

DISRUPTING THE FALSE DICHOTOMY: MOVING TOWARD A FAMILY JUSTICE FRAMEWORK IN ABOLITIONIST MOVEMENT LAWYERING TO END FAMILY POLICING

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INTRODUCTION

Because of its racist origins and modern function, the family policing system is a tool of cultural genocide against Black, Indigenous, and Latine families.¹ The family policing system creates a false dichotomy, pitting parents against children while purporting to promote and support family integrity. Similarly, the family policing system perpetuates the notion that Black, Indigenous, and Latine parents put children at risk so as to obfuscate all the ways that the state intervenes to oppress families by design.² Failing to provide families with resources has always been a political choice, reflecting just how little this nation values families of color. Over the past decade, the family-led movement to abolish family policing has grown as those impacted by family policing, both as parents and as children, have joined forces to fundamentally shift the narrative around the “child welfare” and “juvenile justice” systems—opening our collective eyes to the ways that these systems mirror the criminal legal system in role and function, and leading us to imagine and build a future where families can be safe and thrive, together.³

While family policing abolition has been increasingly viewed as a reproductive justice and racial justice imperative,⁴ family policing abolition as a children’s rights

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1. See generally DOROTHY ROBERTS, *TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD* (2022) [hereinafter ROBERTS, *TORN APART*] (tracing the racist history and origins of the modern family policing system).

2. See generally *id.* (discussing the many ways in which the modern family policing system is designed to systematically harm Black families).

3. See Erin Miles Cloud & Lisa Sangoi, *Movement Building and the Experiment of Movement for Family Power*, in *HOW TO END FAMILY POLICING: FROM OUTRAGE TO ACTION* 202, 204 (Erin Miles Cloud, Erica R. Meiners, Shannon Perez-Darby & C. Hope Tolliver eds., 2025).

4. See, e.g., Maya Pendleton & Alan J. Dettlaff, *Policing Is Reproductive Oppression: How Policing and Carceral Systems Criminalize Parenting and Maintain Reproductive Oppression*, *SOC. SCI.*, Sep. 2024, at 14

imperative has been underexplored. To be clear, family policing abolition is the path to true family justice, which itself is the cornerstone of children's rights and wellbeing. Many conflate abolition with absence and thus assume that family policing abolition leaves children, families, and communities without the tools to address harm, be it structural or intrafamilial.⁵ But this narrow interpretation misses the mark; as prison abolition scholar and activist Ruth Wilson Gilmore says frequently, “[a]bolition is not *absence*, it is *presence*.”⁶ Abolition demands that we not only identify and root out the systems that cause harm, but imagine and build the future in the present so as to grow systems of true safety and support.⁷ Likewise, community and movement lawyering as tactics to abolish family policing have been underdeveloped and underutilized by legal advocates—parents’ and children’s attorneys alike. But if legal advocates are serious about both family integrity and working in solidarity with parents and youth to build a racially just world in which all families thrive, then legal advocates must commit to lawyering in ways that help build sustainable, organized grassroots power toward an abolitionist future our families deserve.

We write this Essay out of our collective commitment to the movement to abolish family policing, and a shared vision of family justice. And yet we are different people, who each embraced this commitment based on our own lived experiences and perspectives. Before proceeding, we felt it important to contextualize the arguments set forth in this Essay with how we each arrived here.

Keshia Adeniyi-Dorsey: I come to this work as someone whose own family has been deeply impacted by the family policing system. Although I have since reunited with my immediate family—my parents, siblings, and some extended family members—the devastating effects of years of forced separation continue to impact us. We are still working to rebuild bonds, learn culture, and develop the sense of belonging that was fractured. I later learned that my family was not the only Black family torn apart by this system. When I first stepped into this work as a family defender, I did not yet identify as an abolitionist. At the time, I misunderstood abolition to mean “absence,” as if it were simply about tearing down systems without creating a world that allows individuals to heal and obtain resources without the violence of our current carceral systems. What I did know, even then, was that the so-called child welfare system was not meeting the needs of the families caught in its grasp. I knew, too, that no human being deserves to be caged like an animal.

Sarah Katz: As a young law student and lawyer, I was drawn to the work of family defense because I wanted to be part of the solution to the deep racialized harms perpetuated by the family policing system. Over time I came to realize that excellent direct representation of parents and youth alone cannot accomplish the kind of change that is needed to improve this harmful and oppressive system because the web of laws

(arguing that the abolition of the family policing system is a necessary imperative for achieving reproductive and racial justice, as “[t]rue reproductive freedom necessitates the abolition of policing in all its forms”).

5. See, e.g., Jessica Pryce, *Counterpoint: Child Welfare System: Evolution/Revolution*, 106 FAMS. SOC’Y: J. CONTEMP. SOC. SERVS. 277, 278 (2025).

6. Léopold Lambert & Ruth Wilson Gilmore, *Making Abolition Geography in Southern California: An Interview with Ruth Wilson Gilmore*, THE FUNAMBULIST, no. 21, 2019, at 14, 14.

7. See Ruth Wilson Gilmore, *Abolition Geography and the Problem of Innocence*, in FUTURES OF BLACK RADICALISM 225, 238–40 (Gaye Theresa Johnson & Alex Lubin eds., 2017).

which create the system, and within which we advocate, is rooted in anti-Blackness and supremacy ideology. It became clear to me that abolition was the only way forward. I have been deeply inspired by the family-led movement to abolish family policing, and believe that lawyers who care about family justice must attach themselves to the movement's clear-eyed vision for liberation and actively resist embedding family policing's carceral logic through their own advocacy. To do this, lawyers must themselves develop ways of being that are rooted in abolitionist praxis, as well as principles of community and movement lawyering, and join in solidarity with impacted families who are paving the way forward to a horizon where families are able to thrive.

April Lee: As a parent impacted by the system—turned advocate and activist—I come to this work with humility and my community at the center. I experienced the loss of my children and, after a five-year battle, endured the pain, perseverance, and complexity of reunification. Even after this period, the lasting effects of trauma inflicted on families remained deeply present in my life. These realities became even more evident during my work at a Philadelphia law firm representing families, where I witnessed firsthand how systemic harm continues long after cases are closed. At that time, I served as Pennsylvania's first Peer Advocate, believing that the child welfare landscape could be transformed through education, training, and community outreach.

After five years of individual representation, participation in task forces and coalitions, community education, national advocacy, and countless one-on-one conversations, it became clear that we have not built the conditions families need to truly thrive. Instead, we continue to rely on punitive systems that are embedded in disinvested communities and are rooted in racist ideology—systems that surveil, punish, and destabilize families rather than support and strengthen them.

Miriam Mack: Growing up, I witnessed my mother organize tirelessly with other Black parents to fight for Black children to have access to the education we deserved. My mother and her comrades not only pushed for structural changes within the school district but also built alternatives powered by community and for community. From years of watching their advocacy, it became clear to me that the pathologization of Black people and communities was white supremacy and racial capitalism's sleight of hand. If Black people were the problem then "fixing us" was its "solution." It was with this grounding, and a clear sense that this country's laws and institutions were designed to control, suppress, and exploit Black people, that I went to law school. Like my colleagues, I did not begin as an abolitionist, and it has been a long road to reach this perspective. But I knew then, and grow firmer in my belief every day, that systems built to oppress and dominate us cannot be "reformed," resistance to oppressive systems is not done alone, and communities and radical imagination, not lawyers and doctrine, are the sources of power for our collective liberation.

jasmine Sankofa: I grew up visiting my grandfather in jails and prisons, navigating the grief of forced family separation and the awareness of the harm perpetuated within my own family without a space to process the shame, isolation, and sadness I carried. When I went to college, I learned about prison abolition and found deep connection with and reverence for the Black freedom struggle and my place within it. I also became keenly aware of the ways in which Black women and girls disproportionately hold the mental, physical, and financial toll of family and community destabilization perpetuated by multiple systems. I went to law school to learn the master's tools—not to reproduce

them. It has been an honor to sit with incarcerated mamas, formerly incarcerated mamas, and mamas impacted by other carceral systems who are navigating what should be unimaginable and unacceptable, all while mourning the theft of their stolen children. Their trust, their stories, and their solutions serve as a roadmap for the heart work I get to do day in and day out. The shame is not ours—it belongs to systems that feed off our pain and destruction. Families deserve better and we are not asking for it—we are naming harm, in all its forms, holding systems to account, and reimagining, rebuilding, and amplifying what care, safety, freedom, and solidarity truly look and feel like.

This Essay argues that family policing abolition, with its vision for family justice, is a children’s rights imperative, and that legal advocates should embrace principles of community and movement lawyering to further this goal. The Essay proceeds in five Sections. First, Section I contextualizes the lineage of the family policing abolition movement and where the movement stands today. Second, Section II explores abolition as a theory of change. Section III argues that parents’ rights versus children’s rights creates a false dichotomy that undermines a true vision of family justice. Section IV sets forth a vision for family justice. In Section V, this Essay argues that by putting into practice principles of community and movement lawyering, legal advocates can align their work with the movement to abolish family policing and further family justice.

I. MOVEMENT LINEAGE AND PRESENT

Dating back to the first arrival of European settlers to Turtle Island, the genocide of Indigenous and African peoples, and the rise of chattel slavery, forced family separation has long been used as a tool to dehumanize and control marginalized peoples.⁸ Whether moved from plantation to plantation or from boarding school to boarding school, marginalized folks have always fought for liberation, declared our humanity, and claimed our right to family. This is the legacy we must always be grounded in. And this legacy is precisely why we continue the project of abolition—the dismantling and the building.

The modern family policing system emerged in direct response to freedom struggles, and credit is owed to Black and Indigenous mamas, elders, healers, and waymakers on the frontlines of resistance against this system.⁹ As the Civil Rights Movement fought for an end to de jure and de facto discrimination and the welfare rights movement laid claim to our right to sustenance and care, state and federal governments systemically deprived Black and Indigenous communities of the resources and the support which white people enjoyed, while also creating the scaffolding of a system that intentionally destroys and disregards families across generations.¹⁰

8. ROBERTS, TORN APART, *supra* note 1, at 87 (“Family destruction has historically functioned as a chief instrument of group oppression in the United States.”).

9. ALAN DETTLAFF, CONFRONTING THE RACIST LEGACY OF THE AMERICAN CHILD WELFARE SYSTEM 86–87 (2023); *see* DOROTHY ROBERTS, KILLING THE BLACK BODY: RACE, REPRODUCTION, AND THE MEANING OF LIBERTY 202–68 (Erroll McDonald ed., 1997) [hereinafter ROBERTS, KILLING THE BLACK BODY]; ROBERTS, TORN APART, *supra* note 1, at 278–81.

10. *See* DETTLAFF, *supra* note 9, at 53–79; ELIZABETH HINTON, FROM THE WAR ON POVERTY TO THE WAR ON CRIME: THE MAKING OF MASS INCARCERATION IN AMERICA 3–5 (2016); ROBERTS, KILLING THE BLACK BODY, *supra* note 9, at 202–68 (reviewing the history of organized abandonment and systemic surveillance and punishment inflicted by modern family policing).

We've seen this pattern play out in the form of eugenics ideology, "welfare queen" tropes, and the War on Drugs, which all continue to engrain harmful notions of parental "fitness."¹¹ This Essay will not dedicate significant space to documenting the origins and harms of the family policing system, as other scholars have done.¹² Instead, we ground this Essay in the transformative nature of people power and how communities are aligning in deep solidarity to create something new.

As political scientist Jenn M. Jackson has written, "[w]ithout knowing, embracing, and believing the truth about ourselves, our histories, and our present conditions, we leave our stories to be written by mythmakers and fairy-tale writers."¹³ This is why we remove the veil that the "child welfare" system hides behind and call a spade a spade by calling these institutions and laws the family policing system. While the family justice movement is emerging into national consciousness now more than ever, it has always existed in intimate connection and inseparable alignment with other liberatory movements, from prison abolition to immigrant and disability rights movements, as well as the fight for reproductive justice. Over the years, we have seen holistic family defense offices grow to combat the harm leveraged against families, drawing in the same models used to combat mass incarceration and other systems that seek to disappear and separate us. While the law is a tool, it is not the only tool and often laws are used to limit our ability to move toward family justice. To soften the ground and bring about lasting change, we need to use all the tools in our toolbox, walk in lockstep with movements working for our collective well-being, and venture outside of the constructs we inherited.

II. ABOLITION: OUR THEORY OF CHANGE

Drawn from the collective wisdom and experience of our movement, we recognize that resisting family policing and separation is part of the broader Black liberation struggle.¹⁴ And, like our sister movements in the struggle for Black liberation, our path is inherently abolitionist.¹⁵ Though the family policing system operates under the guise of child welfare and child safety, we know that the family policing system must be "judged based on what it actually does rather than on what it claims to be."¹⁶ Far from supporting child welfare or cultivating child safety, the family policing system surveils, criminalizes, and forcibly separates Black, Indigenous, Latine, disabled, and poor families.¹⁷ The collective wisdom and experience of generations of families impacted by

11. See DOROTHY ROBERTS, *SHATTERED BONDS: THE COLOR OF CHILD WELFARE* 25 (2001); ROBERTS, *TORN APART*, *supra* note 1, at 193.

12. DETTLAFF, *supra* note 9, at 86–87 (exploring the racist origins of the family policing system). See generally ROBERTS, *TORN APART*, *supra* note 1 (exploring the racist origins and harms of the family policing system).

13. JENN M. JACKSON, *BLACK WOMEN TAUGHT US: AN INTIMATE HISTORY OF BLACK FEMINISM* 60 (2024).

14. AUDIO NUGGETS: MINING FOR GOLD: *Radically Practical*, Podcast (Apple Podcast, Jan. 31, 2024).

15. *Id.*

16. Mariame Kaba & Eva Nagao, *What About the Rapists?*, *INTERRUPTING CRIMINALIZATION* 3 (2021), <https://static1.squarespace.com/static/5ec39ec764dbd7179cf1243c/t/6109e67b45fd3364e2665685/1628038781034/WATR+Zine+Pages.pdf> [<https://perma.cc/SW9U-ZFLJ>].

17. See 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,

family policing and available data show that the family policing system targets Black and Indigenous communities with family policing surveillance, forced family separation, and termination of parental rights.¹⁸ This is by design. Family policing, like its sibling carceral systems—the criminal punishment, deportation, and eviction systems—was built to support, entrench, and reify racial capitalism.¹⁹ Though the family policing system’s tactics have evolved over time,²⁰ its central logic and core function, to further racial capitalism, persist.²¹

Given this, it is clear that a system built to subjugate us and plunder our communities, whose *modus operandi* is cruel and inhumane forced family separation, can never be reshaped, reformed, or reimagined to sustain us. We are equally clear that our mission does not end with dismantling the family policing system. Rather, we must also imagine and build a world that ensures our families are safe and fully supported with the resources to thrive, not just survive. And so, we arrive at abolition as our theory of social change. As Gilmore observes, “[a]bolition is not *absence*, it is *presence*;²² it is about building life affirming institutions.

Fundamentally, abolition is about presence that is rooted in care, interconnection, and creativity.²³ Abolition cannot be practiced in isolation or in disconnection precisely because we recognize that our power—the power of imagination, planting, building, growing, and sustaining—depends on and indeed multiplies when we move as a

772–73 (2021) (characterizing the family regulation system as a tool of social control that pathologizes, controls, and punishes Black, Indigenous, and poor families under the guise of “child welfare”).

18. Mack, *supra* note 17, at 779 (documenting the disproportionate impact of the family regulation system, where Black children are overrepresented in foster care at more than twice their population in thirty-six states, and Indigenous children, while representing 1% of the overall child population, represent 2% of children in foster care); see ROBERTS, *TORN APART*, *supra* note 1, at 40–41.

19. Martin Guggenheim, *How Racial Politics Led Directly to the Enactment of the Adoption and Safe Families Act of 1997: The Worst Law Affecting Families Ever Enacted by Congress*, 11 COLUM. J. RACE & L. 711, 726–27 (2021) (arguing that the Adoption and Safe Families Act of 1997 (ASFA) was fueled by the same racialized politics as the Anti-Drug Abuse Act of 1986 and the “super-predator” myth, creating a system that presumes Black and Latine families are inadequate and need state intervention). See generally CEDRIC J. ROBINSON, *BLACK MARXISM: THE MAKING OF THE BLACK RADICAL TRADITION* (3d ed. 2020) (theorizing that capitalism emerged as a “racial capitalism” dependent on exploitation and dispossession of racialized populations); Lisa Kelly, *Abolition or Reform: Confronting the Symbiotic Relationship Between “Child Welfare” and the Carceral State*, 17 STAN. J.C.R. & C.L. 255 (2021) (describing the “symbiotic relationship” between family policing and criminal systems that together regulate families and communities of color).

20. See Mack, *supra* note 17, at 771–72 (tracing the historical roots of the federal family regulation system to early twentieth-century policies and programs, which were imbued with moral judgments about poverty and race, and noting how later amendments to the Social Security Act recalibrated the system towards funding foster care and adoption over family preservation).

21. ALAN DETTLAFF, KRISTEN WEBER, MAYA PENDLETON, BILL BETTENCOURT & LEONARD BURTON, *HOW WE END UP: A FUTURE WITHOUT FAMILY POLICING* 3, 5 (2021), <https://upendmovement.org/wp-content/uploads/2021/06/How-We-endUP-6.18.21.pdf> [<https://perma.cc/FUA7-JBNK>].

22. Lambert & Gilmore, *supra* note 6, at 14.

23. See Ashley Albert, Tiheba Bain, Elizabeth Brico, Bishop Marcia Dinkins, Kelis Houston, Joyce McMillan, Vonya Quarles, Lisa Sangoi, Erin Miles Cloud & Adina Marx-Arpadi, *Ending the Family Death Penalty and Building a World We Deserve*, 11 COLUM. J. RACE & L. 861, 871 (2021) (envisioning an abolitionist future where “Love is a verb,” neighbors become family, and liberation is built through community interconnection and creative reimagination).

collective.²⁴ Moreover, abolition must be practiced in relationship and in sustained community because the myriad needs of families and communities are interconnected.²⁵ It is impossible to have families and communities that are safe and supported without access to safe and stable housing, nourishing food, free and well-resourced education, employment that pays a livable wage, affordable child care, culturally competent noncoercive medical and mental health care, and other life-sustaining resources that enable families to thrive.²⁶ We dream of a world where family policing is rendered obsolete through collective imagination and practice that builds a world where true family justice can flourish.

III. REJECTING AND DECONSTRUCTING FALSE DICHOTOMIES AND ASSUMPTIONS

Abolition demands honesty and clarity: honesty about the oppressive system that we fight to deconstruct, its purpose, its tactics, and its objectives, and clarity about the way we want to be in relationship with each other and the systems that we seek to build moving forward.²⁷ Thus, abolishing the family policing system and sharpening our vision of the world we wish to build demands that we recognize and deconstruct the false dichotomies and assumptions constructed around parents, children, and families—and particularly those who are Black, Indigenous, Latine, disabled, and poor.²⁸

24. See MARIAME KABA, WE DO THIS ‘TIL WE FREE US: ABOLITIONIST ORGANIZING AND TRANSFORMING JUSTICE 178 (Tamara K. Nopper ed., 2021) (emphasizing that “[e]verything that is worthwhile is done with other people,” reflecting the collective nature of abolitionist practice).

25. See Nancy D. Polikoff & Jane M. Spinak, *Foreword: Strengthened Bonds: Abolishing the Child Welfare System and Re-Envisioning Child Well-Being*, 11 COLUM. J. RACE & L. 427, 454 (2021) (arguing that the abolitionist mindset is necessary to transform a system that currently pathologizes individual parents, and that true child safety requires a societal commitment to investing in the interconnected, structural needs of all families and communities, such as housing, income, and healthcare).

26. See *id.* at 433 (critiquing the family regulation system for acting as a “harmful substitute for the more fundamental need to invest in families, communities, and tribes in order to ensure adequate housing, income, childcare, health and mental health services, and educational opportunities for all families,” thereby linking systemic failure to provide these resources directly to the system’s punitive interventions); Albert et al., *supra* note 23, at 870 (envisioning a world without the family regulation system that is “without war, poverty, racism, hatred, or mayhem” and is instead characterized by “adequate housing for everyone, employment that suits all skill sets, and an education system where we are taught the truth,” thereby defining safety and liberation through the provision of these essential material and social conditions).

27. See generally DERECKA PURNELL, BECOMING ABOLITIONISTS: POLICE, PROTESTS, AND THE PURSUIT OF FREEDOM (2021) (arguing that abolition involves naming and understanding the oppressive systems we seek to dismantle and committing to building alternative ways of being in community and relationship beyond those systems).

28. See *Our Story & Values*, MOVEMENT FOR FAM. POWER, <https://www.movementforfamilypower.org/our-story-values> [<https://perma.cc/AH37-MHFP>] (last visited Apr. 11, 2026) (describing how the family policing system is built on racialized assumptions about parents and families that uphold unjust power structures); ANGELA BURTON, ALAN DETTLAFF & MAYA PENDLETON, RECLAIMING SAFETY: ANSWERING FREQUENTLY ASKED QUESTIONS ABOUT FAMILY POLICING ABOLITION 4 (2024), <https://upendmovement.org/wp-content/uploads/2024/08/reclaiming-safety-introduction.pdf> [<https://perma.cc/F7DD-5DJY>].

A. *Deconstructing False Dichotomies: The Parents vs. Children False Dichotomy*

The family policing system rests on myths and false dichotomies.²⁹ Chief among them is the fiction that parents and children stand in opposition—that child safety exists outside of parents and is delivered, instead, by the state.³⁰ The family policing system places families in adversarial roles, pitting family members against each other rather than supporting them as a unified whole.³¹ Despite constitutional recognition of the fundamental right to family integrity,³² our system—and even our language—treats children, youth, and parents as separate entities. This separation not only undermines the family structure but also perpetuates harm, especially to the children the system claims to protect.

Unsurprisingly, the parent versus child false dichotomy is not new and, like other tropes used to reinforce racial capitalism, is weaponized especially against Black, Indigenous, Latine, disabled, immigrant, and poor families.³³ Conceiving of marginalized parents as, *a priori*, harmful to and oppositional toward their children reinforces the perpetual “need” for a system that surveils, controls, polices, and punishes those parents.³⁴ Indeed, this imagined oppositional relationship between children and parents from marginalized communities has always been used as a tool to justify colonization, exploitation, domination, oppression, and dehumanization.³⁵ From this nation’s original sins of land theft from, and genocide of, Indigenous peoples, to the enslavement of Black Africans, the sterilization of disabled folks, forced family separation, and the modern day family policing system, this country has peddled the

29. See generally April Lee & Sarah Katz, *Lies My Child Welfare System Has Told Me: The Critical Importance of Centering Families’ Voices in Family Policing Legal Advocacy*, 62 FAM. CT. REV. 790 (2024) (discussing the myths embedded in the law of family policing).

30. See Annette Ruth Appell, *The Myth of Separation*, 6 NW. J.L. & SOC. POL’Y 291, 292–93 (2011).

31. See generally HUM. RTS. WATCH & AM. C.L. UNION, “IF I WASN’T POOR, I WOULDN’T BE UNFIT”: THE FAMILY SEPARATION CRISIS IN THE U.S. CHILD WELFARE SYSTEM (2022), https://www.hrw.org/sites/default/files/media_2022/11/us_crd1122web_3.pdf [<https://perma.cc/5HTL-C49F>] (documenting how U.S. child welfare systems often treat poverty as *neglect* and *punish* parents by removing children, which inherently positions parent and child interests in opposition).

32. *Meyer v. Nebraska*, 262 U.S. 390, 400 (1923) (establishing the “right of the individual . . . to marry, establish a home and bring up children”); *Pierce v. Soc’y of Sisters*, 268 U.S. 510, 534–35 (1925) (emphasizing “the liberty of parents and guardians to direct the upbringing and education of children under their control”); *Smith v. Org. of Foster Fams. for Equal. & Reform*, 431 U.S. 816, 842 (1977) (“There does exist a ‘private realm of family life which the state cannot enter,’ that has been afforded both substantive and procedural protection.” (quoting *Prince v. Massachusetts*, 321 U.S. 158, 166 (1944))); *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (“The liberty interest at issue in this case—the interest of parents in the care, custody, and control of their children—is perhaps the oldest of the fundamental liberty interests recognized by this Court.”); *Wisconsin v. Yoder*, 406 U.S. 205, 232 (1972).

33. See Mack, *supra* note 17, at 779 (documenting the disproportionate impact of the family regulation system, where “Black children were overrepresented in the foster system at a rate of more than twice their population in [thirty-six] states,” and linking this to the system’s historical roots in pathologizing and controlling Black families); Dorothy Roberts, *How I Became a Family Policing Abolitionist*, 11 COLUM. J. RACE & L. 455, 456–57 (2021) (describing how the family policing system criminalizes poverty and substance use, having observed that “nearly every family” in urban dependency courts is Black and detailing the prosecutions of Black mothers for prenatal drug use that led to widespread child removals).

34. See HUM. RTS. WATCH & AM. C.L. UNION, *supra* note 31, at 171.

35. See DETLAFF, *supra* note 9, at 1–3; ROBERTS, SHATTERED BONDS, *supra* note 11, at 70.

narrative that Black, Indigenous, disabled, poor, and marginalized children need to be protected and saved *from* their parents.³⁶ Indeed, for enslaved Black families, the parent-child relationship did not exist as a legal matter; enslaved African women were treated simultaneously as producers and reproducers, and their children as legal property of their enslavers.³⁷ White mothers, by contrast, were viewed as natural caretakers whose bond with their children was indivisible.³⁸ By definition, enslavement undermined any possibility of Black families' autonomy or control over their family bonds.³⁹

After enslavement, Black Codes, "compelled apprenticeships," and Jim Crow laws reconstituted family separation.⁴⁰ Courts could remove Black children from their parents under the guise of "best interests"—a standard that still governs family and dependency courts today.⁴¹ The justification was always the same: Black parents were presumed incapable, while separation was framed as beneficial to children's "habits and comfort."⁴²

This ideology persists. Today's family policing system assumes marginalized parents—especially Black and Indigenous parents—cannot be trusted, that they require surveillance, supervision, and correction, and that their motivations and goals are somehow at odds with their children's wellbeing.⁴³ But notions of "fitness" and "best

36. See DETTLAFF, *supra* note 9, at 1–14 (tracing the role of family separation in furthering white supremacist intent that is foundational to the nation's history); ROBERTS, TORN APART, *supra* note 1, at 86–114 (tracing the legacy of enslavement in the modern form and the function of family policing).

37. See ROBERTS, TORN APART, *supra* note 1, at 90 ("For four hundred years, most Black children in America belonged to enslavers who had absolute discretion to sell or give them away . . ."); see also 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, 475–77, 482–83 (2021) (tracing the "Black economic utility" family standard to slavery, where "the commodification of Black personhood into economic value" legally defined enslaved women as both laborers and "breeding" assets, and their children as property, thereby systematically disrupting Black families).

38. See Laura Briggs, *Twentieth Century Black and Native Activism Against the Child Taking System: Lessons for the Present*, 11 COLUM. J. RACE & L. 611, 621 (2021) (contrasting the racist stereotype of Black women's lack of "maternal feeling" with the societal view of white mothers as natural caretakers).

39. See Angela Olivia Burton & Angeline Montauban, *Toward Community Control of Child Welfare Funding: Repeat the Child Abuse Prevention and Treatment Act and Delink Child Protection from Family Well-Being*, 11 COLUM. J. RACE & L. 639, 642–43 (2021) (arguing that "[c]hild-taking and the threat of child-taking is the operative through line from American chattel slavery to the present-day family policing system," illustrating how enslavement, by design, denied Black family autonomy).

40. ROBERTS, TORN APART, *supra* note 1, at 96–97.

41. See Alphonso, *supra* note 37, at 472 ("[T]he deployment of the Black economic utility standard by the neoliberal policy regime pathologizes poor Black women's childbearing and motherhood as economically irresponsible . . . and serves to perpetuate and justify Black family disruptions in colorblind ways."); Briggs, *supra* note 38, at 621 ("If mothers refused, their cases were referred to juvenile court for child neglect.") (illustrating the legal mechanism of court-ordered child removal under the standard of neglect, which operates within the broader "best interests of the child" framework).

42. See Guggenheim, *supra* note 19, at 728 (quoting a child welfare agency spokesperson who testified that "there is a fundamental problem with the [B]lack family It is a sense that [B]lack families are already broken, and you're saving these kids from broken [B]lack families.") (first, second, and fourth alterations in original); Briggs, *supra* note 38, at 626–27 (highlighting the state's presumption that Black homes were inherently incapable and that removal was necessary for a child to be raised properly).

43. See Charlotte Baughman, Tehra Coles, Jennifer Feinberg & Hope Newton, *The Surveillance Tentacles of the Child Welfare System*, 11 COLUM. J. RACE & L. 501, 504–05 (2021) (describing how parents are routinely

interests” have always been racialized social-engineering projects, aimed at dismantling the autonomy of Black, Indigenous, Latine, disabled, and poor parents.⁴⁴

Even children’s voices are trampled in this false binary. The system claims to empower children while simultaneously disregarding them—encouraging children to distrust parents while also ignoring children when they demand reunification or deny harm.⁴⁵ Just as it does not listen to parents, the system does not truly listen to children.⁴⁶ Children’s rights and parental rights are not in conflict—they are deeply intertwined. One cannot advocate for one without acknowledging the other.⁴⁷ This is not to say that there are never instances of tension between parental rights and children’s rights. Families are nuanced; there is no one-size-fits-all solution to their challenges or their strengths. Rejecting the false dichotomy of “parents’ rights” versus “children’s rights” does not diminish children’s interests—it protects them at their core, demanding approaches that honor relational complexity rather than flattening family relationships (parent, child, and family) to nothing more than racist tropes.⁴⁸ Family integrity is not an obstacle to child well-being; it is the very condition that makes wellbeing possible. To honor children is to safeguard their families, and to safeguard families is to safeguard our collective future.

B. False Assumptions: Families Targeted by the Family Policing System Are “Unfit” and Need Support and that the System Has the Ability (and Inclination) To Support Them

The family policing system invites us to assume that the families it targets are “unfit” and in need of support and, secondarily, that the system has the ability (and inclination) to provide that support if, in fact, support is needed. Both are spurious.

First, it is critical to interrogate who defines “fitness” and what motives that underlie the definition. Parental fitness has always been arbitrarily defined in this country and rooted in eugenics.⁴⁹ Many children and their families live in conditions that are

assigned standardized “service plans” that function as a mechanism for surveillance and control, reflecting the system’s assumption that they cannot parent adequately without state correction).

44. See *id.* at 505 (connecting the modern family regulation system to a history of racialized social control, including the monitoring of enslaved Black mothers, the forced removal of Indigenous children, and family separations at the border, and arguing that the system continues this tradition by destroying Black families and regulating marginalized communities).

45. See Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. REV. L. & SOC. CHANGE 523, 525, 533 (2019) [hereinafter Trivedi, *The Harm of Child Removal*] (illustrating the system’s disregard for children’s expressed wishes by describing how a child “through her attorney, kept begging to come home to her mother” and “expressed to the Court her desire to return home,” yet the child protective agency initially refused reunification based on an injury to a sibling, not the child’s own pleas).

46. See *id.*

47. See generally Pamela Laufer-Ukeles, *The Relational Rights of Children*, 48 CONN. L. REV. 315 (2016) (arguing that safeguarding children’s rights must recognize and support their significant familial relationships).

48. Clare Ryan, *Are Children’s Rights Enough?*, 72 AM. U. L. REV. 2075, 2080–83 (2023) (critiquing the debate that frames parental rights and children’s rights as inherently conflicting and showing how that framing can undermine protections for children).

49. See MOLLY LADD-TAYLOR, *FIXING THE POOR: EUGENIC STERILIZATION AND CHILD WELFARE IN THE TWENTIETH CENTURY* 122–45 (2017) (tracing the link between the eugenics movement and the invention of modern family policing).

acceptable to *them*.⁵⁰ Many marginalized parents are targeted for conduct that class and race privileged parents engage in freely, without scrutiny, and without repercussion.⁵¹ To name a few, many race and class privileged parents use drugs recreationally, often even to cope with parenting stress;⁵² they use alternative approaches to mental health treatment, and some are “free-range parents”⁵³—all things that Black, Indigenous, poor, disabled, and marginalized parents are frequently punished for doing.⁵⁴ Moreover, “fit” and “acceptable” are vagaries, whose definitions are shaped by the forces of power and privilege—race, class, cisheteropatriarchy, ableism, and so on—embedded in our society.⁵⁵ Who gets to determine what is “acceptable” when it comes to the number of family members sharing a bedroom? Who gets to determine whether it is acceptable to have an empty fridge because you prefer to order food for your family instead of cooking meals? Who gets to define poverty and its attendant stressors as “unfitness” when racial capitalism depends on there being a racialized underclass?

Additionally, to the extent that families are in need of support, the family policing system is assumed to be in the business of providing it. In the more than thirty collective years that we have been doing this work, we have yet to hear of a family policing agency holistically providing a family with the material resources to address their needs—e.g., safe and stable housing, childcare, paid respite care, grocery and meal delivery, house cleaning services, and so on. To the contrary, often the family policing system’s solution to remedy its assessment and judgement of a family’s needs is to separate children from

50. See Helen-Maria Lekas, Kerstin Pahl & Crystal Fuller Lewis, *Rethinking Cultural Competence: Shifting to Cultural Humility*, HEALTH SERVS. INSIGHTS, Jan.–Dec. 2020, at 1, 2 (discussing limitations of cultural competence training, including how it “can contribute to the reproduction of social stereotypes” and racism).

51. ROBERTS, TORN APART, *supra* note 1, at 74–77 (discussing how white parents engage in and even brag about indulging in excessive use of marijuana and alcohol without fear of repercussions from the family police).

52. *Id.*; see Allison Sherry, *Thousands of Moms Are Microdosing with Mushrooms To Ease the Stress of Parenting*, NPR (Sep. 13, 2022, at 17:48 ET), <https://www.npr.org/2022/09/13/1121599369/thousands-of-moms-are-microdosing-with-mushrooms-to-ease-the-stress-of-parenting> [<https://perma.cc/JYB7-WP95>]; Jessica Grose, *Mother’s Little Helper Is Back, and Daddy’s Partaking Too*, N.Y. TIMES (Oct. 3, 2020), <https://www.nytimes.com/2020/10/03/style/am-i-drinking-too-much.html> (on file with the Temple Law Review).

53. Fenja R. Schick-Malone, *Letting the Kids Run Wild: Free-Range Parenting and the (De)Regulation of Child Protective Services*, 81 WASH. & LEE L. REV. 387, 415–16 (2024) (defining free-range parenting).

54. ROBERTS, TORN APART, *supra* note 1, at 75–77; Schick-Malone, *supra* note 53, at 425–27; see also Alan Gottlieb, *The Unintended Biases of Free-Range Parenting*, COMPOSITIVE (Jan. 10, 2023), <https://compositive.org/the-unintended-biases-of-free-range-parenting> (on file with the Temple Law Review) (discussing how discourse surrounding free-range parenting contributes to racial bias); Curtis Bunn, *A 7-Year-Old’s Parents Were Arrested After He Was Killed by a Car. Now They’re Speaking Out from Jail*, NBC NEWS (June 19, 2025, at 07:00 ET), <https://www.nbcnews.com/news/nbcblk/north-carolina-child-killed-car-parents-arrested-manslaughter-charges-rcna211900> [<https://perma.cc/2PQ5-V8EY>] (detailing how parents were criminalized after their seven-year-old child was run over by a car walking two blocks home with his ten-year-old brother).

55. See Mack, *supra* note 17, at 803. See generally Robyn M. Powell, *Under the Watchful Eye of All: Disabled Parents and the Family Policing System’s Web of Surveillance*, 112 CALIF. L. REV. 2005 (2024) (describing how the family policing system disproportionately surveils and penalizes marginalized parents, illustrating how judgments about parenting adequacy or fitness are shaped by *ableist* and *other normative assumptions*, rather than neutral standards).

their parents or provide unwarranted surveillance and behavioral modification programs.⁵⁶

To make matters worse, unwarranted government family intrusion leads to a significant number of families finding themselves in far more isolated and far worse situations than before the family policing system intervened.⁵⁷ Far too often parents lose their housing if their children are removed.⁵⁸ Parents lose their job and other financial resources due to missing or taking too much time off work to attend court hearings or classes, or due to visitation schedules required by the court to get their children back.⁵⁹ Sadly, some of these collateral consequences of family policing's unnecessary intervention also result in prolonged and even permanent family separation.⁶⁰ Each author has borne witness to social workers refusing to recommend a child's return and or recommending termination of parental rights because the "mother does not have housing" or the "father does not have income."

Ultimately, as described briefly above, the truth is our government has refused to invest in the financial well-being, self-determination, and dignity of Black, Indigenous, poor, disabled, and marginalized families in this country.⁶¹ We have had to seek it for ourselves. Yet, despite the government's failure to invest in our communities, that very same government has the gall to assert, through its actions, institutions, and laws: We will take your children and surveil you. Instead of providing resources, we will force you to find them yourselves and monitor you while you do so and/or take your children from you. But don't worry, we will pay someone else to keep your children.

This is problematic and disturbing on many levels—but what is even more problematic is that the government is not only failing families but also consistently

56. See Josh Gupta-Kagen, (*De*)Funding Family Separations, 27 N.Y.U. J. LEGIS. & PUB. POL'Y 605, 605 (2025); see also Mack, *supra* note 17, at 783–84, 803–04 (explaining that the Family First Act subjects families to ongoing surveillance while continuously threatening family separation).

57. See generally Shanta Trivedi, *The Hidden Pain of Family Policing*, 49 N.Y.U. REV. L. & SOC. CHANGE 131, 131–32 (2025) [hereinafter Trivedi, *The Hidden Pain of Family Policing*] (describing how the child welfare/family policing system inflicts psychological, emotional, social, and physical harm on parents in addition to children).

58. *How Does Homelessness and Housing Instability Impact Families Involved with Child Welfare?*, CASEY FAM. PROGRAMS (Nov. 17, 2025), <https://www.casey.org/impact-homelessness-child-welfare-families> [<https://perma.cc/T55N-PXEA>].

59. Frank Edwards, Kelley Fong, Victoria Copeland, Mical Raz & Alan Dettlaff, *Administrative Burdens in Child Welfare Systems*, 9 RUSSELL SAGE FOUND. J. SOC. SCI. 214, 216–18 (2023); HUM. RTS. WATCH & AM. C.L. UNION, *supra* note 31, at 111–16; WANJA OGONGI, BARRIERS TO SUCCESSFUL REUNIFICATION IN PHILADELPHIA: FINDINGS FROM THE PERCEPTIONS OF BIRTH PARENTS & CHILD WELFARE PROFESSIONALS 12 (2020), <https://clsphila.org/wp-content/uploads/2020/02/BarrierstoSuccessfulReunification.pdf> [<https://perma.cc/E6W6-E2WR>].

60. HUM. RTS. WATCH & AM. C.L. UNION, *supra* note 31, at 117–20 (2022) (providing data and testimony showing that many children remain separated from parents for long periods, experience parental rights termination, or age out of foster care without reunification).

61. See RUTH WILSON GILMORE, ABOLITION GEOGRAPHY: ESSAYS TOWARDS LIBERATION 304–07 (Brenna Bhandar & Alberto Toscano eds., 2022) (describing "organized abandonment" as the systematic withdrawal of investment in the basic needs of people—such as housing, healthcare, and income support—driven by a political and economic logic that cuts social supports and expands punitive systems instead of ensuring well-being, self-determination, and dignity for Black, Indigenous, poor, disabled, and marginalized families).

failing the children it purports to protect and serve. One only needs to look at the dismal national and local data on the outcomes of children who experience the foster system.⁶² If the government were held to the standards it requires of the parents it punishes or polices, or required to satisfy the requirements to be approved as a kinship foster home, it would not pass muster. The family policing system purports to prevent children from experiencing physical, emotional, or sexual abuse, or at least to protect them from experiencing it again via family separation. Yet family policing agencies across the country fail to protect children from physical, emotional, and sexual abuse while in the foster system,⁶³ and are still somehow entrusted to parent our beloved children and give parental advice to parents regarding their own children.

Taken together, these realities reveal a system that pathologizes families for conditions it refuses to remedy, that enforces arbitrary and culturally biased standards, and then punishes parents for the predictable fallout of its own failures.⁶⁴ The family policing system insists that it exists to protect children yet consistently harms them—removing them from their communities, destabilizing their parents, and placing them in environments where the state itself would fail the very standards it imposes on families.⁶⁵ It is undeniable that families do not need more surveillance, coercion, or punishment—they need resources, stability, and the freedom to define their own standards of care and dignity.⁶⁶ True concern for child well-being demands that we abandon the false assumption that the state is a capable or benevolent parent and instead invest in the power, self-determination, and inherent worth of families themselves.⁶⁷

IV. REORIENTING TOWARD FAMILY JUSTICE

Rejecting the parent-child dichotomy and the false assumption of parental fitness requires us to center family justice. Family is the cornerstone of community power and

62. See, e.g., Dana M. Prince, Sarah Vidal, Nathanael Okpych & Christian M. Connell, *Effects of Individual Risk and State Housing Factors on Adverse Outcomes in a National Sample of Youth Transitioning Out of Foster Care*, 74 J. ADOLESCENCE 33, 33, 37–39 (2019) (finding that by age nineteen approximately 20.4% of youth had experienced homelessness in the past two years and 22.4% had been incarcerated); Miguel Nuñez, Sarah J. Beal & Farrah Jacquez, *Resilience Factors in Youth Transitioning Out of Foster Care: A Systematic Review*, 14 PSYCHOL. TRAUMA S72, S73 (2022) (reporting that by age twenty-six between 31% and 46% of foster system alumni experience homelessness and higher rates of criminal entanglement than peers); NAT'L ACADS. OF SCIS., ENG'G, & MED., *THE PROMISE OF ADOLESCENCE: REALIZING OPPORTUNITY FOR ALL YOUTH* 274–84 (Richard J. Bonnie & Emily P. Backes eds., 2019) (noting that aging out of the foster system is associated with elevated risk of homelessness during the transition to adulthood).

63. See, e.g., Anne Kirkner, Kimberly L. Goodman, Tara M. Mullin & Anna W. Wright, *Sexual Abuse and Disclosure Concerns of Youth in Foster Care*, CHILD ABUSE & NEGLECT, Mar. 2024, at 1, 3 (finding that among hotline disclosures, 66% of youth in the foster system reported abuse perpetrated by a foster family member while in care); Alysse M. Loomis, Megan Feely & Stephanie Kennedy, *Measuring Self-Reported Polyvictimization in Foster Youth Research: A Systematic Review*, CHILD ABUSE & NEGLECT, Sep. 2020, at 1, 2–3 (noting that 24% of youth in the foster system reported physical abuse, 15% reported sexual abuse, and 34% reported neglect experienced while in the foster system).

64. S. Lisa Washington, *Pathology Logics*, 117 NW. U. L. REV. 1523, 1535–36, 1544–45 (2023).

65. Trivedi, *The Harm of Child Removal*, *supra* note 45, at 527–34; Trivedi, *The Hidden Pain of Family Policing*, *supra* note 57, at 178.

66. *Introduction to HOW TO END FAMILY POLICING: FROM OUTRAGE TO ACTION* 6–7, 11 (Erin Miles Cloud, Erica R. Meiners, Shannon Perez-Darby & C. Hope Tolliver eds., 2025).

67. See *id.*

survival—especially for Black, Latine, and Indigenous peoples.⁶⁸ From chattel slavery to boarding schools, orphan trains, and today’s family policing system, the deliberate dismantling of families has always been a strategy of domination.⁶⁹ Family justice envisions a different world where:

1. Every parent, regardless of race, ethnicity, class, or ability, remains united with their child and rooted in their family of origin.
2. Every child, regardless of race, ethnicity, class, or ability, remains in the care and custody of their parents and rooted in their family of origin.
3. Every parent has access to the resources needed to raise their children in safe and supportive communities, and for their family to thrive—without surveillance and punitive consequences attached to seeking help.
4. Children are rooted in identity and lineage, growing within their family tree rather than being severed from it.
5. Reproductive freedom is honored, beginning with a newborn’s right to bond with their mother without state intrusion.

Collectively we believe that family justice cannot occur in a system rooted in the belief that children should be taken from their families to fulfill others’ desires to form families through adoption.⁷⁰ At its core, family justice affirms that the parent-child bond is not a privilege conferred by the state but a prepolitical, sacred right. Safeguarding family integrity is inseparable from safeguarding children’s rights and wellbeing.

The harms of separation make the stakes clear. Neuroscience confirms that forced separation alters brain development, disrupts attachment, and leaves lifelong imprints on a child’s nervous system.⁷¹ To a child, forced separation registers as kidnapping—the sudden, violent loss of everyone and everything that anchors their world.⁷² Euphemisms

68. See Catherine E. McKinley & Jenn Lilly, “*It’s in the Family Circle*”: *Communication Promoting Indigenous Family Resilience*, 71 FAM. RELS. 108, 108–09 (2021) (highlighting family communication and interdependence as key to Indigenous resilience). See generally CAROL B. STACK, ALL OUR KIN: STRATEGIES FOR SURVIVAL IN A BLACK COMMUNITY (1974) (demonstrating how extended family networks serve as central survival systems in a Black community).

69. See Briggs, *supra* note 38, at 619 (“White supremacists used poverty and the desperate struggles of Black single mothers to keep children housed, clothed, and fed to try to break the community’s revolt.”); *id.* at 629–30 (“Child-taking was the front line in the [t]ermination era. It repeated a deep history of separating Native children from their kin as a key tactic for detribalization, thus extinguishing land claims.”); *id.* at 637 (arguing for the abolition of “what some have called, not a child welfare system but a ‘family regulation system’”).

70. Corey B. Best & Sarah Katz, *True Narratives: Framing Pain, Punishment, and the Lethality of Termination of Parental Rights*, 106 FAMS. SOC’Y: J. CONTEMP. SOC. SERVS. 570, 571 (2025) (“In particular, the violence of TPR [(terminating parental rights)] creates deep corporal wounds and scars for parents and children, the impact of which reverberates through the lives of families and communities intergenerationally and historically in racialized patterns and rhymes.”); Chris Gottlieb, *The Birth of the Civil Death Penalty and the Expansion of Forced Adoptions: Reassessing the Concept of Termination of Parental Rights in Light of its History, Purposes and Current Efficacy*, 45 CARDOZO L. REV. 1319, 1320 (2024) (“Indeed, since the passage of [ASFA], it can fairly be said that our entire foster care system is structured around the threat of terminating parental rights.”).

71. Trivedi, *The Harm of Child Removal*, *supra* note 45, at 526.

72. See Shanta Trivedi, *The Adoption and Safe Families Act Is Not Worth Saving: The Case for Repeal*, 61 FAM. CT. REV. 315, 320 (2023) (“Children suffer irreparable harm when separated from their parents. Anxiety, grief, post-traumatic stress disorder[,] and toxic stress are just some of the effects that children experience after a removal.”); Trivedi, *The Harm of Child Removal*, *supra* note 45, at 531–32 (describing the removal process as “inherently traumatic,” where “a child may be roused from their sleep, taken from their bed

like “removal” or “placement” sanitize what is, in reality, abduction. Accepting the carceral logic of the family policing system requires acceptance of the notion that such harm is justified in the name of protection and safety.⁷³ Accepting this belief requires that we consent to beliefs that are deeply rooted in anti-Blackness and supremacy ideology: at best that any pain and harm caused is worth it, and at worst that Black and Indigenous families do not or cannot feel the pain caused through the violent kidnapping of children.⁷⁴

The threat of removal—and the permanent severing of family bonds—poisons every interaction families have with the family police system and causes even larger ripple effects, rendering the concepts of “help” and “support” unsafe and as potential triggers for state surveillance.⁷⁵ Parents avoid medical care, mothers alter birth plans, and entire communities learn to fear hospitals, schools, and social services—spaces that should be supportive but become entry points for policing.⁷⁶ Offers of support from the family police system often require families to acquiesce to the ongoing terror of surveillance and real possibility of losing their children forever.⁷⁷

in the middle of the night, put into a car with strangers, and dropped into a holding center overnight,” a jarring and unexpected event that mirrors the sudden and violent loss central to the experience of kidnapping); Vivek Sankaran, Christopher Church & Monique Mitchell, *A Cure Worse Than the Disease? The Impact of Removal on Children and Their Families*, 102 MARQ. L. REV. 1163, 1167–69 (2019) (detailing how removal causes a “monsoon of stress hormones,” can damage brain cells, and leads to experiences of ambiguity, loss, and complex trauma).

73. See Kelly, *supra* note 19, at 277–78 (explaining that the family policing system acts as a feeder for the adult prison system, with nearly 20% of the U.S. prison population under thirty having spent time in foster care); Albert et al., *supra* note 23, at 866 (arguing that the system’s framing as a “child welfare” system is a misnomer that masks its true function as an apparatus of family regulation and destruction, thereby justifying its harms under the pretense of protection).

74. See Best & Katz, *supra* note 70, at 572 (“The mythos of ‘safety’ and ‘protection’ which undergirds family policing ignores the lived realities of these walking wounded . . . and the anti-Blackness and anti-indigeneity inherently embedded in the law, policy[,] and practice of family policing.”); *id.* at 582 (explaining that the myth of “bad” parenting codifies anti-Black norms and is rooted in long-standing stereotypes of “Black mothers’ depravity and negligence,” which devalues the parent-child relationship and assumes the connection is not worth preserving).

75. See Baughman et al., *supra* note 43, at 515 (arguing that the interplay between mandated reporting and the family regulation system causes families to fear seeking essential services, as “parents who are conscious of this predicament change their behaviors and interactions with providers as a result” of the risk of being reported for maltreatment); Trivedi, *The Harm of Child Removal*, *supra* note 45, at 579 (describing how lawyers should argue that the “catastrophic and long-term harms that removal can impart” are a necessary component of any child welfare proceeding, highlighting that the trauma of removal is a central, often unconsidered, harm that should influence decisions to separate families).

76. See Baughman et al., *supra* note 43, at 513 (“CFR’s [(Center for Family Representation)] clients regularly express fear of the family regulation system in explaining why they did not seek immediate medical treatment after their child sustained a minor injury.”); *id.* (“Pregnant women who use substances may fail to obtain prenatal treatment due to concerns of surveillance.”); *id.* at 515–16 (“Parents living in low-income communities and communities of color are familiar with the risks associated with these institutions—they might avoid or over-access services in an attempt to protect themselves and their children from a report to the family regulation system . . .”).

77. See *id.* at 511 (“The family regulation system positions staff from these institutions as surveillance agents, who are ready to report any *possible* sign of maltreatment, undermining any benefit or genuine support to the families they serve.”).

The rupture of family bonds also severs culture, lineage, and identity.⁷⁸ When cut off from family, children lose the songs, stories, and traditions that root them in belonging.⁷⁹ No child should be forced to become the top of the family tree. Parents, in turn, are stripped of dignity and purpose.⁸⁰ The trauma compounds across generations: The strongest predictor of whether a child will be drawn into the foster system is whether their parent was once taken into the system.⁸¹

V. THE ROLE OF MOVEMENT LAWYERING IN THE ABOLITIONIST STRUGGLE

As we turn our attention to the future, as committed family policing abolitionists, we call for lawyers and others who proclaim to care deeply about the safety and well-being of children to join in solidarity with the family-led movement to abolish family policing. As family policing abolitionists, we recognize that justice cannot come from harmful systems and that we must move toward noncarceral systems of accountability and care. As abolitionist lawyer and organizer Andrea Ritchie writes in *Practicing New Worlds: Abolition and Emergent Strategies*: “We can’t continue to organize in ways that replicate and legitimize the systems we are seeking to dismantle.”⁸² We invite lawyers to join us in solidarity with families paving the way forward toward meaningful family justice.

What might it mean for lawyers to join in solidarity, attach to doing justice, and act in alignment with the movement to abolish family policing? The practice of abolitionism is about living our values, recognizing that we can inhabit the world we wish to see *today* by changing our ways of being, *today*. At its heart, abolitionism is rooted in radical love. Principles of community and movement lawyering, which begin by honoring the inherent

78. See Eliana Schachter & Elizabeth Kroll, *The Intergenerational Effects of the Child Welfare System and the Legal Obligation to Rectify Them*, 19 RUTGERS J.L. & PUB. POL’Y 211, 221–22 (2022) (arguing that the family policing system’s “systemic racism” and the disproportionate removal of Black and Latine children, for whom “race is hereditary,” result in the severing of racial and ethnic community ties); Sankaran et al., *supra* note 72, at 1165 (explaining that removal “separates children from parents, siblings, teachers, friends, communities, and most other things familiar to their lives,” fundamentally disrupting the child’s understanding of self, relationships, and their place in the world, which are core components of identity and cultural belonging).

79. See Schachter & Kroll, *supra* note 78, at 216 (explaining that removal separates a child from “their family, their home, or their community” and places them with strangers, which disrupts the transmission of cultural and familial traditions and creates “insecure attachments,” severing the child’s sense of rootedness and belonging); Trivedi, *The Harm of Child Removal*, *supra* note 45, at 540 (“For children belonging to minority ethnic groups, ethnicity forms a more important part of their identity than it does for children in ethnic majorities. As such, removal from their communities is more devastating to their development and sense of self. Children who want to maintain their culture and their familial customs may not be able to do so in foster families belonging to a different race, culture, or religion, leading to additional feelings of loss and sadness for these children.”).

80. See Trivedi, *The Hidden Pain of Family Policing*, *supra* note 57, at 152–54 (describing how mothers who lose custody experience a profound loss of identity and purpose, with one mother lamenting, “[t]hey took my life the day they took my girls,” and another questioning, “Am I still a parent?” because she could not fulfill the defining role of motherhood).

81. See, e.g., Lena Jäggi, Jamie Jaramillo, Tess K. Drazdowski & Süheyla Seker, *Child Welfare Involvement and Adjustment Among Care Alumni and Their Children: A Systematic Review of Risk and Protective Factors*, CHILD ABUSE & NEGLECT, July 2022, at 1, 1 (finding that a parent’s history of being in the foster system is correlated to increased risk of out-of-home placement for their children).

82. ANDREA J. RITCHIE, PRACTICING NEW WORLDS: ABOLITION AND EMERGENT STRATEGIES 4 (2023).

wisdom and expertise of communities, root us in a meaningful notion of justice which can move us toward an abolitionist future. As attorney Charles Elsesser has written:

The central tenet of “community lawyering” is that social change comes about when people without power, particularly poor people or oppressed people, organize and recognize common grievances. Social change can only be lasting when it is led and directed by the people most affected. It is this organizational work, leadership development and power building that is and has been key. This is our theory of social change. It has been demonstrated over and over again in the civil rights movement, the workers’ rights movement, the housing movement and the immigrants’ rights movement. Community lawyering is supportive of this grassroots organizing and mobilization for social justice. Those involved in community lawyering understand that these organizing efforts may be the only real route to long-term social change.⁸³

Similarly, advocate Betty Hung writes:

Movement lawyering as rebellious lawyering is at its core a practice of love in action that combines humility, love, and courage. By centering the leadership of those directly impacted, building a framework and praxis of intersectionality, and having the courage to do what is just and necessary even when we are fearful and may suffer, we can model the world that we seek and that does not yet exist[—]and get just a little bit closer to achieving it.⁸⁴

Community and movement lawyering give us rich traditions to draw from as an approach to how to engage in advocacy within the family policing space. Thus, by attaching to community and movement lawyering principles rooted in abolitionist praxis, lawyers can align with and bolster the movement to abolish family policing. By definition, the practice of abolitionism requires curiosity, imagination, creativity, and experimentation. As abolitionist organizer, educator, and writer Mariame Kaba has written, “We need a million experiments. A bunch will fail. That’s good because we’ll have learned a lot that we can apply to the next ones.”⁸⁵ So while not meant to be comprehensive or exhaustive, this Section details some practices lawyers can engage in to help build the abolitionist horizon of family justice.

A. *Deepen Awareness and Reckon with Complicity*

So many lawyers for children or parents, and other system stakeholders, are drawn to the work out of a desire to help or “save” children or families. Often this attachment to a professional identity rooted in “helping” blocks lawyers’ awareness that “saviorism”—rooted in supremacy ideology⁸⁶—is in fact driving their approach to

83. Charles Elsesser, *Community Lawyering: The Role of Lawyers in the Social Justice Movement*, 14 *LOY. J. PUB. INT. L.* 375, 384 (2013).

84. Betty Hung, *Movement Lawyering as Rebellious Lawyering: Advocating with Humility, Love and Courage*, 23 *CLINICAL L. REV.* 663, 669 (2017).

85. Mary Hooks, *Policing Has Failed for Real Public Safety, We Need a Million Community-Driven Experiments*, *TRANSFORM HARM* (June 24, 2020), https://transformharm.org/ab_resource/policing-has-failed-for-real-public-safety-we-need-a-million-community-driven-experiments/ [<https://perma.cc/E7ZG-PBE2>].

86. See, e.g., Bavani Sridhar, *Is the Public Interest Lawyer Antiracist?*, *NE. L. REV.* (Oct. 2, 2020), <https://nulawreview.org/forum-posts/2022/8/23/is-the-public-interest-lawyer-antiracist> [<https://perma.cc/2FQD-QHWE>] (“Dismantling the power hierarchy of legal advocacy also requires confronting

advocacy. Murri (Indigenous Australian) artist, activist, and educator Lilla Watson is often quoted: “If you have come to help me you are wasting your time. But if you have come because your liberation is bound up with mine, then let us work together.”⁸⁷ When we really root ourselves in justice and slow down enough to truly listen to and honor the voices of families, we recognize that no one is asking to be saved. When we hold ourselves accountable, we recognize that families wish to preserve their autonomy, control, and voice. Anything less than this reproduces the same carceral logic and saviorism which girds the family policing system. As renowned Black liberation activist Assata Shakur wrote: “Nobody is going to teach you your true history, teach you your true heroes, if they know that that knowledge will help set you free.”⁸⁸ A commitment to this kind of change requires lawyers to be able to discern between their job and their *work*. Lawyers advocating within and around the family policing system need to commit to the ongoing work of deepening their own awareness of their role in and complicity within the logics of surveillance and punishment which are rooted in anti-Blackness and supremacy ideology, as well as to commit to the ongoing self-work of radically rooting themselves in families’ autonomy and liberation. While the work of self-awareness and ongoing reckoning with complicity will necessarily inform how lawyers show up in their job, the work and the job are not the same thing.

B. *Cultivate Humility and Courage*

Lawyers are frequently taught that we are meant to be the smartest and most capable people in the room. No matter their role within the family policing system, lawyers believe they know “best” based on their training, experience, and professional titles. Lawyers are taught that their value as advocates is measured by cases won and their worth by accolades from peers or judges.⁸⁹ But what if this entire notion of professional worth is one of the ways in which supremacy ideology is engrained? By necessity, such a conception of lawyers’ value stands in conflict with a conception of family justice which honors and respects families’ inherent expertise, wisdom, control, and autonomy.

When lawyers for families approach their role rooted in liberation, they see their role as *partners* advocating *with* families, rather than having clients they are advocating *for*. They approach their role with radical humility, because they recognize there is no

the white savior industrial complex.”); Leah Goodridge, *Professionalism as a Racial Construct*, 69 UCLA L. REV. DISC. 38, 38, 40–41 (2022) (arguing that “professionalism” in the legal profession is built on racial subordination and white supremacy, policing comportment and conduct in ways that marginalize lawyers of color and uphold dominant power norms); Alexis Hoag-Fordjour, *White Is Right: The Racial Construction of Effective Assistance of Counsel*, 98 N.Y.U. L. REV. 770, 783–84 (2023) (examining how white supremacy shaped professional norms and legal standards within the legal profession, and critiquing “neutral” lawyer conduct as grounded in racialized hierarchies rather than objective equality).

87. While this quote is often credited to Indigenous Activist Lilla Watson from her address at the United Nations Decade for Women Conference (July 15, 1985), Dr. Watson has always said that she was not comfortable being credited for something that had been born of a collective process. She prefers that the words be credited to *Aboriginal activists group Queensland, 1970s*.

88. ASSATA SHAKUR, ASSATA: AN AUTOBIOGRAPHY 181 (1988).

89. See Hoag-Fordjour, *supra* note 86, at 783; Robert W. Gordon, *The Independence of Lawyers*, 68 B.U. L. REV. 1, 25–27 (1988); Duncan Kennedy, *Legal Education and the Reproduction of Hierarchy*, 32 J. LEGAL EDUC. 591, 591–92 (1982); Deborah L. Rhode, *Ethics by the Pervasive Method*, 42 J. LEGAL EDUC. 31, 34–35 (1992).

way they know the answers for *this* family, because no matter their life experiences, they have never approached this particular situation through *this* family's eyes. They have the courage to strategize with the family about both legal and nonlegal solutions because they recognize that the work must be about more than "winning" and "losing": because what is winning in a system that is designed to cause harm to families? They actively resist the law's conception of wins and losses, because they recognize that this conception is rooted in saviorism and gets in the way of families getting what they need. They have the courage to fight for what families identify they need and want, rather than being limited by common practice, professional reputation, or other trappings of supremacy ideology.

Part of rooting the work in this notion of family justice requires lawyers to cultivate both the humility and courage to recognize and communicate to families that the law and lawyering cannot and will not solve everyone's pain. Lawyers need to cultivate the capacity to sit with other people's pain, to bear witness and recognize there might not be a solution or intervention. So many of the harms of family policing are hidden in plain sight—lawyers advocating within the system are well positioned to use their access, advantages, and power to both deconstruct the myths which underlie the law and serve to perpetuate its harms, and to stand in solidarity with families to leverage the truths about what families and communities are experiencing. Lawyers must cultivate the vulnerability, conditioning, and courage to sit with the discomfort of bearing witness to families' pain and leveraging those truths toward meaningful change.

C. *Develop Critical Connections and Sustained Community*

In communities throughout this country, families are organizing to resist and abolish the family policing system.⁹⁰ If lawyers are serious about liberation, lawyers must be in meaningful and ongoing relationship with the families who are most impacted by family policing and align their work with these efforts. As adrienne maree brown writes in *Emergent Strategy*: "Trust the People. (If you trust the people, they become trustworthy). Move at the speed of trust. Focus on critical connections more than critical mass—build the resilience by building the relationships."⁹¹

To trust the people, lawyers need to lose the savior complex and follow the people. This means more than having a peer advocate on staff or asking for community input at a focus group or listening session. Critical connections and sustained relationships take ongoing work, and lawyers will need to set aside any notion that they already know what is needed. In following families' lead, it is up to the families to define how lawyers can support their organizing efforts. Lawyers do not get to determine what is possible—families and communities do. Only through showing up in true solidarity can lawyers help realize the family justice all families deserve.

90. See *What We Do*, MOVEMENT FOR FAM. POWER, <https://www.movementforfamilypower.org/what-we-do> [<https://perma.cc/9R52-EQRX>] (last visited Apr. 11, 2026) (describing its mission to cultivate community power to end the family policing system and reimagine support for families).

91. ADRIENNE MAREE BROWN, *EMERGENT STRATEGIES: SHAPING CHANGE, CHANGING WORLDS* 42 (2017).

CONCLUSION

The family policing system is designed to destroy and separate families. It is not broken; it was built this way. Abolitionism allows us to think beyond false dichotomies of children's rights and parents' rights and instead work toward a future of family justice that sustains sacred bonds and builds life-affirming institutions. The law is not a panacea but can operate as a barrier to the creativity and ingenuity needed to navigate difference and crisis with compassion and curiosity—not policing, punishment, and separation. If we are truly committed to creating a world families deserve, we must decenter traditional lawyering and adopt movement lawyering and organizing models that amplify the voices of those most targeted by family policing and affirm the self-determination and dignity of all families. We must reckon with the ways we cause harm in the name of “protection” and “safety.” Abolition is a children's rights imperative because it is a family justice imperative. We will continue to fight for a world that makes true family justice a reality.