

The Carceral Web: How the Foster and Criminal Legal Systems Perpetuate Injustice

December 9, 2020

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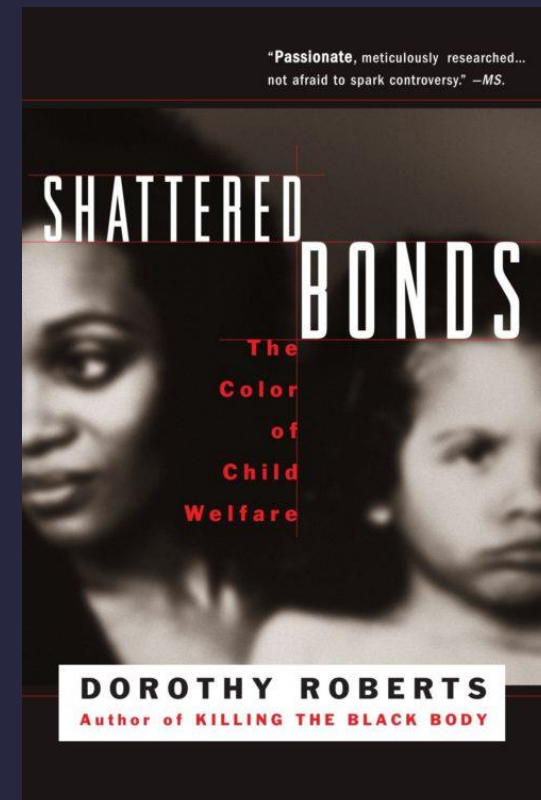
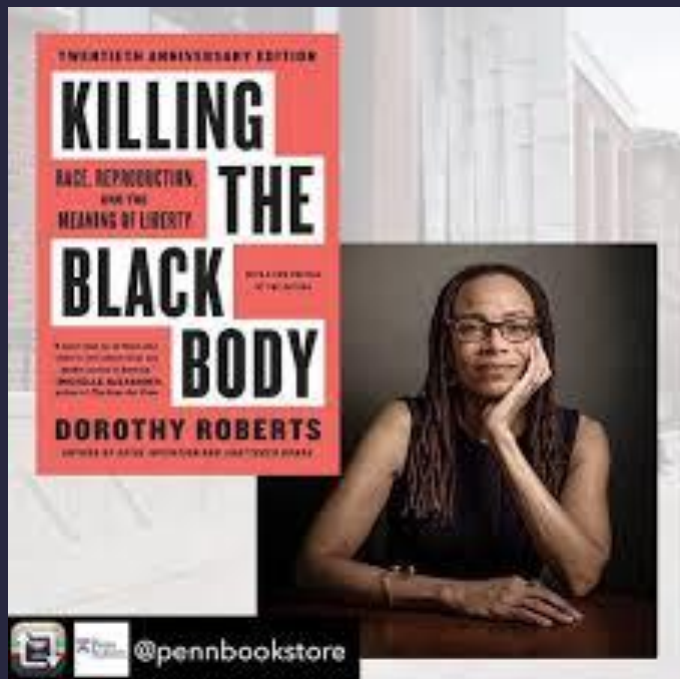
And tag participants!

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ABOUT THE SHRIVER CENTER

The Shriver Center on Poverty Law fights for economic and racial justice. Over our 50-year history, we have secured hundreds of victories with and for people living in poverty in Illinois and across the country. Today, we litigate, shape policy, and train and convene multi-state networks of lawyers, community leaders, and activists nationwide. Together, we are building a future where all people have equal dignity, respect, and power under the law. Join the fight at povertylaw.org.

Dorothy Roberts on the Carceral Web –



SYSTEM PARALLELS, INTERSECTIONS, & PATHWAYS

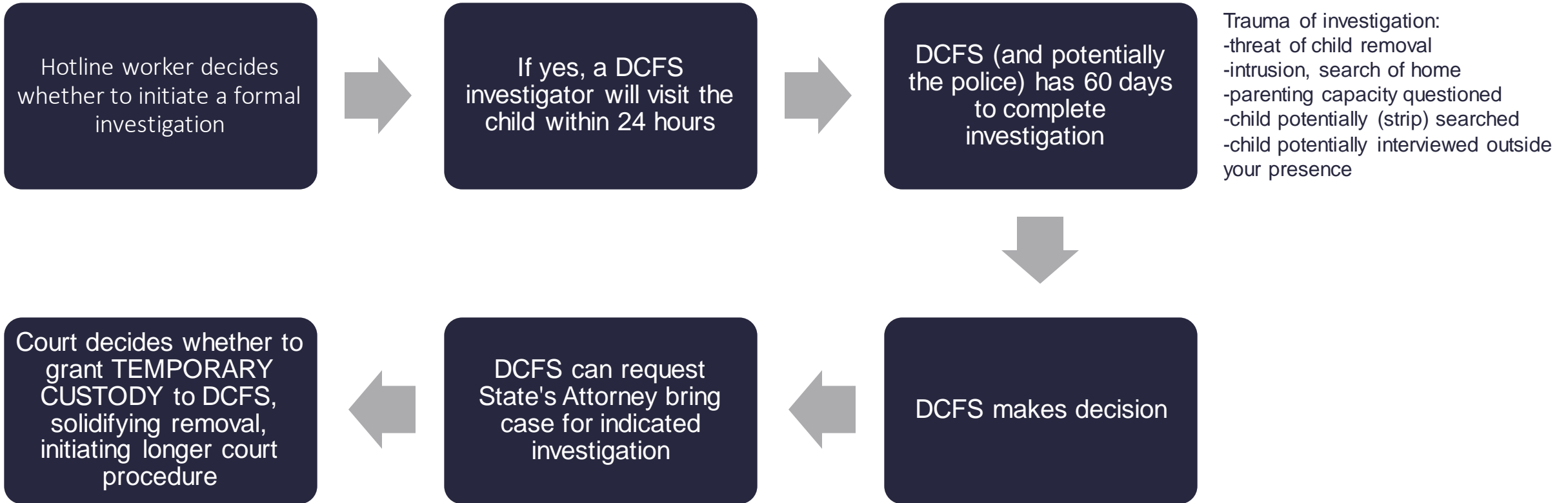
Juvenile Court & Social Work

- First Juvenile Court in US (1899)
 - Jane Addams, Hull House advocacy led to its establishment in Cook County, IL via Juvenile Court Act
 - Said to resemble English High Court of Chancery (*parens patriae*), exempt from due process guarantees of adult criminal proceedings
 - “Orphan Trains,” Indian boarding schools happening at this time
 - Black, Indigenous, Mexican American youth often seen as impossible to rehabilitate
 - Adult court & prison systems, as well as convict-lease systems and higher rates of corporal punishment and execution (for the latter two, Black youth in particular)
- First social work education program founded (1899)
- By 1920, 30 states had established a court for youth; by 1925, 46 states (of 48)

Foster & Criminal System Parallels

- Criminal System
 - Surveillance of communities of color by law enforcement
 - Alleged criminal activity → individual liberty removed through detention
 - State decides (with info from law enforcement) whether to pursue case against individual
 - Public defender defends person against case
 - Case can settle by plea
 - After case over, system can trip up individual with conditions of release, probation, permanent punishments, registry requirements
- Foster System
 - Surveillance of communities of color by DCFS/mandated reporters
 - Alleged abuse/neglect activity → individual's child removed
 - State decides (with info from DCFS) whether to pursue case against parent
 - Public defender defends parent against case
 - Case for TPR can settle by stipulation, consent to adoption
 - After case over, system can trip up individual with registry requirements, permanent punishments

After the hotline call



After the call to law enforcement



Trauma of investigation:

- threat of detention, arrest, jail
- intrusion, search of home and person
- law enforcement calling DCFS if your arrest would leave your child(ren) alone

Foster & Criminal System Critical Differences

- Criminal system
 - Investigation rights
 - warrant requirements, Miranda warning re right to silence, counsel
 - Beyond a reasonable doubt
 - Leveraging an individual's personal freedom against that individual
- Foster system
 - No investigation rights
 - Clear and convincing
 - Leveraging an individual's child's well-being against that individual
 - Additional lawyers against the parent
 - DCFS has counsel
 - Child has separate counsel
 - State's attorney

PIPELINES AND PATHWAYS

- ❑ **Foster System to Juvenile Criminal Legal**
 - Youth aging out of foster have high risk of Juvenile CLS involvement
 - ❑ **Foster System to Adult Criminal Legal**
 - CPS investigators calling, involving law enforcement
 - Youth aging out of foster have high risk of Adult CLS involvement
- often b/c of vulnerabilities created by foster system
- ❑ **Juvenile Criminal Legal to Foster**
 - IL delinquency judges can sentence to DCFS, start child protection case, parents may not know (not parties to delinq case)
 - Juvenile completes sentence and parent does not pick up the child, call to DCFS hotline
 - ❑ **Juvenile Criminal Legal to Adult Criminal Legal**
 - ❑ **Adult Criminal Legal to Foster**
 - In Cook County, IL, 15-16% of hotline calls by mandated reporters from law enforcement
 - Criminal record, incarceration as bases for abuse/neglect & parental unfitness determinations

Carceral Foster System responses (IL)

Prima facie evidence of abuse/neglect includes (705 ILCS 405/2-18):

- Repeated use of drugs/controlled substances by parent
- Diagnosis of fetal alcohol syndrome, withdrawal symptoms in child
- Controlled substance in newborn's system
- Child's presence where parent making methamphetamine
- Injuries of child that would not ordinarily exist but for acts or **omissions** of parent
- Parent **allows** minor to perform sex act(s)
- Parent **allows** crime of involuntary servitude/trafficking

Substances

Prevention of harm

Parental unfitness grounds in TPR proceedings include (750 ILCS 50/1D):

- **Failure to protect** child from injurious environment (includes criminalization of DV survivors)
- Presumed depravity if certain criminal record history present
- Parent incarcerated, not engaged immediately pre-incarceration, incarceration will last 2+ years
- Parent incarcerated + history of incarceration

FAMILIES AND COMMUNITIES IMPACTED

Overrepresentation of Black Communities Across Carceral Systems

Population	General	Foster	Juvenile Incarcerated	Adult Incarcerated
Cook County, IL	24% Black	70% Black		76% Black ¹
IL statewide	14% Black	44% Black <i>overrepresented</i> at every key decision point in system	64 % Black ³	55 % Black ²
National	12% Black	20% Black	41% Black ⁵	39% ⁴



¹Cook County Sheriff's Daily [Report](#) 6/30/2020

² Illinois Department of Corrections "[Adult Inmate Population](#)" 6/30/2020

³ June 2020 Juvenile Detention Admissions from "JMIS Monthly Data [Report](#)"

⁴ Federal Bureau of Prison [Statistics](#)

⁵ Office of Juvenile Justice and Delinquency Prevention 2019 Annual [Report](#)

- [National and state-based criminal legal system data](#)
- [State by State foster system data](#)

For economic and racial justice

OVERREPRESENTATION FROM FOSTER SYSTEM → CRIMINAL SYSTEMS

LA County

- Black youth little more than 7% of the population, more than 24% receiving services from DCFS
- Black foster youth are more likely than peers of other races to crossover to juvenile criminal legal system, making them more likely to be incarcerated as adults.¹ --Imprint article

¹ Further discussed in [The Disenfranchisement of Black Foster Youth](#)

System Intersections & Outcomes

During CPS/Foster Involvement

By age 17, more than 50% of youth in foster care have experienced an arrest, conviction, or overnight stay in a correctional facility.¹

More than 90% of foster youth with 5+ moves will become involved in the juvenile criminal legal system.¹
(2019 IL average 3.8 moves/ 1,000 days; 4.4 Black youth)²

2/3 of justice-involved youth have also had contact with CPS.³

After CPS/Foster Involvement

25% of foster alumni will become involved with the criminal legal system within 2 years of leaving the foster system.¹

Almost 70% of the youth included in the Midwest Study cohort had been arrested by their mid-20s.⁴

15% of incarcerated young adults (18-21) report having been in foster care, compared to 7% of the national prison population.⁵

¹ – Juvenile Law Center, [What is the Foster Care-To-Prison Pipeline?](#)

² – Children & Family Research Center, [Conditions of Children in or at Risk of Foster Care in Illinois: FY2020 Monitoring Report of the B.H. Consent Decree](#)

³ – American Youth Policy Forum, [Understanding Foster, Juvenile Justice, and Crossover Youth](#)

⁴ – Chapin Hall, [Summary Report: Outcomes at Age 23-24](#)

⁵ – Wildemand, Christopher & Yi, Youngmin, [Can Foster Care Interventions Diminish Justice System Inequality?](#)

BREAKING DOWN SILOS

UNDERESTIMATING SYSTEMS' HARMS

- **Better safe than sorry mentality re mandated reporting**
- **Better social workers than law enforcement**
- **Better foster system than juvenile criminal legal system**
- **Siloed advocacy allows the carceral web to maintain its harmful power**

MODERATOR: PATRICE JAMES



Director of Community Justice at Shriver Center

Patrice James has spent her career tackling the inequities of the criminal justice system. Most recently she was a founding attorney of [Still She Rises](#), Tulsa, where she provided holistic legal representation primarily to low-income women of color, engaged in community building, and advocated for shifting the narrative of women involved in the criminal justice system “from broken women to broken systems” as the Director of External Relations. While in Tulsa, Patrice immersed herself in the needs of north Tulsa by volunteering with various organizations and serving on several boards, including the [Met Cares Foundation](#) and the Greater Tulsa African American Affairs Commission. Prior to Tulsa, Patrice was a public defender at the [Bronx Defenders](#) for five years, where she provided zealous criminal defense representation to people living in the Bronx. Understanding the value of community, Patrice lead the office’s mentoring program for incoming attorneys and provided “Know Your Rights” trainings for students at local middle and high schools.

PANELIST: DINAH ORTIZ-ADAMES



Dinah Ortiz-Adames is an Afrolatinx community activist who has fought for over 13 years for Black and Brown people. She is a harm reductionist who has no issues sharing her story of past substance use and she is a fierce advocate for parents in the child welfare system. She has worked for several non-profit organizations and developed advocacy skills along the way. From working with formerly incarcerated women, to women with a history of domestic violence; Ms. Ortiz-Adames has tried to give a voice to the unheard by participating in various platforms speaking out on issues affecting parents particularly mothers targeted due to substance use disorder.

PANELIST: VICTORIA COPELAND



MSW, UCLA Ph.D Student

Victoria Copeland is a doctoral student at the University of California Los Angeles. Prior to attending UCLA she worked as a youth advocate, assisting youth who were dually-impacted by the juvenile justice and “child welfare” systems. She is currently employed with the UCLA Labor Center as policy researcher, conducting research to help dismantle fines, fees, and forced labor through the criminal injustice system. Along with her work at the Labor Center, Victoria assists in local organizing efforts to abolish the “child welfare” system and prison industrial complex. Her doctoral research interrogates the role of family policing within the broader carceral ecosystem, focusing on uses of surveillance and data-proliferation under the guise of “Child Protection.”

PANELIST: JEREMY LEMMONS



Assistant Public Defender, Law Office of the Cook County Public Defender

Jeremy Lemmons is an alum of the University of Illinois (Urbana-Champaign), with a major in Sociology and minors in Political Science and Gender and Women Studies. He obtained his J.D. from John Marshall Law School in Chicago, IL. After completing law school, Jeremy worked for the City of Chicago Corporation Council and subsequently for the Office of the State Appellate Defender. In 2018, he was hired at the Law Office of the Cook County Public Defender where he has worked in the Civil Division also known as Child Protection. He is currently assigned to a Specialized Unit that deals mainly with medically complex cases and cases with complex legal issues. Jeremy was recently nominated to a subcommittee that explores the understanding and application of reasonable efforts and urgent and immediate necessity throughout Illinois.

PANELIST: LEAH GASSER-ORDAZ



Juvenile Justice Fellow, UCLA School of Law

Leah Gasser-Ordaz is a Juvenile Justice Fellow with the Criminal Justice Program at UCLA School of Law, working on an initiative focused on advancing the interests of justice-involved youth with grant support from the Annie E. Casey Foundation and the Liberty Hill Foundation. Her research, in partnership with the Los Angeles County Division of Youth Diversion and Development, is centered on diversion programs, restorative justice, and other alternatives to juvenile court and incarceration. Additionally, Leah works with local, regional, and national organizations to divest from and build alternatives to the family regulation system. Previously, Leah was a Staff Attorney with Public Counsel's Transition Age Youth Project, where she worked with system involved youth to secure and maintain housing and benefits; remove criminal and legal barriers; advocate for the parental rights of pregnant and parenting youth; and provide other civil legal support on a multidisciplinary team including peer advocates and social workers. Leah received her J.D. from UC Irvine School of Law and her B.A. in Political Science with a minor in Philosophy from UCLA.

Thank you! To learn more...

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Join the Shriver Center for webinar #4 in our series!
Intersection: Healthcare & The Foster System
Thursday, January 14, 11am-12:30pm CT

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