”<sup>19</sup> Since then, the prison abolition movement has grown into an influential framework and network of organizing across the nation.

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<sup>16</sup> Clara Presler, *Mutual Deference Between Hospitals and Courts: How Mandated Reporting from Medical Providers Harms Families*, 11 COLUM. J. RACE & L. 733 (2021); Brianna Harvey et al., *Reimagining Schools' Role Outside the Family Regulation System*, 11 COLUM. J. RACE & L. 575 (2021); Mical Raz, *Unintended Consequences of Mandated Reporting Laws*, PEDIATRICS, Mar. 2017, at 1; MICAL RAZ, ABUSIVE POLICIES: HOW THE AMERICAN CHILD WELFARE SYSTEM LOST ITS WAY (2020).

<sup>17</sup> Kelley Fong, *Concealment and Constraint: Child Protective Services Fears and Poor Mothers' Institutional Engagement*, 97 SOC. FORCES 1785 (2018).

<sup>18</sup> Hyunil Kim et al., *Lifetime Prevalence of Investigating Child Maltreatment Among US Children*, 107 AM. J. PUB. HEALTH 274, 277 (2017).

<sup>19</sup> *Critical Resistance: Beyond the Prison Industrial Complex 1998 Conference*, CRITICAL RESISTANCE, <http://criticalresistance.org/critical-resistance-beyond-the-prison-industrial-complex-1998-conference/> (last visited June 10, 2021).

This past summer, protests erupted around the nation and the world in response to continued police violence against Black people. The call to defund police and abolish prisons began to make sense to more and more people. The family policing system is part of the same carceral regime. Like the police and prison systems, family policing is designed to maintain racial injustice by punishing families in place of meeting human needs; it targets Black, Brown, and Indigenous families in particular and relies on racist beliefs about family disfunction to justify its terror; and it's entangled with police, criminal courts, and prisons, forming a coherent carceral machine. As I was drawn to prison abolition, it became clear to me that the movement to abolish police, prisons, and surveillance was profoundly connected to a less visible movement to end family policing.

I have found three central tenets that are common to formulations of abolitionist philosophy especially useful.<sup>20</sup>

First, today's carceral punishment system can be traced back to slavery and the racial capitalist regime it relied on and sustained. Second, the expanding carceral system functions to oppress Black and other politically-marginalized people in order to maintain a racial capitalist regime. Third, we can imagine and build a more humane and democratic society that no longer relies on caging people to meet human needs and solve social problems. These tenets lead to the conclusion that the only way to transform our society from a slavery-based one to a free one is to abolish the prison industrial complex and create a world where, to answer Angela Davis's question, prisons are obsolete.<sup>21</sup>

Prison abolitionists have shown that the pillars of the U.S. criminal punishment system—policing, prisons, and capital punishment—all have roots in racialized chattel slavery. The first police forces in the United States were slave patrols.<sup>22</sup> Like overseers and slave patrols, Jim Crow police and private citizens

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<sup>20</sup> I discuss the importance of prison abolitionist theorizing and its relationship to abolition constitutionalism in Dorothy E. Roberts, *Foreword: Abolition Constitutionalism*, 133 HARV. L. REV. 1 (2019) [hereinafter Roberts, *Abolition Constitutionalism*].

<sup>21</sup> See ANGELA Y. DAVIS, ARE PRISONS OBSOLETE? (2003) (making the case for prison abolition).

<sup>22</sup> See, e.g., ALEX S. VITALE, THE END OF POLICING 45–48 (2017); Olivia B. Waxman, *How the U.S. Got Its Police Force*, TIME, <https://time.com/4779112/police-history-origins/> [<https://perma.cc/UHR9-5D3P>] (May 18, 2017).

who abetted them used terror primarily to enforce racial subjugation, not to apprehend people culpable for crimes. Today, police serve to control Black and other marginalized communities through everyday physical intimidation and by funneling those they arrest into jails, prisons, and detention centers.<sup>23</sup>

Criminal law enforcement aims to control populations rather than judge individual guilt or innocence.<sup>24</sup> Criminal courts are primarily in the business of managing marginalized communities rather than adjudicating their residents' culpability.

Issa Kohler-Hausmann, for example, argues that New York City criminal courts that handle misdemeanors “have largely abandoned the *adjudicative* model of criminal law administration—concerned with deciding guilt and punishment in specific cases—and instead operate under . . . the *managerial* model—concerned with managing people through engagement with the criminal justice system over time,” with no real regard for their culpability for crime.<sup>25</sup>

We can apply a similar analysis to family policing. The origins of the U.S. child welfare system lie in the forcible separation of enslaved families, the control of emancipated Black children as apprentices to former white enslavers, and removal of Indigenous children as an instrument of tribal genocide.<sup>26</sup> The whole point of the child welfare system has always been to regulate economically- and racially-marginalized communities.

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<sup>23</sup> See generally VITALE, *supra* note 22; PAUL BUTLER, *CHOKEHOLD: POLICING BLACK MEN* (2017); ANDREA J. RITCHIE, *INVISIBLE NO MORE: POLICE VIOLENCE AGAINST BLACK WOMEN AND WOMEN OF COLOR* (2017).

<sup>24</sup> Dorothy E. Roberts, Supreme Court Review, *Foreword: Race, Vagueness, and the Social Meaning of Order-Maintenance Policing*, 89 J. CRIM. L. & CRIMINOLOGY 775, 788 (1999). This does not mean that prison abolition applies only to innocent or nonviolent people; prison abolitionists aim to create a society where no one is caged.

<sup>25</sup> ISSA KOHLER-HAUSMANN, *MISDEMEANORLAND: CRIMINAL COURTS AND SOCIAL CONTROL IN AN AGE OF BROKEN WINDOWS POLICING* 4 (2018).

<sup>26</sup> ROBERTS, *SHATTERED BONDS*, *supra* note 1, at 233–36, 248–50. See also LAURA BRIGGS, *TAKING CHILDREN: A HISTORY OF AMERICAN TERROR* (2020) [hereinafter BRIGGS, *TAKING CHILDREN*]; Gwendoline M. Alphonso, *Political-Economic Roots of Coercion—Slavery, Neoliberalism, and the Racial Family Policy Logic of Child and Social Welfare*, 11 COLUM. J. RACE & L. 471 (2021); Laura Briggs, *Twentieth Century Black and Native Activism Against the Child Taking System: Lessons for the Present*, 11 COLUM. J. RACE & L. 611 (2021) [hereinafter Briggs, *Black and Native Activism*].



These families are targeted precisely because they are marginalized. Their status makes them vulnerable to state intervention because of the way child maltreatment is defined to blame them for the harms to children caused by societal inequities. Family policing helps to keep them in their subordinated status by disrupting their relationships and communities. And, more broadly, family policing implements an approach to child welfare that buttresses an unequal social structure.

Prison abolitionists have also taught us that the criminal punishment system's repressive outcomes don't result from any *malfunction*.<sup>27</sup> To the contrary, the prison industrial complex works so effectively to contain and control Black communities because that's precisely what it's designed to do.

Prison abolitionists have shown us that, therefore, reforms that correct problems perceived as aberrational flaws won't work. They only help to legitimize and strengthen carceral systems.<sup>28</sup> Reforming prisons results in more prisons. That's why they have to be abolished.

Despite numerous reforms, the family policing system has not changed its punitive ideology or racist impact. By the time I became aware of the family policing system in the 1990s, the political and demographic landscape of child welfare had shifted dramatically from earlier in the century. As a result of demands to be included in child welfare and other government programs, Black families were receiving greater attention from the welfare state. But as Black children began to fill the government caseloads in the 1960s, public agencies pivoted sharply from providing services to children in their homes to taking children from their parents.<sup>29</sup> The total size of the foster care population and the share of Black children skyrocketed simultaneously. The number of children in foster care more than doubled in less than fifteen years,<sup>30</sup> and federal funding for foster

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<sup>27</sup> BUTLER, *supra* note 23, at 5; MARIAME KABA, WE DO THIS 'TIL WE FREE US 13 (2021).

<sup>28</sup> KABA, *supra* note 27, at 12–13, 95–96; Dylan Rodriguez, *Abolition as Praxis of Human Being: A Foreword*, 132 HARV. L. REV. 1575, 1601 (2019).

<sup>29</sup> ROBERTS, SHATTERED BONDS, *supra* note 1, at 176–78; BRIGGS, TAKING CHILDREN, *supra* note 26, at 29–45.

<sup>30</sup> Christopher A. Swann & Michelle Sheran Sylvester, *The Foster Care Crisis: What Caused Caseload to Grow?*, 43 DEMOGRAPHY 309, 310 fig.1 (2006)

care increased a whopping 20,000%, from \$25 million to \$5 billion.<sup>31</sup> Propelling the spike was the massive removal of Black children from their homes.

Given its foundational logic, centered on threatening politically-marginalized families with child removal, the system has absorbed efforts to mitigate its flaws and has continued reproducing its terror. The family policing system can't be fixed. Instead, we need a paradigm shift in the state's relationship to families—a complete end to family policing by dismantling the current system and re-imagining the very meaning of child welfare and safety.<sup>32</sup>

Prison abolition isn't just about tearing down the system. An essential aspect of prison abolitionist theory is that eliminating prisons must occur alongside creating a society that has no need for them.<sup>33</sup> As prominent activist Mariame Kaba explains, “[i]t’s the complete and utter dismantling of prisons, policing, and surveillance as they currently exist within our culture. And it’s also the building up of new ways of . . . relating with each other.”<sup>34</sup> Prisons will only cease to exist when social, economic, and political conditions eliminate the need for them. Abolitionists are working toward a society where prisons are inconceivable.

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(showing the foster care caseload increasing from less than 300,000 in 1985 to nearly 600,000 in 1999).

<sup>31</sup> MOVEMENT FOR FAMILY POWER, “WHATEVER THEY DO, I’M HER COMFORT, I’M HER PROTECTOR”: HOW THE FOSTER SYSTEM HAS BECOME GROUND ZERO FOR THE U.S. DRUG WAR 18 (2020), <https://www.movementforfamilypower.org/ground-zero> [<https://perma.cc/3XVW-YXKH>] (showing an increase in federal funding from \$25 million in 1982 to \$5 billion in 2003).

<sup>32</sup> Briggs, *Black and Native Activism*, *supra* note 26; Miriam Mack, *The White Supremacy Hydra: How the Family First Prevention Services Act Reifies Pathology, Control, and Punishment in the Family Regulation System*, 11 COLUM. J. RACE & L. 767 (2021); Angela Olivia Burton & Angeline Montauban, *Toward Community Control of Child Welfare Funding: Repeal the Child Abuse Prevention and Treatment Act and Delink Child Protection from Family Well-being*, 11 COLUM. J. RACE & L. 639 (2021); Kristen Weber & Bill Bettencourt, *Different Year, Different Jurisdiction, but the Same Findings: Reforming Isn’t Enough*, 12 COLUM. J. RACE & L. (forthcoming 2021).

<sup>33</sup> ANGELA Y. DAVIS, *ABOLITION DEMOCRACY* 73–74 (2005).

<sup>34</sup> Allegra M. McLeod, *Envisioning Abolition Democracy*, 132 HARV. L. REV. 1613, 1617 (2019) (quoting *Episode 29—Mariame Kaba*, AIRGO (Feb. 2, 2016), <https://airgoradio.com/airgo/2016/2/2/episode-29-mariame-kaba>).

How can prison abolitionists take steps toward dismantling prisons without falling into reformist traps? They have resolved this quandary with the concept of “non-reformist reforms.”<sup>35</sup> To be abolitionist, reforms must shrink rather than strengthen “the state’s capacity for violence” and facilitate the goal of building a society without prisons.<sup>36</sup> By engaging in non-reformist reforms, abolitionists strive to make transformative changes in carceral systems with the objective of demolishing those systems rather than fixing them.

For example: efforts to stop prison expansion by opposing prison construction or shutting down prisons that already exist; end police stop-and-frisk practices; and eliminate the requirement of money bail to release people charged with crimes.<sup>37</sup> Similarly, we can work to end mandated reporting; to give parents high quality, multidisciplinary legal defense at every stage of the process, including before children are removed; and to fund and engage in community-based mutual aid.

The third change that influenced my position on the child welfare system is that radical organizing by parents to end family policing grew, with Black mothers at the forefront. I opened *Shattered Bonds* with the story of my first meeting with a small group of mothers who called themselves Operation MOSES, for Mothers Organizing Systems for Equal Services.<sup>38</sup> I first met with Operation MOSES on a summer evening in 2000 at St. Stephen’s Church in Englewood, one of Chicago’s poorest, most segregated Black neighborhoods. After walking down the steps to the church basement, I found a half-dozen Black women sitting around a table. The women were strategizing about a city-wide campaign to call attention to the crisis of Black children being removed from their homes. They greeted me warmly, grateful to have the ear of an empathetic law professor. I was noticeably pregnant with my fourth child, who was due in September, and we instantly bonded as Black mothers concerned for the well-being of our children. At one end of the table was an expanding file stuffed with court papers, newspaper clippings,

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<sup>35</sup> Dan Berger, Mariame Kaba & David Stein, *What Abolitionists Do*, JACOBIN (Aug. 24, 2017), <https://www.jacobinmag.com/2017/08/prison-abolition-reform-mass-incarceration> [<https://perma.cc/C55S-5GEL>].

<sup>36</sup> *Id.*

<sup>37</sup> Roberts, *Abolition Constitutionalism*, *supra* note 20, at 115–17. *See also id.* at 115 n.716, 116 nn.717–721 (collecting relevant sources).

<sup>38</sup> ROBERTS, SHATTERED BONDS, *supra* note 1, at v.

and letters. I sat at the other end, so I could face everyone. Each woman told me about her battle with the family policing authorities to get her children back.

Operation MOSES struggled to offer mutual support to its members as each one fought an uphill battle against a seemingly immovable behemoth. In the two decades since, parent-led organizations sprang up across the country and began networking with each other. Coupled with the rise of parent groups was the development of family defense—lawyers dedicated to representing parents in family policing proceedings.<sup>39</sup> Today, parents and youth who were involved in the family policing system are calling for transformative change across the nation.<sup>40</sup>

I think family policing abolitionists also have lessons to share with prison abolitionists. We help to show how carceral logics extend beyond prison walls and police stations—even to systems that ostensibly exist to serve people’s needs, but actually exist to regulate poor, Black, Brown, and Indigenous people who rely on them. We also show how those systems resort to a variety of punitive measures to enforce compliance.

Like the police and prison systems, family policing is designed to serve white supremacy and maintain racial capitalism by punishing families in place of meeting human

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<sup>39</sup> See, e.g., Kara Finck & Marcia Hopkins, *Families Matter: Constructing an Anti-Racist System from the Perspective of Youth Advocates and Interdisciplinary Collaboration*, 12 COLUM. J. RACE & L. (forthcoming 2021); Carla Laroche, *When the New Jim Crow and Jane Crow Intersect: Analyzing Right to Counsel Limitations in the Dependency System for Mothers Who Are Incarcerated*, 12 COLUM. J. RACE & L. (forthcoming 2021).

<sup>40</sup> See generally *DHS/DCFS: Give Us Back Our Children*, EVERY MOTHER NETWORK, <http://www.everymothereverymother.net/philly/> [<https://perma.cc/7Q6N-PCWA>] (last visited June 10, 2021); JMACFORFAMILIES, <https://www.jmacforfamilies.com/> [<https://perma.cc/5ZK5-Q244>] (last visited June 10, 2021); RISE MAG., <https://www.risemagazine.org/> [<https://perma.cc/ANF7-SMMY>] (last visited June 10, 2021); WELFARE WARRIORS, <http://www.welfarewarriors.org/> [<https://perma.cc/K56Z-EXTM>] (last visited June 10, 2021); *Meet Tymber Hudson: Antiracist Activist*, TYMBER HUDSON (Sept. 6, 2020), <https://tymberhudson.com/2020/09/06/meet-tymber-hudson-antiracist-activist/> [<https://perma.cc/EXL4-6MP5>]. See also Ashley Albert et al., *Ending the Family Death Penalty; Building a World We Deserve*, 11 COLUM. J. RACE & L. 861 (2021); Bianca Shaw & Nora McCarthy, *Centering Parent Leadership*, 12 COLUM. J. RACE & L. (forthcoming 2021).

needs, and it is entangled with police, criminal courts, juvenile detention, and prisons, forming a coherent carceral machine.

Warrantless home investigations, intensive monitoring of families by state agents and civilians deputized to report on parents, forcible seizure of children followed by placing them in foster care, and permanent severing of family ties for failing to comply with agency dictates—these tactics all reflect a carceral logic with parallels in the criminal punishment system.<sup>41</sup> State CPS authorities increasingly use modern surveillance technologies and coordinate with law enforcement agencies to manage regulated populations more efficiently.<sup>42</sup>

Family policing is not just similar to the parts of the carceral regime abolitionists are working to tear down. Family policing *is* part of the carceral regime.

The most prominent demand emerging from the summer 2020 protests was to defund the police and reallocate the money to provide health care, education, jobs with living wages, and affordable housing, as part of the broader struggle to abolish the prison industrial complex. As I witnessed the protests, I became increasingly concerned that family policing was absent from most calls to defund the police. Some activists even recommended transferring money, resources and authority from police departments to health and human services agencies that handle child protection. These proposals ignored how the family policing system surveils and represses Black and other marginalized communities in ways similar to, and coordinated with, the law enforcement systems condemned by the protesters.

Diverting money and power to child protection agencies would result in even more brutal state intrusion in Black communities. Linking 911 to the Child Abuse Hotline would increase disruptive child maltreatment allegations and

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<sup>41</sup> See Matt Fraidin & Shanta Trivedi, Comment, *The State Is an Unfit Parent*, 12 COLUM. J. RACE & L.F. (forthcoming 2021); Tarek Z. Ismail, *The Consent of the Compelled: Child Protective Agents as Law Enforcement Officers* (July 7, 2021) (unpublished manuscript) (on file with author).

<sup>42</sup> VIRGINIA EUBANKS, *AUTOMATING INEQUALITY* 127–73 (2017) (describing how modern screening and assessment tools dramatically affect outcomes for children and families); J. Khadijah Abdurahman, Comment, *Calculating the Souls of Black Folk: Predictive Analytics in the New York City Administration for Children's Services (ACS)*, 11 COLUM. J. RACE & L.F. 91 (2021).

investigations. Even well-meaning recommendations to deploy social workers to conduct “wellness checks” in homes would likely result in increased reporting to CPS, expanding the state’s monitoring and separation of families.<sup>43</sup> Residents of Black neighborhoods live in fear of CPS agents entering their homes, interrogating them, and taking their children as much as they fear police stopping them in the streets, harassing them, and taking them to jail.

Rather than divesting from one oppressive system to invest in another, we should work toward abolishing all carceral institutions and creating radically different ways of meeting families’ needs. Prison abolitionists should support defunding the family policing system and be careful not to enrich it more with funds divested from the police.

We need a coherent political analysis of carceral systems and logics that integrates our understanding of criminal law enforcement and prisons with the state’s surveillance, reassembling, and destruction of families. We need a common mission to bring down all these extensions of the carceral state and a common vision for meeting human needs, preventing violence, and caring for children, families, and communities.<sup>44</sup>

Rather than feel dejected by the lack of real change since *Shattered Bonds* was published, I am inspired by the confluence of these three developments that point to the need to integrate

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<sup>43</sup> Mack, *supra* note 32.

<sup>44</sup> See e.g., Burton & Montauban, *supra* note 32; Lauren van Schilfgaarde & Brett Lee Shelton, Using Peacemaking Circles to Indigenize Tribal Child Welfare, 11 COLUM. J. RACE & L. 681 (2021); Victoria Copeland, Comment, “It’s the Only System We’ve Got”: Exploring Emergency Response Decision-Making in Child Welfare, 11 COLUM. J. RACE & L.F. 59 (2021); Andy Barclay et al., *The End of Foster Care: How New Orleans Became the First Major City to Eliminate Foster Care*, 12 COLUM. J. RACE & L. (forthcoming 2021); Caitlyn Garcia & Cynthia Godsoe, *Divest, Invest, and Mutual Aid*, 12 COLUM. J. RACE & L. (forthcoming 2021); Kele Stewart, *Re-Envisioning Child Well-Being: Dismantling the Inequitable Intersections Among Child Welfare, Juvenile Justice, and Education*, 12 COLUM. J. RACE & L. (forthcoming 2021); Michael Wald, *Beyond CPS: Building a System to Protect and Promote the Safety and Development of Children in Families Facing Multiple Adversities*, 12 COLUM. J. RACE & L. (forthcoming 2021); Melody Webb, *Taking a Multifaceted, Empowerment-Centered Approach to Entanglement in the Foster Care System that Focuses on Building Power to Tackle African-American Family Poverty*, 12 COLUM. J. RACE & L. (forthcoming 2021); Anna Arons, Comment, *An Unintended Abolition: Family Regulation During the COVID-19 Crisis*, 12 COLUM. J. RACE & L.F. (forthcoming 2021).

movements for abolition of all arms of the racist carceral state. We can work collectively to end family policing, re-imagine the very meaning of child welfare and safety, and build a truly caring world.

