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April 10, 2023

Enacting Solidarity and Negotiating Fictive Kinship: The Legal Consciousness of Black Women
Working in the Criminal Legal System in Atlanta

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Abstract

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Black women's relationship to the criminal legal system (CLS) is often framed in terms of the harm the system enacts against Black women. There is a lack of focus on Black women's experiences as agents, such as judges, prosecutors, and defense attorneys, within the CLS. This study addresses how Black women act as agents within the CLS through the framework of legal consciousness. Atlanta is a crucial site for Black women working in the CLS. Numerous Black women in various positions work for the district attorney in both counties in Atlanta. Additionally, due to the large Black population and history of high Black leadership within the city, Atlanta is a unique site for Black representation and class dynamics. Through virtual court watching and semi-structured interviews, I analyze Black women working in the CLS in Atlanta's legal consciousness. I interviewed prosecutors, defense attorneys, and re-entry strategists to garner their perceptions of the law of how they developed. Their perceptions center on solidarity and kinship with other Black women working in the system, their communities, and the people they defended or prosecuted. In interviews with prosecutors, themes emerged regarding how the women negotiate kinship with law enforcement officers and their feelings of auntie-ism to the Black men they incarcerate. The women emphasize carceral feminist ethics which focus on protecting the community, especially women. They enact carceral feminism through Legal Aid during courtroom performances. Overall, the interviews reveal the way intimacy enters the courtroom through solidarity and identity. Similarly, defense workers focused on solidarity and fictive kinship within their legal consciousness. Two re-entry specialists who were justice impacted discussed how incarcerated women often find kinship within the prison, especially mother/daughter relationships. Additionally, the women resisted carceral feminist logic in favor of Intersectional Marxism Feminism. They also believed their identity was a deciding factor in how they performed their roles and were perceived. All the women felt their identity entered the courtroom and impacted their work. The perceptions of Black women working in the CLS impact their courtroom performance and impact the function of the CLS throughout the city.

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Chapter 1: Introduction

In the final episode of its first season, *A Black Lady Sketch Show* includes a sketch entitled “Court Room Kiki.”¹ The bailiff, a Black woman, enters an almost empty courtroom to see the stenographer, another Black woman. They nod and smile at one another, the bailiff saying, “Hey girl.” An attorney walks in, played by Quinta Brunson, and she smiles when she sees that the only other people in the courtroom are Black women. As she enters the courtroom, she says, “Oh, ‘Black Girl Magic’ for real!” and takes her place behind one of the benches. The next to enter is the judge, a Black woman played by Yvette Nicole Brown. She looks up after arriving at her bench in the front of the courtroom to see the room is only Black women. After greeting the women, she utilizes a common refrain in the American Black community, “God is Good,” and receives the unanimous, ingrained response, “All the time.” The final attorney enters with her client. Both are Black women, and after she apologizes for her tardiness, she looks up to see the room occupied entirely by Black women saying, “What in the baby hair?” before the other lawyer responds “It’s a Black lady courtroom!” A chant breaks out, and the judge proclaims that in her entire twenty years, she had not seen this, finally saying, “Cicely Tyson would be proud.” Everyone in the courtroom is excited, except the plaintiff—also a Black woman played by Issa Rae—who responds, “why would she be proud?”

As the sketch progresses, the women bask in the unique circumstance of everyone in the room being Black women, much to the chagrin of the plaintiff in the civil lawsuit she has filed. They make lunch plans, discuss their sorority affiliations, take a selfie, call

¹ *A Black Lady Sketch Show*, season 1, episode 6, “Born at Night, But Not Last Night,” directed by Dime Davis, written by Ashley Nicole Black, Akilah Green, and Brittani Nichols, aired September 6, 2019, on HBO.

opposing counsel “sister-in-law,” and enjoy the “historic moment” with shared pop-culture references and comradery. After she wins, the plaintiff joins the refrain, chanting with the rest of the women, “Black Lady Courtroom.”

The sketch represents part of the reality of courtrooms in and around Atlanta, Georgia. Due to the large Black population surrounding Atlanta, there are many Black women working in the criminal legal system (CLS) in Georgia. The Black population makes up 54.6% of DeKalb County² and 44.7% of Fulton County³. The federal district attorneys for both counties are Black women. Situated in the Black Mecca⁴, these women represent the manifestation of progress for many Black Americans.

This project highlights Black women working as attorneys and support staff in the criminal legal system in DeKalb and Fulton counties in the Atlanta area. Through nine semi-structured interviews and virtual ethnography, I assess several Black women working in the criminal legal system’s legal consciousness, especially how their fictive kinship, solidarity with the Black community, and assumptions of a collective Black identity in the United States. Black women’s racial, gender, and class identities all impact their view and use of the legal system.

The paper explores several research questions: What do Black women think about their work in the criminal legal system? How do they feel about working with other Black women on the same or different sides? How does working in and around Atlanta shape these perceptions? How does working mostly with Black men, as both defendants and clients, shape these perceptions? To what extent do notions of kinship,

²“U.S. Census Bureau QuickFacts: DeKalb County, Georgia,” accessed January 22, 2023, <https://www.census.gov/quickfacts/dekalbcountygeorgia>.

³ “U.S. Census Bureau QuickFacts: Fulton County, Georgia,” accessed January 22, 2023, <https://www.census.gov/quickfacts/fultoncountygeorgia>.

⁴ Atlanta is sometimes referred to as the Black Mecca due to the large Black population and wealth of opportunities for Black people throughout the city.

especially sibling relatedness, texture the relationship between Black women and the people they prosecute or defend? These questions are central to uncovering the legal consciousness of Black women working in the CLS. I focus on Black women because they are often ignored by media and scholars regarding the impacts of the CLS. These silences lead to a lack of attention to remedies to systemic violence. By centering Black women's roles as actors in the criminal legal system, I offer insight into the tensions and contradictions some women face while working in the CLS, including between themselves and those they view as fictive kin. Their work is predicated on ambivalence, which impacts their emotional connection to their job. I describe how feelings of shared collective identity shape Black women's work in the criminal legal system. In Chapter One, I discuss my relationship to the project. Chapter Two provides a literature review of legal consciousness in sociolegal studies, Black women working in the criminal legal system, fictive kinship, and ambivalence. Chapter Three offers an overview of Black women's relationship to mass incarceration in Atlanta, Georgia, and the United States. Chapter Four describes the methodology for the ethnographic portion of the research. Chapter Five outlines Black women working as prosecutors in Atlanta and explores the tension between working for the carceral state and their racial and gender identity. Chapter Six describes the perspectives of Black women working on the defense side of the criminal legal system, and argues that the criminal legal system's treatment of defendants and failures of collective identity impact how defense workers perform their roles.

1.1 Position Statement and Personal Interest

The first unjust and preventable killing of a Black person (really a boy, a child)⁵ I remember in real time was Trayvon Martin. I was ten at the time. I recall the news articles, the television news anchors lamenting the tragic murder, and the protests that sparked nationwide. I cannot remember how I felt or processed the experience of watching a child's life being taken away before he truly entered the world. I do not remember how I came to terms with the reality of Trayvon's killer getting away with murder by arguing the unarmed teen was a threat. I do not recall what I thought at ten years old, but I remember when I realized this would keep happening, that this has been happening, and that by the time I was seventeen, it would continue to happen with little change to how the rest of the country saw people who looked like my brother, my mother, my cousins, myself.

By the time I was eighteen, I learned how much of the U.S. did not realize the brutality that Black people face at the hands of law enforcement—a reality I began to process at ten-years-old. At nineteen, I saw the futile attempts at reconciling the violence enacted against Black people at the hands of the police. At twenty, I heard it happening again. At twenty-one, I would hear more stories of Black people merely existing in this world—asking for help from police, sleeping, walking, selling cigarettes—and being murdered for it.

I remember their names: Sandra Bland, Michael Brown, Eric Garner, George Floyd, Keenan Anderson, Trayvon Martin, Duante Wright, Andre Hill, Atatiana

⁵ Black men and boys are rarely considered children or young adults, especially when they are victims of police brutality and systemic violence. Trayvon Martin, Tamir Rice, Antwon Rose Jr. Each child was killed by police and taken away from their families and their communities. They were robbed of their futures.

Jefferson, Stephon Clarke, and many, many, many more.⁶ I recall these names to offer insight into how I became conscious of the violence across the United States. This list speaks to the lack of attention Black women receive when murdered by the police: they are unrecognized, lost in the routine violence of the police state. I came of age in the era of smartphones and social media sites connecting people across the globe. In this age, people film horrific scenes of violence and pass them along carelessly, filling timelines and feeds with images of the quotidian tragedy of being Black in America. Through my phone, I have witnessed—on the bus, in my bed, and at school—the violent reality of being Black in America.

Beyond growing up in the age of routine, replayed, and recommissioned racialized violence against Black people, I was also raised by two lawyers who met at a public defender’s conference. My father has been a capital defense attorney my entire life. My mother worked at a nonprofit agency while I grew up before working for the state. During this time, she served on numerous committees and boards throughout our small town in North Carolina. Last year, she was appointed by the governor of North Carolina to be a district court judge, overseeing lower-level court proceedings including traffic violations, custody agreements, and DUIs. Nightly dinner conversations included conversations about my father’s recent cases, discussions of the legal system and race, and questions regarding the current state of being Black in the United States. I was raised with a keen awareness of the overarching reach and consequences of the law, police brutality, and racism in the U.S.

⁶ There are too many names to list. The police have killed twenty-seven Black men in the past seventy-three days. “Police Shootings Database 2015-2023: Search by Race, Age, Department,” Washington Post, accessed March 14, 2023, <https://www.washingtonpost.com/investigations/interactive/2022/police-shootings-database-2015-2022-search-by-race-age-department/>.

I have always had a fascination with the law, and it's part of the family business. I assumed that fascination would culminate into becoming a lawyer. However, after taking Dr. Peletz's Law, Discipline, and Social Justice class in the fall of my sophomore year, I encountered and fell in love with legal anthropology. Learning about legal consciousness from Sally Merry's book, *Getting Justice and Getting Even*, I became absorbed in learning about how people use and think about the law.⁷ As I continued my research, I found the experiences of working as a Black woman in the criminal legal system in and around Atlanta to be a fascinating negotiation of power, and I am thrilled to present them here.

1.2 Brief Notes on Terminology and the Black/White Dichotomy

A brief note on terminology is required before I proceed. The interviewees self-identified as Black women, instead of African Americans or women of color. During the interviews, clients and other people working in the CLS were referred to as men or women. I want to recognize and acknowledge how Black individuals who exist outside and against the strict gender binary system have unique experiences working in and being victims of the criminal legal system. Their experiences deserve their own attention and notice, but these issues are not discussed within this paper.

Additionally, when using the term *criminal legal system* (CLS), I refer to police officers, defense attorneys, courts, and the processes relating to incarceration.⁸ The CLS is often referred to as the criminal justice system which assumes the carceral system is equivalent to justice. The specific distinction is important to sociolegal studies as many

⁷ Sally Engle Merry, *Getting Justice and Getting Even: Legal Consciousness Among Working-Class Americans* (University of Chicago Press, 1990).

⁸ "Why We Say 'Criminal Legal System,' Not 'Criminal Justice System,'" Vera Institute of Justice, accessed January 20, 2023, <https://www.vera.org/news/why-we-say-criminal-legal-system-not-criminal-justice-system>.

scholars of legal consciousness extend their work beyond the criminal side of the legal system into the quotidian examples of the legal system in action, such as receipts or traffic signs. I use the term *carceral state* to refer to the larger system of governance in the United States that relies on incarceration as punishment for crimes, as well as money and labor of incarcerated people for the function of the nation⁹. When I refer to *solidarity*, I mean a feeling of unity and the sense of togetherness and agreement on the state of the world, or how it should be.

Additionally, a large focus of this work is within a dichotomous system of race within the United States: Black and white. The black/white system of race is socially constructed rather than biologically determined. There are numerous other races and ethnicities that exist and are affected by the proponents of mass incarceration, racialized police violence, hate crimes, and other versions of systemic and interpersonal racism. The historic and prevailing public narrative of Black versus white within the United States is one of a Black/white spectrum that places other races and ethnicities on a continuum between Blackness and whiteness. Brackette Williams defines ethnicity within anthropological study as “a series of nested dichotomizations of inclusiveness and exclusiveness.”¹⁰ Within this dichotomy, however, Williams argues there are two categories of ethnicities within a country, one that assimilates and one that rejects the assumed homogeneity of the dominating ethnicity. Black Americans are offered as the excluded ethnicity that rejects whiteness—the dominating ethnicity. While focusing on the Black/white dichotomy in the United States often obscures the violence endured by other races and minorities, for the purpose of this paper I wish to highlight both the

⁹ Michel Foucault, *Discipline and Punish : The Birth of the Prison* (New York: Vintage Books, 1979).

¹⁰Brackette F. Williams, “A Class Act: Anthropology and the Race to Nation Across Ethnic Terrain,” *Annual Reviews* 18 (1989): 401–44, <https://www.jstor.org/stable/2155898>, 416

experiences of self-identified Black women as well as how pervasive white supremacy affects those who are categorized with Blackness.

Chapter 2: A Review of the Literature on Legal Consciousness and Black Women as Actors in the Legal System

2.1 Legal Consciousness

Legal consciousness became a major point of sociolegal research in the 1980s and 1990s. Susan Silbey describes legal consciousness as concerned with “the issues of legal hegemony, particularly how the law sustains its institutions’ power despite the persistent gap between the law on the books and the law in action.”¹¹ Numerous other scholars offer a myriad of definitions for legal consciousness. Ewick and Silbey define legal consciousness as “participation in this collective, social production of ideology and hegemony, an integral part of the production of the very same structures that are also experienced as external and constraining.”¹² Chua and Engle define it as “the ways in which people experience, understand, and act in relation to law.”¹³ Sally Engle Merry defined legal consciousness as “the ways people use and know the law.”¹⁴ In Merry’s examination of lower courts in New England, she describes how consciousness develops without realization through people’s lived experiences as well as the structures that define their lives, such as interpersonal engagements with the CLS. While consciousness often refers only to people’s views and feelings, legal consciousness highlights perceptions and opinions as well as people’s use of the law. As such, legal consciousness examines both structural impacts and interactions with the CLS, whether direct or indirect.

¹¹ Susan S. Silbey, “After Legal Consciousness,” *Annual Review of Law and Social Science* 1, no. 1 (December 1, 2005): 323–68, <https://doi.org/10.1146/annurev.lawsocsci.1.041604.115938>, 323.

¹² Ibid, 333.

¹³ Lynette J. Chua and David M. Engel, “Legal Consciousness Reconsidered,” *Annual Review of Law and Social Science* 15, no. 1 (October 13, 2019): 335–53, <https://doi.org/10.1146/annurev-lawsocsci-101518-042717>, 2.

¹⁴ Merry, *Getting Justice and Getting Even*, 5.

I employ Merry's definition of legal consciousness to examine how Black women working in the criminal legal system know and use the law. Merry's interpretation allows analysis into how identity impacts the way Black women use their power as actors in the CLS to achieve community safety and aid victims. Due to their engagements with the law, whether through incarceration, activism, or legal education, their legal consciousness can illuminate how Black women working as actors in the criminal legal system view the carceral state and how they view their work within the system. Legal consciousness for Black women working in the criminal legal system is dependent on their position in the CLS, their class awareness, fictive kinship relationships, their personal interactions with the law, and assumptions of shared Black identity.

Chua and Engle highlight three different elements of legal consciousness that scholars in the sociolegal field assess: worldview, perception, and decision. Worldview refers to "individuals' understanding of their society, their place in it, their positions relative to others, and, accordingly, the manner in which they should perform social interactions."¹⁵ As such, worldview is useful in analyzing why a certain group, or specific group members, might arrive at their legal consciousness. Perception refers to the "interpretation of specific events"¹⁶. The way people perceive events impacts the next element—decision—or how people respond to these events. If a person perceives an event, such as a ticket after a traffic stop with no injuries or abusive treatment, as congruent with their worldview, they will likely decide to not take legal action against the officer who stopped them. Whereas, if a person perceives an event, such as being beaten during a traffic stop, as outside of their worldview, they might seek legal counsel

¹⁵ Chua and Engle, "Legal Consciousness Reconsidered," 3.

¹⁶ Ibid.

to sue the officer or police department. Each of these elements is relevant to the development of a person's legal consciousness and influences decisions that people make regarding the law.

Additionally, Chua and Engle lay out three different categories of study regarding legal consciousness studies: identity, hegemony, and mobilization. For those who focus on identity, the law is “intimately connected” to how people perceive themselves to be.¹⁷ People's worlds are built around the law. Scholars within the hegemony designation focus on the overarching, all-encompassing nature of the law, especially the law's power, even when people attempt to subvert the law. Many of these studies attempt to reveal how invisible aspects of the law still impact citizens' daily activities. Finally, those who study mobilization focus on how the law might be used to change society, including a focus on rights discourses and oppressed populations.

For this study, I employ the identity and mobilization frameworks to assess how Black women working in the CLS use and perceive the law. I use identity to analyze how class factors into Black women's legal consciousness as they forget and think about the people they are defending or prosecuting as well as the historic legal consciousness of Atlanta. While I will address the different class dynamics in Atlanta in the following chapter, the identity framework allows a fuller picture of how class impacts each element of legal consciousness. I use mobilization to understand how Black women in the CLS reject or embrace carceral feminist ethics¹⁸ and how they deploy *legal aid* to achieve their goals of community safety and victim advocacy through the language of the law. Elizabeth Bernstein defines carceral feminism as, “a drift from the welfare state to

¹⁷ Ibid, 4.

¹⁸ Carceral Feminism refers to

the carceral state as the enforcement apparatus for feminist goals.”¹⁹ Carceral feminism is often juxtaposed to abolition feminism, which “takes an intersectional and structural approach to dismantling systems of oppression.”²⁰

2.2 Kinship: Fictive Siblingship, Subjectivity, and Ambivalence

During the interviews, language of fictive siblingship, especially in terms of “sister” and “brother,” routinely appeared. Siblingship relatedness, fictive or otherwise, refers to “equivalent, parallel, or essentially complementary rights, obligations, and experiences, with respect to a specific territorial domain, political office, or other mediating element.”²¹ Fictive siblingship for Black women in the CLS presents itself in two ways: through their role as law enforcement and through their experiences being Black in the U.S. These two mediating elements impact how Black women view their work in the criminal legal system and the relationships they form within the system. The women use language of sibling relationships, such as “our brothers and sisters” or “brothers and sisters in arms.” Such language describes how fictive kinship bonds are created through people’s work and their identity. The kinship relationships for Black women working in the CLS are textured by ambivalence, as some natal kinship relationships deteriorate while women are incarcerated, whereas fictive kinship relationships blossom. Additionally, casting a wider network of fictive kin, especially due to race, causes complications when fictive kin participate in incarcerating one another.

¹⁹ Elizabeth Bernstein, “The Sexual Politics of the ‘New Abolitionism,’” *Differences* 18, no. 3 (December 1, 2007): 128–51, <https://doi.org/10.1215/10407391-2007-013>, 65.

²⁰ Kitana Ananda. “What Is Abolition Feminism and Why Do We Need It Now?” Non Profit News | Nonprofit Quarterly, July 21, 2022. <https://nonprofitquarterly.org/what-is-abolition-feminism-and-why-do-we-need-it-now/>.

²¹ Michael G. Peletz, “Kinship Studies in Late Twentieth-Century Anthropology,” *Annual Review of Anthropology* 24 (1995): 343–72, 350.

In 1983, Carol Stack published an overview of kinship in a small Midwestern Black apartment complex she calls “the Flats.” Within her research she detailed the fictive kinship relationships residents form to resist poverty, unemployment, and precarity. The networks of resistance are required to survive, and are found throughout various sites of oppression in the United States, including the CLS. The ingrained anti-Blackness requires strategies to remedy violence enacted against Black people.²²

Central to my discussion of kinship is the subjectivities of the women I interviewed. Evelyn Blackwood, referencing Sherry Ortner, uses subjectivity rather than identity to offer “a more dynamic perspective on the processes of selfhood.”²³ Blackwood goes on to define subjectivity as “the way an individual perceives themselves in relation to the subject positions they occupy.” Subject position refers to the identity categories that individuals are placed into by the dominant social orderings. For instance, in the United States people are often socially placed into the category of “Queer” if they have sexual practices that are considered non-normative, such as two women sharing an intimate relationship. The subject-positioned category claimed by the women I interviewed is multifaceted. Discussion of identity within the context of race, gender, and law-enforcement—as well as different combinations of these subject positions—reveal the numerous subject positions that women working in the CLS enact. For the purposes of this paper, I use subjectivity and identity in similar ways to note how the categories that these women are placed in are often in line with their self perception and identification.

²² Carol B. Stack, *All Our Kin: Strategies for Survival in a Black Community*, [1st edition]. (New York: Harper & Row, 1974).

²³ Evelyn Blackwood, *Falling into the Lesbi World: Desire and Difference in Indonesia* (University of Hawai'i Press, 2010), <https://www.jstor.org/stable/j.ctt6wqj73>, 21.

Conflicting subject positions require Black women in the CLS to navigate complications and contradictions within their work, interpreted as ambivalence. Ambivalence is defined as “the simultaneous experience of powerful, contradictory emotions or attitudes toward a single phenomenon.”²⁴ How these women negotiate their various subject positions produces emotional reactions when their subject positions contradict one another. As such, dealing with the emotional dimensions of kinship through ambivalence adds nuance to discussions of Black women’s negotiations with their various identities.

2.3 Mass Incarceration of Black Women in the U.S. and Georgia

Black women’s lives are disproportionately affected by mass incarceration across the United States. As of 2020, 1 in 18 Black women will experience incarceration in her lifetime, whereas white women face incarceration at 1 to 111 odds in their lifetime²⁵. From 1977 to 2007, women’s populations in prisons grew 832%. As Michele Goodwin outlines, “At every phase within their life span, Black women’s incarceration dramatically outpaces that of white and Latina women.”²⁶

In 2020 in the United States, 42 in 100,000 women were incarcerated. In Georgia, 55 women per 100,000 female residents are incarcerated. As of December 21, 2022, 3,347 women were incarcerated in Georgia. Of these women, 59.31% are white and 38.84% are Black. White women are sentenced at a slightly higher rate than their proportion of the population and Black women are similarly sentenced at a higher rate than their proportion of the population. While the racial and gender demographics for

²⁴ Michael G. Peletz, “Ambivalence in Kinship since the 1940s,” in *Relative Values: Reconfiguring Kinship Studies*, ed. Sarah Franklin and Susan McKinnon (Durham and London: Duke University Press, 2001), 413–43, <https://doi.org/10.1215/9780822383222>, 413.

²⁵ Michele Goodwin, “The New Jane Crow: Women’s Mass Incarceration,” Just Security, July 20, 2020, <https://www.justsecurity.org/71509/the-new-jane-crow-womens-mass-incarceration/>.

²⁶ Ibid.

incarcerated persons in Georgia are more proportionate than the national demographics, it is important to highlight these current statistics within a trend of Black women's incarceration in the state. In 2005 there was a larger discrepancy in racial demographics between the amount of incarcerated Black women in the state and the number living in the state. Black women were 50.49% of the incarcerated women's population in Georgia, and white women were 49.33%. Over the past 18 years, there has been a slow and steady increase of white women incarcerated in Georgia and a steady decrease of Black women.²⁷ This matches national trends regarding the decrease in women of color in prison.²⁸

Women are incarcerated less frequently than men across the United States and in Georgia; however, they face different hardships while incarcerated. Angela Y. Davis and Cassandra Shaylor (2001) discuss the disproportionate and unique violence that women face within the prison industrial complex. They highlight the invisibility of violence that “takes the form of medical neglect, sexual abuse, lack of reproductive control, loss of parental rights, denial of legal rights and remedies, the devastating effects of isolation, and, of course arbitrary discipline.”²⁹ The scholars outline how incarcerated women often experience some level of PTSD or depression during their incarceration, regardless of previous histories of untreated mental illness. They highlight how the “medicalization model” has been deployed against women, which manifests in most women currently serving time in Georgia being in outpatient mental health treatment.³⁰ This model

²⁷Goodwin, “The New Jane Crow.”

²⁸ Sentencing Project, “Incarcerated Women and Girls,” The Sentencing Project, May 12, 2022, <https://www.sentencingproject.org/fact-sheet/incarcerated-women-and-girls/>.

²⁹ Angela Y. Davis and Cassandra Shaylor, “Race, Gender, and the Prison Industrial Complex: California and Beyond,” *Meridians* 2, no. 1 (2001): 1–25, 1.

³⁰ 78.23% of incarcerated women as of December 31, 2022. Georgia Department of Corrections; Office of Information Technology; Data Management Section, “Inmate Statistical Profile: All Active Inmates,” January 1, 2023, https://gdc.ga.gov/sites/default/files/pdf/Profile_all_inmates_2022_12.pdf.

dictates that those mentally suffering from the effects of prison are unwell, and thus need treatment. The medicalization model offers insight into how the prison system deteriorates women's mental and emotional well-being, while treating them for chronic health issues not previously present.

In a more recent monograph, Carolyn Sufrin examines the multifaceted violence incarcerated women face. As she describes different types of care in the carceral state, Sufrin notes the numerous instances of sexual, physical, and psychological violences that incarcerated women face, especially in their treatment from prison guards. She focuses her analysis on a prison she worked at in San Francisco where most of the prison population in the women's prison she services are Black women.

Sufrin highlights how class dynamics heavily impacted the rise in mass incarceration. Building off scholars who discuss the “penal treatment of poverty,” Sufrin focuses on mass incarceration's disproportionate effects on those who are impoverished and argues that the state has shifted its focus from social safety nets to investing in “an increasingly large and punitive penal system to manage them.”³¹ The war on drugs and mass incarceration had, and continues to have, a disproportionate effect on the poor. In the next chapter, I will focus on how the war on drugs and mass incarceration helped build the current state of the CLS within Atlanta.

Despite the prevalence of Black women's incarceration, Black women are underrepresented in scholarship concerning mass incarceration in the United States. Michelle Alexander glosses over Black women's experiences in *New Jim Crow*, briefly acknowledging the exclusion in her tenth anniversary edition.³² Andrea J. Ritchie attends to these exclusions in *Invisible No More*, arguing that “Black women's

³¹Sufrin, *Jailcare*, 8.

³² Michelle Alexander, *The New Jim Crow*, 2012.

experiences of profiling and often deadly force remain largely invisible in ongoing conversations about the epidemic of racial profiling, police violence, and mass incarceration in the United States.”³³ The disproportionate and unique violence of the criminal justice system against Black women demands attention.

The problem of the invisibility of Black women’s experience with the CLS extends beyond scholarship. Often in media coverage there is a hyper-fixation on Black men’s experience with the carceral system. Coverage of Black women’s experience within the criminal legal system is often limited to the extremes. Examples such as Breonna Taylor’s³⁴ death after police officers charged her apartment and Sandra Bland’s³⁵ death in police custody are highlighted in the extreme, but Black women’s quotidian experiences of violence dealing with the carceral state are under-examined. In recognition of the lack of attention that Black women harmed by the police receive, #SAYHERNAME was started in 2014 by the African American Policy Forum.³⁶ The movement was started to bring attention to the violence Black women encounter at the hands of police. The goals of the campaign include highlighting voices of the family members of women and girls who have been killed by the police. Additionally, the movement aims to call attention to Black women’s unique invisibility and suffering due to police brutality.

Even in progressive spaces, there is a lack of acknowledgement of Black women’s experiences with the prison system. Savannah Shange outlines these dynamics in a

³³ Andrea J. Ritchie, *Invisible No More : Police Violence against Black Women and Women of Color* (Boston: Beacon Press, 2017), 2.

³⁴ “What to Know About Breonna Taylor’s Death - The New York Times,” accessed March 13, 2023, <https://www.nytimes.com/article/breonna-taylor-police.html>.

³⁵ “Sandra Bland, It Turns Out, Filmed Traffic Stop Confrontation Herself - The New York Times,” accessed March 13, 2023, <https://www.nytimes.com/2019/05/07/us/sandra-bland-video-brian-encinia.html>.

³⁶ “SAY HER NAME,” AAPF, accessed March 13, 2023, <https://www.aapf.org/sayhername>.

progressive school in “neoliberal San Francisco.”³⁷ She details breaking up a fight between two girls potentially in a romantic quarrel, one a stud, or “masculine presenting [person] assigned female at birth”³⁸ and the other student a femme--feminine presenting. After the fight, the femme, La’Nea, was punished while the school decided to protect the stud, Kairo, who had been in legal trouble before. Shange details how “the hypervisibility of Black boys as victims of the system earned [Kairo] protection within the anti-carceral logics of the school.”³⁹ La’Nea was not protected. Shange describes the consequences of hyper-fixation on masculinity within neoliberal, progressive, and anti-carceral institutions, stating “Le’Nea’s putatively unremarkable performance of Black girlhood afforded her no protection in the eyes of the state; no self to defend, indeed”.⁴⁰ The masculinization of mass incarceration leads to a lack of attention on how Black women are impacted by the system. Shange describes how even progressive politics are impacted by these logics. Thus, we can view discussions and perceptions of the CLS, even in some progressive spaces, as focused on Black masculinity and disinterested in Black feminine experiences.

Misogynoir represents the statistics regarding mass incarceration, the treatment of Black femme folk, and the lack of attention that Black women receive regarding the violence against them. Coined by Moya Bailey to name the disparate treatment Black women receive on the internet and beyond, misogynoir refers to the “uniquely co-constitutive racialized and sexist violence that befalls Black women.”⁴¹ Focused on

³⁷ Savannah Shange, *Progressive Dystopia : Abolition, Antiracism, Schooling San Francisco* (Durham: Duke University Press, 2019), 44.

³⁸ Stud is a term that usually refers to Black LGBTQ+ masculine presenting people who were assigned female at birth and usually date women.

³⁹ Shange, *Progressive Dystopia*, 43.

⁴⁰ Shange, *Progressive Dystopia*, 43.

⁴¹ Moya Bailey, *Misogynoir Transformed : Black Women’s Digital Resistance* (New York: New York University Press, 2021), 1.

the interplay between anti-Blackness and misogyny, misogynoir explains how the violence that is enacted against Black women is because of the combination of their gender and race and must be understood with a lens that accounts for a multitude of identities.

Misogynoir has roots in intersectionality, a term coined by legal scholar Kimberlee Crenshaw in 1989. Crenshaw outlines how anti-discrimination laws did not consider how Black women are impacted by the combination of their racial and gender identity.⁴² Instead, Black women are often categorized into the identity of woman or Black. The intersection of these identities—as well as others—must be recognized to understand Black women’s experiences in the CLS. While Crenshaw coined the term *intersectionality*, Black feminist scholars had emphasized these ideas for decades. Notably, a Black feminist lesbian organization, the Combahee River Collective, outlined the discrimination they faced due to the combination of their identities.⁴³ To analyze Black women’s experiences working in and interacting with the CLS, it is important to focus on how their experiences are impacted by the intersection of multiple identities, including, but not limited to, race, gender, class, and disability— often the focus of abolition feminism.

2.4 Black Women Working in the Criminal Legal System

Despite Black Americans accounting for 12% of the U.S. population, only 5% of lawyers in the U.S. are Black.⁴⁴ Black women working in the CLS face different

⁴² Kimberle Crenshaw, “Demarginalizing the Intersection of Race and Sex: A Black Feminist Critique of Antidiscrimination Doctrine, Feminist Theory and Antiracist Politics,” *University of Chicago Legal Forum* 1989 (1989): 139.

⁴³ Keeanga-Yamahitta Taylor, *How We Get Free : Black Feminism and the Combahee River Collective* (Chicago, IL: Haymarket Books, 2017).

⁴⁴ “Lawyers by Race & Ethnicity,” accessed March 13, 2023, https://www.americanbar.org/groups/young_lawyers/projects/men-of-color/lawyer-demographics/.

challenges than their white female and Black male counterparts, Carla D. Pratt outlines in a 2012 study of Black women's experience as lawyers, "the professional identity of Black women lawyers is shaped, in part, by the particular stereotypes applied to Black womanhood."⁴⁵ These stereotypes include, "the asexual Mammie, the hypersexual Jezebel, the angry Sapphire, and the super independent Strong Black Woman."⁴⁶ As such, Black women working in the CLS must attend to both their jobs and their persona within their interactions.

Beyond the expectations of Black women's behaviors while practicing law, Pratt cites the expectations for Black women lawyers' engagement with their communities, "Black women are burdened with the 'ethic of giving back' to the African American community whereas white women are generally not burdened with the expectation of performing community service aimed at uplifting their racial group."⁴⁷ The expectation of giving back to the Black community textures the work of many Black women, but especially those who work in the CLS. As such, Black women's perceptions of CLS are often impacted by both the stereotypes deployed against them as well as expectations regarding how they use their work to advance the Black community.

Since there is often an expectation that Black women should *give back* to the Black community, we can view Black women's legal consciousness through the lens of solidarity. The expectation of solidarity defines how Black women's actions in the CLS are viewed by outsiders as well as each other.

⁴⁵ Carla D. Pratt, "Sisters in Law: Black Women Lawyers' Struggle for Advancement," *Michigan State Law Review* 2012, no. 5 (2012): 1777–96, 1785.

⁴⁶ Bianca C. Williams, *The Pursuit of Happiness : Black Women, Diasporic Dreams, and the Politics of Emotional Transnationalism* (Durham: Duke University Press, 2018), 113.

⁴⁷ Pratt, "Sisters in Law.", 1793.

Historically, solidarity is not always present with Black actors in the CLS to victims of police brutality; it is impacted by gender and class. Laurence Ralph demonstrates a Black woman's complicity through silence during a prolonged instant of police brutality while analyze police torture in Chicago. Ralph highlights Doris Byrd, a Black female police officer that knew of the notorious torture perpetrated by police chief Jon Burge.⁴⁸ While Ralph seemingly understands that Byrd made a choice to stay silent to protect her career, residents view her as making a "devil's bargain."⁴⁹ The view of Black women's complicity in the torture enacted by a white male police chief reveals the expectations of solidarity regarding Black women as actors in the CLS. Ralph views Byrd's post-retirement statement as an attempt to remedy the silences of her tenure as a police officer and offers her a chance to rectify the violence of her previous silence. Ralph's assessment of how Black residents in Chicago reacted to Byrd demonstrates how some people view members of law enforcement as connected to the wrongdoings of others. Personal responsibility to a community is positioned above one's job.

The lack of solidarity in the criminal legal system lies largely in class differences. In *Locking Up Our Own*, James Forman details Black communities' involvement in mass incarceration and the war on drugs in the DC area. Emphasizing the lack of attention that scholars of criminal justice give to class differences, Foreman posits, "although mass incarceration harms Black America as a whole, its most direct victims are the poorest, least educated Blacks."⁵⁰ He traces how some Black officials and civil rights activists thought they were "entitled to expanded police forces and courts" due to

⁴⁸ Laurence Ralph, *The Torture Letters: Reckoning with Police Violence*, The Torture Letters (University of Chicago Press, 2020), <https://doi.org/10.7208/9780226729800>.

⁴⁹ Ibid.

⁵⁰ James Forman, *Locking up Our Own : Crime and Punishment in Black America*, First edition. (New York: Farrar, Straus and Giroux, 2017), 13.

a history of being denied these resources by the state.⁵¹ Calls for expanded police forces often centered on demands to hire more Black police officers. Black preachers, civil rights leaders, and members of Black news organizations called for an increase in police officers, and many Black people wanted to become police officers. The calls *for* more police often came from those within the upper- and middle-class Black population, rather than the working class that would become those officers. Advocates for more police offered numerous reasons behind their calls: Black officers would fight crime more effectively without violence, they would recognize “social distinctions” between Black people, Black community members would trust them more, and they would reduce crime, etc. As different facets of the Black community fought against racialized police brutality, they argued for more Black police as a multifaceted solution to crime within Black communities as well as police brutality.⁵²

Once Black officers began to be hired in large numbers, the effects were not the picture of racial equality proponents of the policies wanted. Foreman argues the limited impact was due to the assumption of racial solidarity within all facets of the Black community. The assumption of racial solidarity within the Black community fails to acknowledge how class differences create vastly different worlds for poorer Black communities compared to middle- and upper-class Black communities. Poor Black communities are more likely to be policed, surveilled, punished, and plagued by violence than middle- and upper-class Black communities.⁵³ As such, analyzing the class differences between Black communities and Black law enforcement e.g., prosecutors, courts, police, sheriffs, etc. remain necessary when speaking with Black women who

⁵¹ Forman, *Locking up Our Own*, 11.

⁵² *Ibid.*

⁵³ *Ibid.*

work in the system about their perceptions. These perceptions are predicated on gender, race, *and* class as part of people's multifaceted identities, and as such must be attended to through an analysis which also includes class.

Foreman's picture of Black officials' involvement in mass incarceration and the war on drugs is not intended to exclusively blame Black people for the policies, but rather to add nuance to how we arrived at the consequences of policies against drugs and for mass incarceration. Class dynamics are central to identity and the perceptions of the Black women I interviewed. Since crime continues to disproportionately affect those who have least access to resources, especially financial resources, understanding the lack of solidarity through a class analysis is necessary to understanding why Black women think about the people they prosecute and defend in the way they do.

Chapter 3: The Middle-Class, Crime, and Leadership in the Black Mecca: A Site Introduction

3.1 Dekalb and Fulton: The Counties of Atlanta

Two counties in and around Atlanta, Dekalb and Fulton, are the site of this study. According to a 2021 U.S. Census Bureau estimate, Dekalb county is home to 757,728 residents; 54.6% of those residents are Black, 29.5% are white, 8.6% are Hispanic or Latino,⁵⁴ 6.5% are Asian, and 0.5% are Native American. The county encompasses the Northeastern part of Atlanta—around 10% of the city.⁵⁵

According to the U.S. Census Bureau 2021 estimate, Fulton County, which contains the other 90% of Atlanta, is home to 1,065,344 residents. 39.0% of those people are white, 44.7% are Black, 7.3% are Hispanic or Latino, 7.8% are Asian, and 0.3% or Native American.⁵⁶

By focusing the analyses on these two counties rather than the city of Atlanta, I am able to investigate how proximity to the metro-Atlanta area impacts Black women's perceptions of the CLS. Some of the women I interviewed worked in Dekalb county, the others worked in Fulton. Each of the counties has different procedures they follow within their courtroom, and they each prosecute and defend people who have been charged in and around Atlanta and are affected by Atlanta politics, therefore offering insight into the variable dynamics of the city.

⁵⁴ In the U.S. Census Hispanic and Latino are considered ethnicities, and therefore are combined in the statistics for race.

⁵⁵ "U.S. Census Bureau QuickFacts."

⁵⁶ Ibid.

3.2 A Brief History of Black Leaders and the Middle Class in Atlanta

During the 1950s and 1960s Civil Rights Movement, there was an increase in representation for Black elected leaders in Atlanta.⁵⁷ During this period, “community leaders became increasingly politically active over issues of representation.”⁵⁸ This focus led to the election of Atlanta’s first Black Mayor, Maynard Jackson, in 1973. Five years later, the first Black police chief was elected in the city. Jackson’s tenure was marked by the prioritization of maintaining the image of Atlanta as a place for businesses – Black and otherwise – to thrive, as well as concerns over crime rates in poor Black communities.

In the decade following 1975, the Atlanta Police Department had the largest number of African American police officers in the country. Atlanta has a rich history of Black actors working in numerous sectors of the public works. Despite this history, during the Child Murders (1979-1981) there was a lack of attention to and action for poor Black communities as victims. The city’s disregard of these victims led to dissatisfaction with Black political leaders in the city. Mayor Jackson’s lack of solution to the fear and violence enacted against poor Black communities as well as media framing the missing and murdered children as “hustlers” led to distrust of the Black elite in the city. The response to the Atlanta Child Murders is in line with the criminalization of the poor Black community in Atlanta. Criminalization refers to people being “subjected to regulation, containment, surveillance, and punishment, but deemed unworthy of

⁵⁷ “Black Leaders of the Civil Rights Movement,” *New Georgia Encyclopedia* (blog), accessed March 14, 2023, <https://www.georgiaencyclopedia.org/exhibition/black-leaders-of-the-civil-rights-movement/>.

⁵⁸ Andrew J. Grandage, Britt S. Aliperti, and Brian N. Williams, “Leveraging the Intersection of Politics, Problem, and Policy in Organizational and Social Change: An Historical Analysis of the Detroit, Los Angeles, and Atlanta Police Department,” in *Policing and Race in America: Economic, Political, and Social Dynamics*, ed. James D. Ward (Lexington Books, 2017), 72.

protection.”⁵⁹ Deemed unworthy of protection, people in poor Black neighborhoods across Atlanta feared for their lives as droves of Black children and young adults were kidnapped and murdered. Residents who voted for and cheered Atlanta’s first Black mayor became disillusioned by Jackson’s mayoral work and the politics of representation within the city. Since the first Black mayor, low-income communities have understood key actors’ focus was not on all Black residents, but those who maintained their proximity to wealth and power.⁶⁰ These legacies have extended into today, and the impacts are the lack of solidarity between the Black middle- and upper-classes compared to those with less wealth. When analyzing Black women’s perceptions of the legal system in Atlanta, where these women fall in the class line compared to many of their clients is important to note, as is the differential treatment that poor Black people face in and around the city in relation to the CLS.

3.3 Black Women as Representatives in the Black Mecca

Beyond the historical legacy of the tensions between the middle- and upper-classes, Dekalb county is a particularly interesting site for investigating Black women actors in the criminal legal system due to the high number of Black female judges. Fulton has five Black female judges sitting on their Superior Court out of twenty Justices.⁶¹ Currently, seven out of ten judges on the Superior Court in Dekalb county are Black women.⁶² As such, the dynamics of Black women having power within the CLS are salient within Dekalb and Fulton. Beyond the amount of Black female judges in each

⁵⁹ Robin D. G. Kelley, “Thug Nation: On State Violence and Disposability,” in *Policing the Planet : Why the Policing Crisis Led to Black Lives Matter* (London: Verso, 2016), 17–31, 27

⁶⁰Maurice J. Hobson, *The Legend of the Black Mecca: Politics and Class in the Making of Modern Atlanta* (UNC Press Books, 2017).

⁶¹ “Meet Your Superior Court Judges| Superior Court of Fulton County,” accessed March 13, 2023, <https://www.fultoncourt.org/superior-court-judges>.

⁶²“Judges,” accessed March 13, 2023, <https://www.dekalbsuperiorcourt.com/judges/>.

county, a large number of Black women work in each prosecutor's office in the counties. While the exact number of Black women working in the prosecutor's office in each county fluctuates across lawyers, victims' advocates, bailiffs, and other personnel, two women from the Dekalb office estimated fifty to sixty Black women work in their office. Thus, when we examine how Black women are interacting with the CLS in these places, we can also see the impact of working with other Black women in the system and those who are entering into the system by choice or force.

The Black women I interviewed operate in a class often higher than the Black men and women who they prosecute and defend, especially since many women are unemployed before they enter incarceration.⁶³ This focus on Black women as actors as well as firmly situated in the middle class is useful, as a lot of the literature within the anthropology of Black women focuses on the marginalized, criminalized, hyper-surveilled Black women and girls, rather than those who are affected by these dynamics to a lesser extent.⁶⁴ Black women are not a monolith and writing about those with more access to power and wealth allows us to understand the effects of moving up in positions of power and class as an overtly oppressed group within the United States.

⁶³ Georgia Department of Corrections; Office of Information Technology; Data Management Section, "Inmate Statistical Profile: All Active Inmates."

⁶⁴ Shange 2020; Sufrin 2020; Cox 2016; Crenshaw 1989;).

Chapter 4: Methodology

Despite some scholarship on Black American women's quotidian experiences, Bianca Williams describes how works often amount to "deficit-based scholarship that focuses on what Black women lack and views them as a problem to be fixed."⁶⁵ In the focus on Black women as problems, scholars fail to assess Black women as agents in charge of their own lives. Instead, Black women are written as things to be acted *upon* rather than as actors themselves.

My methodology is grounded in privileging Black women's voices when they speak about their own experiences. Citing Black women's exclusion in studies regarding the CLS, Marlo L. Burns notes the importance of using personal narratives when discussing Black women's experiences with the CLS. He discusses his grandmother's mistreatment during her interactions with the CLS after she was convicted of a robbery.

He also discusses Millie Simpson's narrative, a Black woman who was part of a research study on legal consciousness. Burns seeks to privilege Black women's voices because "narrative methodology [...] remains essential to the project of charting the space between law as it is imagined and law as it is experienced."⁶⁶ This project aims to navigate that space through a narrative methodology instead of an archival or survey model. In-depth narratives through semi-structured interviews allow the participant to direct a large part of the conversation and explain their answers, rather than be silenced through historical archives or be confined by strict survey questions.

Due to my desire to privilege the voices of Black women, my methods consisted of interviewing Black women working in the CLS in Dekalb County and Fulton County in

⁶⁵ Williams, *The Pursuit of Happiness*, 3.

⁶⁶Mario L. Barnes, "Black Women's Stories and the Criminal Law: Restating the Power of Narrative Color, Feminism, and the State," *U.C. Davis Law Review* 39, no. 3 (2006 2005): 941–90.

Georgia. I created one focus group of Black women working in the criminal defense side of the legal system and interviewed a total 5 Black women on this side. For the defense side, one of the interviews was conducted over Zoom and audio recorded. The other was conducted as a discussion group in-person with four women working for a non-profit in midtown Atlanta.

Additionally, I interviewed four Black women working on the prosecution side of the criminal legal system. For these interviews, one was in-person at the Dekalb County Juvenile Courthouse and audio recorded. Another was in person at the downtown Dekalb County courthouse and not audio recorded. The interviews that were recorded were transcribed using the transcription service, Happy Scribe, which I later edited for accuracy. After transcribing the interviews, I replaced interviewee names with pseudonyms.

The semi-structured interviews all ranged from forty-five to ninety minutes in length. I recruited interviewees by reaching out to criminal defense organizations, reaching out to women in each county's office, and through personal networks. In addition to connecting with various Black women through organizations and government positions, I used snowball sampling to find other potential interview participants. I applied for and obtained the necessary approvals from the Emory University Institutional Review Board (IRB) prior to recruitment and data collection. The Emory IRB deemed that this study met the criteria for exemption from further review from the IRB.

Interview topics largely focused on Black women's experience working in their current role, what led them to their work in the criminal legal system, and the purpose of their work. I emphasized the importance of interviewees sharing the aspects of their

work and the criminal legal system they found salient. I gave each interviewee a pseudonym after their interviews were transcribed to protect their privacy and encourage honesty in our interviews.

In addition to my interviews, I virtually observed court by watching live streams of court sessions in each county on Zoom to garner a sense of the potential impact of the courtroom on Black women's experiences within the criminal legal system. While analyzing my interviews and court-watching experience, I looked for common themes and points of departure between two groups of Black women working in the criminal legal system: Black women working on the prosecution and Black women working on the defense side. I also analyzed moments that paralleled or deviated from my literature review to see if the information corresponded with previous conceptions of Black women's lives in the criminal legal system.

Chapter 5: Black Women Working as Prosecutors

Throughout my interviews with Black women working as prosecutors, two common themes emerged concerning kinship and solidarity. Most of the women indicated they felt varying levels of kinship, especially fictive siblingship relatedness, between Black people and law enforcement. It is important to note when discussing “fictive” kinship, it is not a term that the women I interviewed used. Instead, the term describes the relationship between non-blood related people.⁶⁷ In terms of solidarity, they felt as though they were in solidarity with the community, but the feeling is one-sided: or -- the community members did not feel the same. The women prosecutors especially believe they are in solidarity with victims who they feel are often silenced in conversations regarding the CLS. Through this solidarity with victims, they enact carceral feminist ethics, imagining the CLS as the solution for violence in communities. Conversations surrounding fictive siblingship, solidarity, ambivalence, and community encompassed how these women view their work as prosecutors. Additionally, they impact how they work with other Black women in the criminal legal system.

5.1 Fictive Siblings in Arms and Carceral Play Aunties

The kinship bonds that the women felt were two-fold, one concerning sibling relatedness with law enforcement and another feeling of “auntie” with the Black men they often prosecuted. In my interviews with two different women working in the homicide division in Dekalb County, one woman, Mariah, thought of the police as their “brothers and sisters in arms” and that they were “one and the same.” She also mentioned that prosecutors, like police officers, had conceal carry permits for weapons

⁶⁷ It is important to note that biological kinship does not necessarily occur between relationships between blood-related people who are automatically kin. Despite this, for the purposes of this study I am using fictive to define them as such. It is outside of the confines of this study to address the extent at which blood relationships define kinship.

and were charged with protecting and serving the public. Additionally, they work together on cases, and the police often testify for the prosecution in courtrooms. Their close relationship to other law enforcement shows they view part of their identity as prosecutors as complementary to other members of law enforcement, such as police officers, bailiffs, and other people who work to defend the community who are physically armed. The women express a complementary relationship to other members within law enforcement, and they must negotiate their role as prosecutors in their communities. As such, part of their subjectivity involves the process of becoming law enforcement who they come to regard as fictive kin.

One woman I interviewed, Carmen, took issue with the close association prosecutors had to other members of law enforcement. She said it was one of the reasons why prosecutors were criticized and traditionally get a “bad rap.” She did not believe that law enforcement created a relationship that mimicked a fictive sibling relationship. Instead, she thought they should be considered different kinds of actors within the CLS. Multiple women expressed that their families held similar sentiments. They discussed the issues with their families that arose from them working as prosecutors. Two mentioned being told they were “working for The Man” by their families. “The Man” is a common euphemism for the government or law enforcement in some parts of the Black community. The close bond of siblingship causes fissures of identity and accusations of betrayal. A dual lifestyle is required, one that endorses the values, roles, and goals of law enforcements, and one that honors natal kin.

Beyond the ambivalence in kinship between Black law enforcement and the Black community in Atlanta, one woman, Sasha, mentioned an interesting dynamic between working as a Black woman prosecuting mostly Black men. In our interview, Sasha noted

that she felt as though the men she was prosecuting saw her as an “auntie” figure. When talking about Black male defendants, Sasha said,

With my experience, I’ve had the occasion to have Black guys see me in the courtroom and, I mean, I’m auntie, it doesn’t matter. I mean, I could be saying ten years, I’m about to give a dude fifteen years. It’s something about me a lot of times, and I’ve heard a lot of the Black female attorneys here say the same thing, that they identify with us in a way that is very different.

Sasha’s mention of “auntie” as a role shared by other Black women in her office reveals one of the ways gender identity and presentation are often central to how some Black women believe they are viewed by others while they are in the courtroom. An auntie, compared to an aunt, is often an older close family friend or community member who has the power to mentor or advise a younger person. Through Shange’s ethnographic work, we see a play-auntie mitigating a fight between two girls at the school she worked at in San Francisco. Shange expands upon Mel Michelle Lewis’ conception of the “femme ‘play ‘auntie’ performance” and connected it to her own identity as a Black lesbian, like how Lewis connected the femme play auntie to Black lesbian professors.⁶⁸

Kareem Khubchandani describes aunties as “women, femme, and queer figures adjacent to or at the periphery of a nuclear family formation.”⁶⁹ Khubchandani extends their analysis beyond the nuclear family to include other institutions that “reproduce heteropatriarchal, capitalist ideologies and structures.” When speaking of kinship and aunties, they state that these femme figures exist in association with biological connections and generational ties. The history of aunties within U.S. Black culture is important to note as well. The mammy mascot of “Aunt Jemima” was a product of

⁶⁸ Shange, *Progressive Dystopia*, 43.

⁶⁹ Kareem Khubchandani, “Critical Aunty Studies: An Auntribution,” *Text and Performance Quarterly* 42, no. 3 (July 3, 2022): 221–45, <https://doi.org/10.1080/10462937.2022.2081912>.

misogynoir discontinued by PepsiCo in 2021.⁷⁰ The legacy of the caricature spokeswoman, as well as associations of auntie with “sexist, ageist, ableist, and fatphobic” notions has led some famous Black women to disavow the title.⁷¹ Rather than disassociate from the term, Sasha and other Black female prosecutor’s view their roles as guardians or stewards of the Black community, yet, their mentorship results in carceral punishment as they perform these roles.

There is a parallel dynamic with Black women in roles of authority claiming the role of “auntie” in their work as prosecutors. None of the women I interviewed disclosed their sexuality to me, and thus their relationship to queerness is unknown. However, each displayed traditional versions of Black femininity within the United States—they wore heels, had manicures, wore pants suits with blouses rather than button ups, and wore light makeup. Within the workplace, they perform and claim femininity, leading to the gendered and racialized performance of their roles as prosecutors. As Sasha describes the role of auntie, she notes how gender enters the courtrooms. She builds trust with the Black men she incarcerates. She takes on the role of an authoritative family member punishing them for their wrongdoing. Instead of doing so in the household as a member of the family, she takes on this role on a larger scale as an actor working for the carceral state. Gendered family dynamics are reproduced in the courtroom, as if there is a performance of reprimanding played out through a state apparatus. While the punishment for a child in the home may result in a ten to fifteen minute timeout, the consequences of this public performance can be, as Sasha indicates, ten to fifteen years of incarceration.

⁷⁰ Chauncey Alcorn, “Aunt Jemima Finally Has a New Name | CNN Business,” CNN, February 9, 2021, <https://www.cnn.com/2021/02/09/business/aunt-jemima-new-name/index.html>.

⁷¹ Khubchandani, “Critical Aunty Studies.”

Sasha felt ambivalence as a Black woman who prosecutes Black men. Their shared subject position, being Black in the U.S., led to feelings of kinship and unity that she had difficulty rectifying. At the end of our interview, she reflected on how increasingly difficult it is for her to prosecute Black men. “I mean it’s hard to work with white people and you’re prosecuting your people. But that’s something we don’t talk about, but it’s there.” She views the men she is prosecuting as part of a shared collective identity due to their Blackness. She sees them as part of her kinship network, and that leads to a strong emotional reaction to incarcerating them. The complication can be seen through the lens of ambivalence; her difficulty prosecuting Black men produces strong complications due to the subject position she occupies, both being Black and a prosecutor.

Sasha was the interviewee who expressed the most reservations about her work prosecuting Black men. Towards the end of the interview, she talked about the importance of “being able to separate things.” She believes, in part, that she is good at her job because of these separations, stating “I think I’m successful as a prosecutor because I am able to cut blinders off. But I will say as I get older, it is harder to put the blinders on. It’s definitely harder. My auntie, what did she say? Something about once you know something, you can’t unknow it.” The blinders she describes seem to reference prosecuting Black people. Her internal battle regarding prosecuting people she feels she shared kinship and collective identity with makes her job more difficult, and reveals how incarcerating those with a shared identity is an issue for some of these women.

The feeling of unity and shared subject positions do not prevent her from doing her work, but instead causes her to feel complications with the nature of her work. Her problems with working with white people reveal the “us vs. them” mindset present in

the criminal legal system. She recognizes the history of white people incarcerating and policing Black people and that legacy impacts how she feels about her work today, illustrated by the difficulty she faces in aligning herself with white people as she prosecutes Black people.

5.2 Solidarity Through a Carceral Feminist Ethic

Sentiments and comments pertaining to solidarity were present throughout the interviews, notably the sense of obligation that prosecutors felt toward victims. Multiple women indicated part of their job function was to keep their communities safe and advocate for victims of various crimes, including domestic violence. As such, they see the CLS as the way to help survivors and remedy some of the harm inflicted on them. Several prosecutors commented they feel their job charge involves protecting the community, regardless of what the victim or survivor has done. Sasha emphasized this focus saying,

What I consider a measure of success is if I can take a case, let's say your stereotypical murder, which is drugs [...] But in those instances I've had the pleasure, although unfortunate, to sit with these next of kin and all of those who come into the system and think, I'm not going to care because their son was buying drugs and their son was selling it. And what I've been able to do is say, listen, I don't care what he did. He didn't deserve to kill him. And you see a few members of the family change during that time with them. And my hope is that when they go into the community something happens, because it will, that they can say, Well they were there for me. They were there for our family. Even sometimes if you don't get the result, you won't. And those families have actually been the ones that have been the kindest to me. So, I hope their experience with us showed them something different. We always talk about this system, but there are people in it. You just try to affect who you can.

Sasha wishes to do what is best for the victim. She wants to personalize the process of the CLS and be present for victims she feels are often forgotten. According to Mariah and Wanda, the focus on victimhood also extends to the lack of attention victims receive in the media. Wanda believes people “don't see the victims” and that prosecutors

tend to “see more free [the defendant] than justice for [the victim] shirts.” In her perception, the community, celebrities, news, and social media tend to highlight the defendant’s plight rather than the harm done to victims.

Each of the women represent a carceral feminist ethic within their work. Carceral feminism typically refers to crimes that are committed against women, such as battery and sexual violence. Rather than advocate for systemic changes to prevent violence against women, carceral feminism advances the CLS as the solution to violence against women and violence in general. Alternatively, abolition feminism turns away from the carceral system and embraces intersectional approaches to remedy harm. It embraces the contradictions within feminism and abolition to work towards a future centered on accountability and victim safety.⁷² The carceral feminism Black female prosecutors enact is focused on community safety and centering victims. Rather than prevent violence, the focus on victims obscures the opportunity for systemic change and leaves the systemic roots of crime unchallenged.

Solidarity, however, is not universally felt. Reminiscent of the ambivalence felt in fictive kinship networks, some prosecutors noted that community members believe their work is harmful to the community. The disconnect between help and harm creates an “us” vs. “them” mentality for the prosecution and the wider community, furthering the lack of understanding prosecutors believe the community has for their work. Carmen noted the criticism seems unfair, and feels as though prosecutors are “underappreciated” in the broader community. Carmen thinks there is an “expectation someone will do [her job]” which causes the community to undervalue the work they do.

⁷² Davis, Angela Y., Gina Dent, Erica R. Meiners, and Beth E. Richie. *Abolition. Feminism. Now.* Haymarket Books, 2022.

She emphasized the role of the media, especially media coverage of recent police shootings of Black men, “Every news story is lumped together, every shooting of a Black man gets lumped into racist police.” She believes that the media impacts the lack of solidarity, rather than the work she performs. She believes the community lacks an understanding about her role and that it is “easier for people to blame” and “easier for people to be mad” than to think critically about how the news presents stories about the CLS. The lack of solidarity between the community and prosecutors reveals how carceral feminist ethics can fail prosecutors. Rather than being associated with anti-violence, or anti-gender-based violence, the women are categorized with police officers. Instead of being stewards of community, the women are seen as complicit in race-based police brutality, furthering the schism between community and law enforcement.

Carceral feminist ethics are performed with the goal of solidarity but fracture communities. After the following section, I outline carceral feminist ethics in action during a bond hearing. While the victim wants the defendant to be released on bond, the prosecutor advocates for the defendant to remain in detention pending trial.

5.3 Legal Aid: The Language of Mobilization

An important dimension of Black women working in the CLS’s behavior is how they use the language of the law to aid members of their community. “Legal aid” is the term I use to refer to the language Black female prosecutors use to help communities and victims in and out of the courtroom. I derive the term from the concept of lawfare. Craig A. Jones discusses the range of definitions surrounding how scholars conceptualize the law as a weapon in war. He notes that lawfare is “a practice and something that is performed by social actors in the milieu of enquiry” which speaks to

the variable nature of lawfare.⁷³ While lawfare talks about the negative ways legal rhetoric is deployed, legal aid refers to how the law assists prosecutors' advocacy for victims and the community. Legal aid is used by various actors across the CLS and is utilized differently based on their goals. For prosecutors legal aid is deployed to achieve community safety and protect victims, whereas for defense workers it is used to aid their clients release through legal language. Legal aid reveals how the law is manipulated in varied arenas to appear as a helpful tool.⁷⁴

When asked to define/describe the function of their roles, each prosecutor mentioned protecting the community. The women are not lawmakers; they use the language of the law to advance their goal of community safety. The language of the law is built on precedent, legal statutes, and courtroom etiquette.

For instance, Sasha discussed how she was trained to consider if someone should be charged with a felony,

I had a really great senior partner, my trial partner. And I remember one of the first things she ever said was, Is that worth him losing his right to bear an arm? Is that worth him being a felon? There are certain rights that when you decide this person should be a felon, you are saying they don't deserve this.

Being convicted of a felony leads to several civil liberties being revoked, Including the right to serve on a jury, the right to bear arms, and the right to vote. Due to the severe consequences of being convicted of a felony, Sasha reveals she takes careful consideration regarding how people are charged. The language and categorization of the law impacts how she practices the law. While laws are enshrined in codes and precedent, Sasha renders the law malleable through these considerations. She decides to

⁷³ Craig A. Jones, "Lawfare and the Juridification of Late Modern War," *Progress in Human Geography* 40, no. 2 (April 1, 2016): 221–39, <https://doi.org/10.1177/0309132515572270>, 232–233.

⁷⁴ Ibid.

help her community through these designations by either categorizing someone as a felon and removing their voice from the community, or ensuring they maintain their civil liberties.

Legal Aid is the language of carceral feminism. Prosecutors argue incarceration aids the community, or survivors, and will rehabilitate the defendant. As such, in courtrooms they argue for the caging of defendants to help communities. To help those who have been wronged, the state argues that the incarceration of the alleged perpetrator would aid the survivors' healing. Incarceration is deployed as a model for community healing, accountability, and restoration. Legal Aid is the language prosecutors use to ensure that they can advocate for victims and the government in a way they see fitting. The proceeding section details how prosecutors' version of legal aid can differ from victims, leading to choices that harm victims and their communities. In addition, the bond hearings display a failure of carceral feminist ethics when it is deployed in the courtroom.

5.4 Inner Workings of Solidarity and Community Protection: Bond Hearings

In criminal cases, bond serves as an assurance that defendants will return to court for their trials. Bond is set by the presiding judge, but there are sometimes generalized amounts that are set by the jurisdiction. During bond hearings, defense attorneys often argue in front of a judge why their client should receive either a reduced bond, or a bond if they have not originally been granted one at a previous pretrial hearing. While describing what impacts how she argues about bond, Sasha mentioned the AYALA criteria, a statute derived from a Georgia Supreme Court Case, that must be taken into consideration when advocating against someone receiving a reduced bond or

attempting to deny bond all together.⁷⁵ There are four specific criteria in Georgia Superior Court that prosecutors may argue to deny someone bond known as the AYALA factors: (1) does the defendant pose a significant risk of fleeing from the jurisdiction of the court or failing to appear in court when required? (2) does the defendant pose a significant threat or danger to a person, the community, or to any property in the community? (3) does the defendant pose a significant risk of committing a felony pending trial? (4) does the defendant pose a significant risk of intimidating witnesses or otherwise obstructing the administration of justice?⁷⁶ Prosecutors must choose one of four of these reasons when arguing in front of a judge why a defendant's bond should be raised or revoked altogether.

During my research, I observed two bond hearings that offered insight into the arguments for both victims and community that prosecutors used. On January 23, 2023 I observed the courtroom of Kimberly M. Esmond⁷⁷ over YouTube livestream. Judge Esmond is a Black woman who was elected superior court judge in Fulton County. During this session she listened to a bond hearing that was filed by a privately hired Black male defense attorney, Matthew, on behalf of his Black male client. He argued for a \$20,000 bond for his client Joshua. His argument consisted of him talking about Joshua's life, describing him as a twenty-two-year-old man who was the eldest of his five siblings. He talked about his two children under the age of four who he was working two jobs to provide for. He noted that he had no juvenile or felony record and that he did not resist arrest. He also emphasized that he did not "alter the course of [his] behavior" after

⁷⁵ "Ayala v. State," Justia Law, accessed March 13, 2023, <https://law.justia.com/cases/georgia/supreme-court/1993/s92a1154-1.html>.

⁷⁶ Ibid.

⁷⁷ *Virtual Plea and Arraignment Calendars*, accessed January 23, 2023, <https://www.youtube.com/watch?v=BLuStWXnMyc>.

the alleged crime, meaning he did not attempt to flee the state or cover his alleged actions. After Matthew finished his description of the defendant's life, Judge Esmond asked a few questions about the duration of Joshua's employment before his arrest, how far in high school he made it, and where he would stay if released on bond. After this, the Assistant District Attorney, a Black man named Jason, gave his argument against granting bond. He argued that Joshua posed a threat to the community, one of the four requirements for denying bail in Georgia Superior Court. He also argued that Joshua had an escalation of offenses, despite having no prior felony arrests or convictions. When Matthew was allowed to have the final say, he emphasized the importance of Joshua's community connections. At the end of this short hearing, a \$20,000 bond was granted under the condition that Joshua does not contact the alleged codefendants, that he adhere to a curfew, obtain gainful employment, and live with his mother pending trial.

In this bond hearing, we can see the assistant district attorney arguing that Joshua is a threat to the public. During his argument Jason notes that the alleged crime itself was the public safety issue, a robbery of the victims belongings outside of a Waffle House. During the hearing, Jason does not mention the victim's experience or loss beyond what happened during the alleged crime. Additionally, other than the crime, there was no additional information regarding why Joshua should not be granted a bond, making the denial of bond peculiar. Public safety is the reasoning, but specifics of how Joshua posed a threat to the public beyond what he was accused of doing were not presented. The logic of community protection causes prosecutors to advocate for the imprisonment of more people without just cause. It also reveals how Judge Esmond thinks about community safety. She did not believe the alleged crime nor past

misdemeanors were enough to deny bond. The judge and the prosecutor view community safety from two different angles. Joshua's ties to the broader community that Matthew emphasized during the hearing are also salient, revealing that he understands how to use the AYALA factors to promote his client as a good community member for the judge and to secure bond. This short bond hearing reveals the different perceptions of community safety from the perspective of people working in the CLS.

The second bond hearing progressed similarly. A white female public defender, Alexandria, argued in front of Judge Esmond a bond hearing she had filed August 11, 2022, for a Black male client. At the beginning of Alexandria's argument why her defendant Zachary should receive bond, she noted that the victim was in the courtroom. The police arrested Zachary for domestic violence against his girlfriend Jessica who was in the courtroom advocating for him to be released on bond. The hearing went similarly to the one before, demonstrating the routine of the procedure. Alexandria described Zachary's life as a father of four children; he has two thirteen-year-old daughters, a twelve-year-old son, and a one-year-old son. She noted that before his arrest he provided "ample financial support" and had been working at a hotel, though she was unsure if he could return due to his 169-day incarceration. Alexandria noted that his sister agreed to help with childcare issues that might arise if Judge Esmond issued a no-contact order between Zachary and the victim, Jessica who is the mother of his children. She noted that he had not been convicted of a felony in the last fifteen years and that he did not object to an ankle monitor.

Jason was the assistant district attorney (ADA) advocating for the denial of Zachary's bond. His argument focused on the fourth AYALA criteria regarding the defendant as a threat to witnesses or victims. He emphasized the three prior convictions

that the defendant had before the alleged crimes, though each of these sentences were drug offenses rather than violent offenses. Judge Esmond returned to speaking with the defense and asked why they were advocating for an ankle monitor. Alexandria noted it was because she thought it would help her win the bond hearing in case the judge wanted this measure in place. Judge Esmond responded by saying, “I don’t like the idea of people being shackled in any context,” before granting a \$10,000 bond.

While the language and procedure of the hearing progressed similarly, Zachary’s hearing was more unusual than the last. The AYALA factor that the ADA focused on concerned the defendant’s potential to intimidate witnesses or the victim. Yet, the victim was in the courtroom advocating for Zachary’s release so he could continue to provide financial support to their children. There is a notable difference between the desires of the victims and the prosecutor’s claims to advocate for victims, and thus a failure to properly deploy legal aid. The language of the law was assumed to help the victim because of the AYALA factors, but the law failed to recognize the potential of the victim asking for the alleged perpetrators’ release. Instead of listening to the victim’s desires, the prosecution decided they knew what was best for her. This shows how solidarity with victims can sometimes conflict with a prosecutor’s job charge, as they are expected to earn convictions and keep people incarcerated. The needs of the victims are negated by the prosecutor’s goal of using the CLS as the solution for violence against women. Carceral feminism is evident in this hearing. To the prosecutor, a partial solution to the survivors’ plight is incarcerating the perpetrator to protect her, but does not recognize her desires. A failure of carceral feminism is the assumption that incarceration is the desire of survivors or victims. Victims are silenced in this courtroom rather than uplifted, deviating from how Black women working on the CLS saw their roles.

What happens when victimhood conflicts with incarceration? At its best, the AYALA factors are subjective, but prosecutors do not have to advocate for the denial of bail. The prosecutor's choice to request the denial of bond did not prioritize the victims' wishes.

Another curious moment was the Judge's comment regarding her dislike of people being shackled. As I will go on to discuss, many people view incarceration as a cage or shackling. Why are ankle monitors too far in the realm of shackling compared to incarceration? One reason is the imagery of shackling versus incarceration. Those who are remanded to state custody are shackled through the institution, whereas those with ankle monitors are constrained in their homes. Judge Esmond's comment reveals that she views those she incarcerates differently than those who are out on bond, despite them being in similar scenarios waiting for trial. Humanity is framed differently based on who is incarcerated and who is free. While not perpetually shackled, incarcerated individuals are locked away in a state facility, and their lives are constrained by state actors. They are shackled physically and mentally through a system sanctioned by the state. Her comment reveals the different ways people view state custody versus surveillance by the state in one's home. Each is shackling, but only one is approved in the psyche of the judge.

5.5 Legal Consciousness Enacted through Reform

Reform represents how Black women working as prosecutors view and use the CLS. Their subject positions as Black women impacts their legal consciousness, leading to ambivalence in fictive kinship, a carceral feminist ethic, and the deployment of legal aid rhetoric. Several of the women I interviewed stated there has been a history of racism within the criminal legal system and there needs to be reform. Their proposed

reforms varied. Wanda discussed the emergence of restorative justice practices that the DA's office in Dekalb has started to attempt with some cases. She discussed the meeting that occurred between a woman who had her car stolen and the man who stole her car. The woman told the man about the impact the incident had on her: she was unable to work, go to the doctor, and had difficulty conducting her daily activities. While Wanda said it was not possible to do this with all victims, the turn towards restorative justice that focused on accountability and victim impact reveals concerns with how the system should focus on the victim, rather than punitive discipline.

Mariah and Wanda both discussed the importance of more Black women working as prosecutors in their response to questions about reform. They reflected on their positive experiences working with other Black women in the offices, as well as the power that prosecutors have in determining plea deals, whether to charge someone with a felony, charge someone at all, and other dynamics that offer them more control in the criminal legal system. They believed it was important to have other Black women working in this role, in part to remedy some of the legacies of racism in the criminal legal system. Mariah described her experience working in Florida in a State Attorney's office that was run by a white man. She recounted how harshly they treated Black people compared to white people in the office, which differs from her current work as a Black woman in the Atlanta CLS. The desire for an increase in Black women working in the prosecutors' office once again speaks to the legacy of 20th century calls for Black law enforcement. We can see a similar sentiment that to reform the CLS and fight against racism, governments must put members of an oppressed group positions of power within the CLS. Black female prosecutors assume the collective identity of Blackness, especially Black womanhood, should lead to more equitable decisions in trials. The legal

consciousness of prosecutors includes Black women being more equipped to work on the prosecution side of the law in Atlanta than other racial identity groups. Here, both identity and mobilization impact legal consciousness because the women believe, somewhat problematically, that more members of their identity group working in CLS may lead to societal changes through their use of the law.

5.6 Negotiating Subjectivities: The Legal Consciousness of Black Women Working as Prosecutors

The prosecutors I interviewed felt as though their subject position as Black women heavily impacted their work as prosecutors. Sasha and Carmen specifically mentioned how their subject position entered the courtroom when they had jury trials. Sasha talked about how she believed that Black women in the jury box view the Black men as their children but might not see her as kin, “Jurors, Black women, tend to look at a male defendant as their son. Even as a Black woman, I’m fighting your thought that that’s [the juror’s] son.” She talked about the dynamics of assumed fictive kinship that Black women sometimes have for the defendant. The assumed kinship is something Sasha must work against, even as she experiences it in her own work. Once again, we see the home reproduced in the courtroom. Sasha is positioned as auntie, the juror as helpless mother, and the defendant as son receiving reprimand. The home is reproduced in the courtroom because of the intimate nature of incarceration and victimhood. The relationship between different actors in the courtroom reveals intimacy rather than the impersonal narrative of courtroom procedures that emphasizes the rigidity of laws and statutes. Sasha may prefer impersonality, but it is impossible to accomplish because of the shared connection of race between the juror and the defendant.

As Sasha talks about Black women seeing the defendants as their son, she hints at stereotypes that portray Black women as caretakers, even to children or family that are not their own. Sasha believes that Black women are caregivers and move through the world as such—including looking at other members of their racial group as children they must care for and worry about. Sasha believes she must fight against the Mammy stereotype she reproduces and work harder when she has Black female jurors in the jury box. She noted, “I don’t know how anybody feels about their son, but I know how my mama feels about my brother and she is going to be like, You have to show me more than that.” She uses her natal kinship ties to explain these beliefs, which reveals her assessment of how all Black women might view Black male defendants. She assumes there is a shared reaction and desire to protect Black men as if they are anyone’s sons throughout the Black community, and argues she must work against the feelings of fictive kinship to get a conviction.

Carmen had a similar sentiment but argued that when she worked in a county with more white prosecutors, the Black people on the jury trusted her more than her colleagues. She believed there was an increased “level of trust” between her and Black jurors because “prosecuting Black men as a Black woman [jurors assume] I am not going to bring them nonsense.” Here, her subject position as a Black woman allows an assumed level of trust with other Black people overall. She believes they view her as fairer and more objective than her white colleagues because of their shared racial subject position. This contrasts with previous discussions of how Black subject positions are at odds with law enforcement as a subject position for members of the Black community. The reactions of family members compared to how they believe jurors view

their work reveals two different important implications for Black female prosecutors. Their conflicting subject positions can inhibit and aid their work, depending on the jury.

Black women's multifaceted subject positions impact how they view themselves in relation to the legal system and how they perform their roles as prosecutors. These women believe they share strong relationships with other Black women working in the criminal legal system. Being Black women impacted their courtroom experience when Black people served on the jury in their cases, and some believed that they are viewed as "aunties" by some Black male defendants. The women's repeated mention of their different social categories in relation to the actions they perform reveals how their legal consciousness is impacted by their subject positions as Black women. They often behave how they believe Black women should behave working in the CLS and believe they give back to Black communities.

As previously mentioned, Carmen and Sasha believe their identity plays a major role in the courtroom. Carmen believes her identity helped her appeal to the jury when there were Black jurors while she prosecuted a Black man. She felt they thought the case she was bringing before them was more legitimate than what a white colleague might bring. Sasha, on the other hand, believed she had to work against shared notions of fictive kinship that Black women might have with the Black defendants she prosecutes. Carmen and Sasha each believe their identities impact how they are perceived in the courtroom and their courtroom performance. They are central to how they believed they might be perceived. Through this, we see these women believe there is a shared identity in Blackness that is expressed in a courtroom space. The shared subject position is through their race, not gender nor class. The assumption of fictive kinship dictates how Black female prosecutors might perform while trying a case, and they think there is

connection with other Black people by virtue of being Black. They believe there is some sense of solidarity they have with other Black people.

While there is a sense of shared solidarity, during my interviews, no women working on the prosecution side of the CLS mentioned class dynamics, for defendants or victims. Sasha mentioned factors that influence crime, such as substance abuse and untreated mental illness, but did not mention the economic determinants of crime, such as unemployment, homelessness, or poverty. In Georgia, most incarcerated women had been unemployed for the six months before they were incarcerated.⁷⁸ Unemployment and poverty are socio-economic determinants of crime and impact why people commit crime.⁷⁹ These are socio-economic determinants because of how alleged crimes are dictated by the legislature., and often only issues for people without access to monetary resources. Poverty is criminalized; behaviors like sleeping in public places, inability to pay excessive and unreasonable fines and fees to the local government, and inability to feed children due to a lack of resources are made criminal rather than being areas the government can assist citizens. These actions are induced and exasperated by poverty.

The lack of focus of how these dimensions might impact crime reveals a potential lack of understanding or acceptance of how economic concerns impact actions deemed criminal. The women do not acknowledge how excessive government fees lead to a lack of ability to pay and render jails into debtors' prisons; they do not mention how family

⁷⁸ Georgia Department of Corrections; Office of Information Technology; Data Management Section, "Inmate Statistical Profile: All Active Inmates," January 1, 2023, https://gdc.ga.gov/sites/default/files/pdf/Profile_all_inmates_2022_12.pdf.

⁷⁹ "Criminalization of Poverty as a Driver of Poverty in the United States," *Human Rights Watch* (blog), October 4, 2017, <https://www.hrw.org/news/2017/10/04/criminalization-poverty-driver-poverty-united-states>.

history and trauma impact people's behavior and thus the crimes they might commit; they fail to discuss how job availability in an area affects crime.⁸⁰

The social status of women working on the prosecution side, with likely higher salaries than the people they usually incarcerate, reveals a potential lack of critical understanding of mitigating circumstances centered around socio-economic and systemic issues. Mitigating circumstances are used in order to lessen the severity of the punishment after someone is convicted of a crime, potentially lessening the sentence or recommending the defendant be moved to diversion courts, such as mental health or substance abuse courts.⁸¹ While these courts offer opportunities to remedy some socio-economic determinants of crime, they do not address the economic inequality that led some people to commit crime. For instance, some jobs such as work in the healthcare industry, will explicitly not hire people convicted of felonies; other jobs will quietly refuse to hire someone due to their felony status. Furthermore, prosecutorial attempts to incarcerate individuals before they are convicted of a crime weakens their ability to maintain employment or find work, potentially exacerbating economic precarity within their households. The inability to pay bond is often one of the reasons why people remain in pre-trial detention. While untreated mental health issues and substance abuse are treated as problems to be solved through the CLS, poverty is reproduced through the mechanisms of incarceration.

Prosecutors' assumption of shared identity impacts how Black women view working with other Black women in the CLS. They feel a sense of solidarity and sisterhood with other women in this system, regardless of their role. As such, their

⁸⁰ "NCSBI - Crime Factors," accessed March 14, 2023, <https://ncsbi.gov/Services/Crime-Statistics/Crime-Factors>.

⁸¹ "Mitigating Circumstances," LII / Legal Information Institute, accessed March 13, 2023, https://www.law.cornell.edu/wex/mitigating_circumstances.

identity as Black women is at the forefront of their work, and connections with other Black women make their roles easier. They create community within their offices and throughout Fulton and Dekalb counties, thus creating a sense of a unified goal of making the wider Atlanta and metropolitan area safer for community members.

Chapter 6: Black Women Working on the Defense Side of the CLS

The legal consciousness of Black women working on the defense side of the CLS is impacted by issues of identity and mobilization. Compared to the prosecutors I interviewed, Black women working for the defense discussed similar themes of fictive kinship and solidarity. In terms of fictive kinship relationships, defense workers discussed fictive mother/daughter relationships within the space of incarceration as well as fictive siblingship relatedness with city leaders in Atlanta and Black people who are incarcerated.

Defense workers have different perceptions of solidarity than prosecutors. The defense workers' discussions included resisting carceral feminist ethics in favor of abolition and/or Marxist feminism, and they use the language of legal aid to help their communities and clients. The solidarity that defense workers enact is rooted in resisting the carceral system and mitigating harm for those who are directly impacted by the system.

6.1 Fictive Kinship: Embracing Motherhood and Resisting Siblingship

Fictive kinship for defense workers, especially the formerly incarcerated women I interviewed, revolved around two themes: mother/daughter relationships during incarceration and fictive siblingship relatedness through shared Blackness. The identity element of legal consciousness for Black female defense workers is housed within their fictive kinship relationships.

While incarcerated, some women reproduce familial dynamics, especially mother/daughter relationships. Since women are snatched away from their natal kin when they are remanded into state custody, they seek to find familiar structures during their sentences. Diana describes how reproducing motherly roles allows women to cope

with serving their time. In Georgia, 41% of women enter prison with at least one dependent.⁸² Mimicking their biological familial relationships⁸³ during incarceration allows the time they spend isolated from the rest of the world easier to cope with. These caretaking roles are possible because many young women enter adult facilities at sixteen or seventeen. They miss their children, and find comfort in caring for the young women they meet in prison. Women who are mothers outside of incarceration, especially to older children, often reproduce these roles for these young women. These fictive kinship relationships are built out of necessity and survival of the violence of incarceration. Diana, a formerly incarcerated woman working as a re-entry⁸⁴ strategist described her experience witnessing these dynamics,

Diana: When you are incarcerated and you come into the [prison], you take on these responsibilities. These same mothering and caretaking roles, you don't stop those. They continue on in these institutions. It's easy to adapt in that environment. If you're a mother, you're going to easily keep those mothering roles while you're in those institutions. It's easier to do that time.

Marguerite: It makes sense to me in terms of socialization in particular, to not rock the boat, be quiet and agreeable.

Diana: You're still fulfilling that need that you may have left at home. You're still able to still take those caretaking roles, those mothering roles, because you found another niche to do it. It may even be better because if you've had trauma outside of the house or prior to incarceration, you now have another life and you've developed something differently inside. This is your second chance of doing something. It's layers and you know, it's women, we're very complex.

As such, they rely on various networks, often familial, to survive. Stack describes Black kinship networks as modes for survival. She describes the “interdependence and

⁸²Georgia Department of Corrections; Office of Information Technology; Data Management Section, “Inmate Statistical Profile: All Active Inmates.”

⁸³ As previously noted, biological kinship should not be assumed. For the purposes of this study, I am using this framework, but attention to how biological relatedness does not always create kinship is necessary to note.

⁸⁴ A re-entry specialist helps justice impacted people transition from prison or jail to the outside world.

cooperation of kinsmen in Black communities.”⁸⁵ Stack also describes the different ways that women become mothers in her research location, an apartment building called the Flats. While one parent may give birth to a child, another is made “mama” due to her financial and emotional support. These dynamics are reproduced in the prison as networks of survival. Young women enter prisons without their mothers, and older women offer them support and nurturing.

Mother/daughter relationships are present with some female prison guards as well. Prison guards mimic both mother and auntie relationships to the women they incarcerate, once again offering retreat and introducing intimacy to the violence of incarceration. Assata Shakur describes the dynamics between women prisoners and prison guards during her incarceration at Rikers Island, “[The] image [that they are not really in prison] is further reinforced by the pseudo-motherly attitude of many of the guards; a deception which all too often successfully reverts women to children.”⁸⁶ Female guards exist in a traditionally masculine role, guarding prisoners, yet enact motherly traits and relationships with the incarcerated people they oversee. The bonds they create are intimate, familiar, and familial. Family dynamics are replayed by guards and the incarcerated women.

Sufrin similarly discussed the jail as home, and considers intimacy, kinship, and ambivalence within a San Francisco jail. Drawing upon previous studies on women’s familial relationships in prisons, she outlines how family dynamics are mimicked within incarceration. She describes how parental responsibilities are sometimes taken up by deputies. Some see parenting incarcerated women as part of their roles, and often

⁸⁵ Stack, *All Our Kin*, 73.

⁸⁶ Shakur and Chesimard, “Women in Prison.” 10

deploy a “tough love” parental approach.⁸⁷ Additionally, she argues fictive kinship requires an element of care that is within the carceral system by virtue of some of the services jail staff perform, such as offering necessities like food and shelter.

Shakur addresses how guards are sometimes referred to as “Teddy Bear, Spanky, Aunt Louise, Squeeze, Sarge, Black Beauty, Nutty Mahogany.”⁸⁸ Nicknames denote affection and care. Teddy Bear calls to mind images of childhood, comfort, and familiarity. The nickname Aunt Louise reveals the opposite end of the auntie dynamic that Sasha previously described. The nickname shows to some extent, the other side of the fictive familial relationship that some prosecutors believe is present. Once again, the intimacy of incarceration often obscures its violence and constructs prison environments as places where family is reproduced and natural haven. Auntie-ship is not solely present in the courtroom, but it follows justice-impacted people to the site of the prison. The familial performance is carried throughout their incarceration, deepening the intimacy of the system.

Unlike Shakur and Sufrin, the women I interviewed discussed their time in prison, rather than jail. Diana spent ten years, nine months, and twenty-six days in prison. She discussed how in her view, sentences for Black women tend to be longer than for other races. She believes that one way that women cope with long sentences is reproducing familial dynamics. Jails see many people in repeated short-term stays, but prisons require justice-impacted people to accept their long sentences and find ways to cope with long-term incarceration.

Among other factors, fictive kinship relationships complicate incarcerated women’s ability to leave incarceration and stay out of prison. Due to the disparate

⁸⁷ Sufrin, *Jailcare*, 207.

⁸⁸ Shakur and Chesimard, “Women in Prison.” 10

conditions they encounter or return to when they are released, some women find community within prisons. Megan, a re-entry specialist⁸⁹ who was incarcerated for a year, noted how few of the clients she works with are women. She noted that women are released into different circumstances than men and are often expected to take care of their own children and other family members.

It's really hard, because most of the women naturally, are caretakers. Most of the women I see in my work, they're living with other people who take advantage of the fact that they don't have anywhere to go. Most of the time, they'll make them watch everybody's children, and they can't keep the little money they do get, they can't keep it because they got to pay rent, they got to pay it.

Many women do not have the resources post-incarceration to be independent. Incarcerated women's networks of survival, however, can be exploitative and harmful, yet the precarity many formerly incarcerated women face leave them with few options. Megan expanded on the difficulty women face post incarceration by describing the sexism they encounter in the workplace. She noted how many women learn jobs during their incarceration that are traditionally considered masculine, like construction work. As such, when they leave prison with their new roles, they are unable to find employment due to antiquated notions of which jobs women should perform. The myth of rehabilitation through job programming fails to account for the compounding biases of being formerly incarcerated and a woman. As such, many women must survive based on their familial networks, despite the harm and abuse that may accompany those situations. Additionally, Diana's discusses how incarceration can be a space of reprieve for some women in abusive family dynamics who foster fictive kinship relationships during their incarceration

⁸⁹ A re-entry specialist works with people who are leaving prison environments to acclimate them to the outside world. This includes helping them find employment, housing, clothing, and other various resources.

You still fulfilling that need that you may have left at home. You're still able to still take those caretaking roles, those mothering roles, because you found another niche to do it. It may even be better because if you've had trauma outside of the house or prior to incarceration, [you] now have another life and you've developed something differently inside. This is your second chance of doing something.

Not only is the intimacy of caretaking reproduced in some prison environments, but women are also able to find purpose in their details.⁹⁰ While they are in the custody of the state, they are unable to fulfill traditional familial obligations, and therefore create lives that are restricted yet self-manufactured. Their second chance is not offered at release, but rather the new intimate environment of the prison. This is not to argue that prisons are good for these women or solutions to the harm many of them face, but rather there is an element of incarceration that allows women to create community and fictive kinship networks. There is tension between wanting to escape the carceral space but missing the care in incarceration. Shakur describes these dynamics at Rikers Island,

When [Spikey and I] talk it is around the Christmas holidays and she tells me about her bad luck. She tells me that she has spent the last four Christmases in jail and tells me how happy she is to be going home. But I know that she has no where to go and that the only 'friends' she has in the world are here in jail. She tells me that the only regret she has about leaving is that she won't be singing in the choir at Christmas. As I talk to her I wonder if she will be back. I tell her good bye and wish her luck. Six days later, through the prison grapevine, I hear that she is back. Just in time for the Christmas show.³

Spikey's important relationships are rooted in Rikers. Incarceration offers Spikey both friendship and tradition, likely the reason she returns to the jail. Like the women Megan discussed, Spikey lacks a home to return to, and thus the jail becomes her community. These contradictions display Spikeys ambivalence toward jail. Spikey wants to leave, yet she itches to return. The lack of social safety nets outside of incarceration

⁹⁰ Details refer to the job that someone performs within the prison, such as a cook, cleaner, launderer, etc.

leads women to sometimes favor their prison environments, when jail becomes the sole second chance they are offered.

Like Black female prosecutors, fictive siblingship relationships are present for Black female defense workers. These relationships, however, are impacted by ambivalence, and sometimes disdain, toward fictive siblings who work on the prosecution side of the CLS. Siblingship relatedness is produced through shared racial identity. As such, defense workers view other Black people working in and around the CLS as siblings, with ethical attachments to these relationships. Latoya describes her feelings regarding these siblingships, “It is saddening to see these same Black leaders playing a profound role in the caging of our Black brothers and sisters.” The language of fictive siblingship reveals the expectation that Black people must treat one another with a certain level of respect and care. While the defense workers feel solidarity through siblingship relationships with justice impacted Black people, they hold contempt for Black leaders. Latoya believes Black leaders should work to free other Black people, rather than incarcerate them. In her perspective, Black leaders in Atlanta wrongly participate in the jailing of Black people throughout. Black leaders’ lack of follow-through with Latoya’s expectations causes an emotional reaction for her

That's a whole I'm just going to leave it there because I'm still kind of grappling with those emotions. But we see it all the time right here in Atlanta, right? [...] It's been painful to see in this place that is kind of held up as a model of Black leadership, and Black autonomy, and people being invested in the growth of their communities instead of tearing them down.

Latoya’s emotional reaction reveals the contempt she feels regarding Black leadership in Atlanta’s role in the CLS. Her emotional response to Black prosecutors demonstrates the alternative side of fictive siblingship relationships in the CLS. Sasha

feels ambivalence regarding her participation in locking up her “people” and Latoya despises Sasha’s role. In each instance, a kinship expectation—that one should not incarcerate their own kin—causes fissures within fictive siblingship relationships. Once source of ambivalence is the deviation from the kinship expectation. Failure to hold assumed kinship ethics leads to conflict, both internally and externally.

6.2 Resisting Carceral Feminism and Engaging in Legal Aid

Compared to Black women working as prosecutors, Black female defense workers attempt to resist carceral feminist ethics in favor of abolition feminist or Marxist feminist ethics. As previously discussed, carceral feminism refers to using the CLS to accomplish feminist goals, such as community safety. Prosecutors enact carceral feminism to deal with violence against women and families, but do not adequately attend to other axes of oppression, like classism. In comparison, defense workers focus on how class dynamics affect justice-impacted people.

Marxist feminist ethics focus on how gender and class inequalities work together as sites of oppression. Intersectional Marxist feminism focuses on both exploitation and oppression, deepening the analysis to consider how capitalism uses oppression to advance its exploitative goals.⁹¹ Defense workers employ an intersectional Marxist feminist perspective in their work, focusing on both how racial and gender impacts their clients, but especially emphasizing how class enters their work.

Abolition feminism focuses on intersectionality as well as approaches rectifying the harms of gender based violence outside of the CLS. Instead of promoting the CLS as a space for helping women, abolition feminism argues the carceral system harms all

⁹¹Ashley J. Bohrer, “Response to Barbara Foley’s ‘Intersectionality: A Marxist Critique,’” *New Labor Forum* 28, no. 3 (September 1, 2019): 14–17, <https://doi.org/10.1177/1095796019866145>.

people, including survivors and victims. Black female defense workers resist carceral feminism by acknowledging how accountability perpetrating harm can occur outside of the criminal legal system. Rather than protect people through carcerality, abolition feminism focuses on deconstructing systems of oppression to create new avenues for community safety.

While Jessica now works on federal crimes, she previously worked on misdemeanors in her office. She discussed the lack of economic stability many of her clients suffered, especially relating to employment and housing. She expressed her strong feelings towards misdemeanors as a categorization for “alleged crime,”:

The majority of misdemeanor crimes are not crimes, if you really want to talk about so many, like honestly, there shouldn't be misdemeanor crimes. Because if it's so minor it can't be a felony, why is it a crime? But with misdemeanors you see mental health issues playing a larger role in people being arrested for misdemeanors. Criminal damage to property, criminal trespass, disorderly conduct. It's like, it's nuisance types things. Like, this person is just getting on our nerves, and we don't want to see them anymore so, please just lock them up with this minor charge. So those people definitely come back more often because it's more often that those people are suffering from mental illness, and/or homelessness.

Her description of misdemeanors as nuisance crimes illuminates how criminalization extends to those living in economic precarity and with untreated mental illnesses. The Fulton County Superior Court received \$3 million to open a Diversion Center in 2024 that addresses homelessness, poverty, mental health concerns, and substance abuse for people who have been arrested who would typically be diverted to jails or detention centers. While this measure is useful to begin to address some of the extenuating circumstances that people directly impacted by the CLS face, it is predicated on criminalization.⁹² The people arrested living in these precarious situations are only

⁹²“Atlanta Center for Diversion & Service Pilot Program,” Bureau of Justice Assistance, accessed March 13, 2023, <https://bja.ojp.gov/funding/awards/15pbja-22-gg-00249-brnd>.

offered protection if they are deemed criminals. Rather than create social safety networks outside of the carceral system, Fulton County is dedicated to maintaining the carceral system as the welfare state. The county's acknowledgment of how class impacts people's involvement in crime is important, but their solution focuses on surveillance and control rather than resources.

Despite the legal emphasis on rehabilitation, Jessica and Latoya emphasize how prisons are not meant for rehabilitation or sites of social services. Rather than believe that incarceration replaces welfare, the women emphasize how people's economic potential is significantly harmed by their incarceration. When asked what the function of the CLS was, Jessica responded, "In many ways, I think it can be said that the functional and actual purpose of it is to keep people where they are. As with a lot of American politics kind of keep the wealthy wealthier and keep the impoverished impoverished." Jessica believes the CLS keeps people living in precarity. She describes that even when people begin to escape the economic determinants of incarceration, they are often arrested and imprisoned again.

And you just see time and time again recidivism from people who were right in the middle of getting a job and then they got locked up. Instead of looking into the situation of their lives, and really weighing out what's actually going to be better for the community for this person to be taken out of this track where they were about to find stability finally, and then put in jail and placed further back than where they started.

Incarceration takes away their ability to achieve the kind of rehabilitation prosecutors claim they want. The prescribed consequences of encounters with the CLS are where the inflexibility of the law is represented. Instead of offering opportunities for growth and gainful employment, the CLS often prevents people from improving their lives leading to recidivism and community displacement.

The women at the non-profit I interviewed each discussed how rehabilitation was fiction.

Latoya: I think once we stop pretending that these places are actually doing anything rehabilitative, we can move on to treating them like the horror shows that they actually are. I was on the panel last week. It's interesting that I'm having this conversation now, but it was a panel of black women attorneys to get at the fact that I think 2% of the legal profession is Black women. And I was on it with a prosecutor. She was just saying it flippantly. Like, this system is all about rehabilitation. And so once you start from that place, et cetera, et cetera. It's just, that's a whole other conversation about Black women prosecutors, that's a whole other thing. But there is this notion that we are doing so much good and that we are at the top of the incarceration pyramid in the world because we are purportedly rehabilitating. When we know, when the politicians are expressly saying that they're not doing that, but it's just this weird song and dance that we're doing, frankly lying. But there's a lot of built-in belief in thinking that these systems are somehow fixing people and rehabilitating, and we know that that's in no way, shape, or form happening.

Latoya is in direct opposition to Black female prosecutors. She believes they buy into narratives regarding rehabilitation, which she finds egregiously inaccurate. Throughout our interview, she repeatedly referred to jails and prisons as “cages.” She believes that the fiction of rehabilitation is touted by politicians and believed by the public, thus worsening activists and non-profit workers’ ability to garner release for their clients. She seemed dismayed at the belief the CLS could be helpful in any way. The narrative of rehabilitation is ingrained into the public imagination of the CLS; therefore, dismantling the CLS requires destroying ingrained beliefs regarding the system as a rehabilitative welfare space.

Marguerite: I had a conversation with someone recently who said it to me here, I told them not to let this person go because they have a drug problem and the best place for them to be will be locked up.

Diana: And that is like the fear mongering. I think it goes back to humanity. But there's fear. All you see is the notion to create fear. If we can eliminate that, because that's all we do, is create fear in people's mind. The first thing you hear in the news, all formerly incarcerated or ex-offender, ex-felon, that's the first thing you hear on the news. If someone has a record, that's the first thing they put out there. It's like a fear mongering thing that they put in your head. I wish that could go, but if I could also say that I think that because I'm really big on the reentry part, because when you do a lot of time I think after my third year, I started figuring out that it stopped being about me and it started being about some other stuff. That a lot of things need to change. If I could change anything within the criminal legal system it would be the entire reentry process. Because it's just a joke. It's really a joke. I mean, right down to the antiquated curriculum that they use, textbooks and things like, What are you doing? It's awful. You're setting folks up for failure. And it's sad the things that they're doing, setting women up for failure, it's really sad. And that I would really look at changing that.

Diana and Margurite's dialogue centers on the material failures of rehabilitation. Similar to Latoya, they believe rehabilitation within the CLS is a myth. She talks about the conflicting perspectives that people simultaneously believe the CLS rehabilitates while immediately emphasizing if someone is justice impacted. The narrative of rehabilitation is not believed by many who endorse it. Instead, the mark of criminality lingers and rehabilitation is an excuse for the CLS to continue, rather than a goal the system can achieve. They discuss the lack of rehabilitation possible during incarceration because of a lack of resources. Communities have contradicting views of the carceral system, and this opposition allows the system to thrive by constantly attempting to fix its failures. Through efforts to reform the CLS, communities posit that the system is necessary and must be reformed rather than destroyed. The consequence of such reform often leads to larger police budgets, often with limited substantive change. Instead of sites for growth, chance, or rehabilitation, carceral environments are sites of degradation, humiliation, and pain.

Megan: I think part of it, too, is the fear mongering. A lot of it is just ignorance and some of it is just uneducated. When people think jails stops, when in fact some people go in, would not even have an addiction and come out with addiction. They don't even consider the fact that if you get enough oranges on your breakfast plate, you can collect those and make out all of it. We could get drunk all the time in jail off oranges and fruit cocktails. The guards bring drugs in. We have moved completely away from anything that rehabilitates. There's nothing rehabilitative about the prison system. Reentry is one of the biggest pieces because just a lot of people all day long, but if you don't prepare them to get out and stay out, that is the problem. And reentry to me doesn't even start once they get out. Reentry should start three to six months before they release to start getting them what they need with their ID before they're released, and all of that stuff, and some hands-on training, and connecting them with employers where they go. But I think a lot of it's also fear that when you start talking about shutting down jails and shutting down the system, the first thing they go in is panic mode.

Finally, Megan's discussion of the failure of reentry and rehabilitation shows the failure of some legal aid. CLS workers and the community sometimes engage in legal aid by arguing incarceration may help an individual, or the community. This deployment of legal aid fails to consider how carceral environments cannot, by design, achieve their alleged goals. Lack of resources, illicit substances in prisons being categorized as criminal and numerous other factors obscure women's ability to rehabilitate in a socially acceptable way, and often the women are seen as failures rather than the system itself. Instead of building people into accountable community members, incarceration rips them away from their communities, job opportunities, and kin.

As previously mentioned, carceral feminist ethics require legal aid to advance. Since carceral feminism centers on using the CLS to achieve feminist goals, though these goals are loosely and broadly defined, such as community safety and anti-violence against women, the language of legal aid advances these ideas and emphasizes the protection of women and communities. Defense workers reject this use of legal aid and deny the CLS's ability to achieve protection or rehabilitation. The legal aid defense

works deploy focuses on keeping defendants outside of the prison system and use the law to help their clients win release.

Despite some failings of legal aid, it is foundational to the work that defense workers perform. Employees at the non-profit located in downtown Atlanta emphasized how they use the law to fight mass incarceration, the criminalization of poverty, and excessively long sentences. Because these issues are housed in the CLS, the women must engage in legal aid. Beyond this however, they believe that different arguments under the law can offer reprieve from their justice-impacted clients.

All the women I interviewed approach the law as a weapon to help communities. While their visions of help are different—some focused on freeing people the others intended to remove them from their communities—they each use the language of the law to achieve their goals. The previously discussed bond hearings reveal the inner workings of how defense attorneys appeal to judges' opinions through the law. To gain freedom for their client, they must appeal to how the judge views the world and the AYALA factors that determine bond. Legal aid requires the merging between the expectations of judges and legal terms to bolster lawyers' arguments. There are no statutes requiring education or employment for accused defendants, but defense workers know they must appeal to respectability to win release for their clients.

Legal aid necessitates flexibility within the law. Rather than solely seeing the law as a rigid structure determined by lawmakers, we must consider how the law is malleable and dependent on the opinions, experiences, and feelings of those involved as workers as well as jurors. Winning cases requires more than legal terms and specific legal issues. The law's flexibility allows for storytelling that considers defendants as entire individuals, rather than criminals.

6.3 Defense Workers Negotiating Subjectivity in The Courtroom

Jessica noted the importance of her subject position as a Black woman in telling the stories of other Black women. She believed these aid her defense of Black female clients and described the specific incident that made her realize this:

I can say one specifically was a really great experience. I had a Black woman client, and she was insisting on going to trial, and it was not a good case. And I went and spoke to one of my Black female colleagues, and she was like, yeah, it's not a great case on the law, but she has a good story. And as a Black woman in this work, this was her talking to me, and she was saying, as a Black woman in this work, that's what I live for, is to tell the stories of Black women. This is a great opportunity for you to tell her story.

And that was really helpful for me because I wasn't seeing it that way. I was very much like, how do I get rid of this really annoying woman who just received this? To see the fact that this is not going to work out for her, but talking to my Black female colleague and then kind of thinking about it through that lens of the opportunity to tell her story really helped me to reshape the way that I was approaching the case. And actually she was acquitted at trial.

I think that made a huge difference. It's just her reframing that for me and reminding me that it matters that I am a Black woman and that she is a Black woman for so many different reasons. For the listeners who are hearing her story, but also for her to see me telling her story and speaking for her, but that there was just so much more at work in that situation than just the fact that she's being charged of a crime, that there's a lot of evidence against her for.

Jessica notes the importance of her identity as a Black woman in the courtroom and believes she builds trust with the jury that can offer a fuller picture of her clients' lives. Like prosecutors, Jessica believes her appearance impacts the jury. Jessica's comment also reveals the often-forgotten flexibility of the law. While the legal aspects of her case were not as promising, the story she presented to jurors allowed her client to be free. Identity, storytelling, and performance impacted the case, yet the law brought the performance into a courtroom. In this case, appealing to the jury was the method of legal aid. Community is brought into the courtroom as jurors decide if they want to

exclude or include someone from the community. For defense workers, their use of legal aid must argue why the community benefits, or at least is not harmed, by a defendant's acquittal. In addition, she displays how legal aid can expand the perimeters of the law. Legal Aid and identity impact how Black women work in the CLS and contribute to the malleable nature of the law.

The women at the non-profit in Atlanta also emphasized the importance of working with other Black women in their office. Diana discussed entering the office for the first time and being awed by the space:

When you came in, you said, wow, it's beautiful. When you came through the door, I listened to you. The first day I came here, I said the same thing, Wow, this is great. And I come around the corner, these two women were in that same room, and I'm like, their powerful sisters. But the first thing that this woman said to me was, she was going to go get a pedicure.

[Group laughter]

We got on record too. For someone, and this is just to bridge the gap about leadership and African American women and what we go through and having a calmness and to say, we're women and to have women in leadership roles to understand that we're women, we all go and get our feet done. [group laughter] It's just the simplicity of breaking the ice, simple things. And that's what we need. And we have so much heavy stuff on us sometimes, and sometimes we just need something like that. And I walked in with so much heaviness on my chest and I just needed to hear that.

[...]

Working in these environments and working with Megan, it's important to have leadership to help bridge those gaps, especially for Black women. I don't know any other race that does it but us. That understands what we go through and to just say, you know, for someone who had to say ma'am for over ten years, it took a minute for me not to say ma'am because it's a banned word. But that's what a leadership would do for you to say, No, it's okay. It's important. For you starting out, you get a lot out of this. But I think for Black women, we do have uniqueness about ourself and leadership. We do things differently for a reason. It works.

Diana appreciates the leadership of Black women in her office. She uses the language of siblingship relatedness, “sisters”, to talk about the connection she feels with the other women in her office. She speaks of Black women’s ability to bridge gaps and recognize one another as humans, rather than subordinates. She finds the familiarity comforting, both because of shared traditional gender performances—such as getting pedicures—as well as racial connections. The intersecting identities that form Black womanhood allow feelings of shared struggle and sisterhood. Identity in the courtroom, and the CLS overall, informs everyone—workers, clients, and the public.

The legal consciousness of Black women defense workers is impacted by their intersecting identities, fictive kinship relationships, and their solidarity with incarcerated individuals. They focus their lives on relieving some of the harms of the carceral system, yet their work causes discontentment between other Black people they see as part of the opposition. Their fictive kinship networks, inside and outside of incarceration, are focused on surviving incarceration and offering relief from the carceral system. The solidarity and empathy they feel is with justice impacted people, and they struggle to reconcile other Black women’s involvement in incarceration. These involvements spark emotional reactions for some of the women, and lead them to distrust people they see as fictive kin. Their kinship is impacted by ethical expectations that they believe Black female prosecutors do not adhere to. Identity, familial relationships, solidarity, and the carceral system are interwoven in a complex network of contradictions, sisterhood, disdain, and failure to meet expectations. They use the law to promote fellow kin and people they find solidarity with through legal aid. The women view the law as a series of unfortunate encounters with the State, a barrier to community flourishing, and malleable to manipulation.

Chapter 7: Conclusion

The legal consciousness of Black women working throughout the CLS is varied, with many divisions occurring based on if they work in prosecution or defense.

Historically, Black American women are underrepresented as actors in the CLS. Rather than being seen as subjects with power to dictate and decide in the CLS, they are often viewed as defendants forced to encounter the system. Discussing their roles adds nuance to our understanding of the current state of the CLS, especially as it relates to Black Americans' participation in the CLS.

As the U.S. continues to come to terms with the brutality enacted against Black people by law enforcement and society, generally, it is important to recognize the way that some Black people work within and for the system. Instead of assuming that all Black Americans are against the police, we must recognize the varied views and levels of participation Black Americans have within law enforcement. This allows for a more complicated view of the CLS to emerge that understands how identity complicates working in the carceral system. In addition, assessing the reasoning behind why Black Americans participate in the CLS offers insight into the issues some Black individuals find most salient.

Black female prosecutors occupy a complicated position within the CLS that is textured by ambivalence. Four themes emerged from my interviews with prosecutors and my viewing of virtual bond hearings: fictive auntie-ism, fictive sibling relatedness, carceral feminism, and legal aid. Fictive auntie-ism reveals the ways that prosecutors view themselves as part of a wider family unit with the Black defendants they prosecute. They reproduce familial intimacy in the courtroom—often giving them more clout in front of juries. Familial associations produce numerous internal conflicts, causing

ambivalence in those prosecuting people they view as kin. Some also feel fictive siblingship with other law enforcement working in the CLS because of their similar missions to protect their communities. Through their work to help communities, prosecutors employ a carceral feminist ethic while using the language of legal aid. To protect communities and survivors of crimes, they argue that the CLS is the only place for defendants to be rehabilitated. The CLS is their solution to alleged crime, poverty, homelessness, violence against women, and many other issues that arise by virtue of people being in community with one another. The language of legal aid allows them to make these claims in the courtroom, and mandates such as the AYALA factors emphasize how the language of the law as a tool to help the community is prevalent for prosecutors. Black female prosecutors' participation in the CLS reveals the many complications of working in a system that overtly oppresses people they view as kin.

Black women working as defense lawyers have similarly complex relationships to the CLS. Themes of fictive mother/daughter relationships, fictive siblingship, resisting carceral feminism, and engaging in legal aid emerged. The fictive siblingship relationships existed with Black leaders and prosecutors in Atlanta. These relationships were impacted by the dismay some defense workers felt by other Black people's participation in jailing people they viewed as kin. Incarcerating fellow kin is seen as betrayal. The women discussed another dimension of fictive kinship present within prisons, mother/daughter relationships. These relationships, formed between incarcerated women of various ages, reveal how natal kinship structures are reproduced in carceral environments. These relationships help women cope with the predicament of their incarceration. While prosecutors employ a carceral feminist ethic, defense workers resist this ethic by utilizing a framework I argue enlists intersectional Marxist feminist

and abolitionist feminist approach. They consider how race, class, and gender dynamics affect incarcerated women and work to remedy these harms either in the courtroom or through non-profit work. They resist carceral feminism by finding resources to improve the community and survivors outside of the carceral apparatus. Even as they resist carceral feminism, they engage in legal aid through their courtroom performance. They use the law to win appropriate release for their clients, and often argue they are assets to the community. The language of legal aid is necessary for defense workers to navigate the CLS in a way that helps their clients.

I focused on these themes for this piece, but numerous other issues were discussed in my interviews. Reform was a major component of these discussions that I did not have space to adequately address. In future renditions of this work, I would like to expand upon how reform and abolition enter the conversation regarding the CLS and unpack the levels of reform Black women in the CLS want to enact. Additionally, future research should include lay perspectives on the CLS, and learn about how the communities view the CLS rather than rely on the workers' assumptions. This would offer a deeper understanding into Black people in Atlanta's overall views of the CLS and the workers within it. Additional research might also offer a comparative approach to other cities with large Black populations and other POC to address if these issues are site specific or widespread.

Black Women deserve to be understood and discussed in terms of all their complexities. Bianca Williams states, "[Black American women's] struggle to make themselves and other African American women visible is both commendable and problematic" (157).⁹³ The existence of Black women working in the CLS occurs in a

⁹³ Bianca C. Williams, *The Pursuit of Happiness : Black Women, Diasporic Dreams, and the Politics of Emotional Transnationalism* (Durham: Duke University Press, 2018), 157.

similar entanglement. Their ability to achieve positions of power and authority within a historically racist and white supremacist institution—the CLS and carceral state—is commendable. Yet, this power and authority includes incarcerating many Black men and women, reifying the power of the state, and often harming Black communities most affected by state violence.

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