Evaluating Care: Anti-Blackness and Sexual Assault Sentencing in Milwaukee, WI

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Cite as: Mulla, Sameena. 2024. "Evaluating Care: Anti-Blackness and Sexual Assault Sentencing in Milwaukee, WI," *Feminist Anthropology*, 5(2): 343-357.

FINAL VERSION: https://doi.org/10.1002/fea2.12154

Introduction: What's at Stake in Sentencing?

> Defense Attorney: I don't know if he doesn't make change in that area how much longer he's going to live based on what he tells me. So I think prison is appropriate. (*State v. Wilson*)

> Judge: See, in the old days, men wouldn't hit women. That, like all kinds of morals in this community, has gone the way of the dinosaur. (*State v. Steel*)

In the first of the two quotations with which I begin this article, imprisonment and incarceration emerge as life-saving measures that will stave off the harms of alcoholism from which the person being sentenced purports to suffer. In the second quote, the judge spins a fiction of a time before gendered violence that has regrettably fallen away in "this community." While he does not explicitly state that the community he references is a Black community in Milwaukee, [1] to those present, this racial categorization was obviously implied. Both Mr. Wilson

[1] Milwaukee, WI is a historical gathering place for many peoples who share stewardship of the sacred waters of Michigami, or Lake Michigan as it is known by settlers. It is the traditional homeland of Potawatomi, Ho-Chunk and

and Mr. Steel[2] were Black men, and I will return to their cases later in this article. This article draws on the highly spectacular events and associated speech of sentencing hearings in Milwaukee's felony courts between 2012-2014 and in 2016, recorded in court transcripts and fieldnotes, to demonstrate how the courts deploy the logics of sentencing to condemn Black social life and forms of care. This public disavowal of Black social infrastructures is in service to the fiction that the state's carceral mechanisms are a site of care, and rehabilitation. Sentencing, I will show, sorts socialities into those which are deemed admirable, and those that are rejected as inadequate. The courts assert their interpretation and evaluation of Black life and care in a way that overrides and silences adjudicants.

Sexual assault intervention and prosecution has often been held up as a feminist concern. From some perspectives, to care about sexual violence requires the resources of policing and criminal justice expertise, and the continued expansion of the state's capacity to incarcerate (Whalley and Hackett 2018). Our collective horror and discomfort with sexual violence opens up the sexual assault prosecution as a particular space to express disdain for those who commit sexual violence. In this article, I draw on ethnographic research in the intensely charged arena of

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Menominee people, and where Wisconsin's sovereign Anishinaabe, Ho-Chunk, Menominee, Oneida and Mohican peoples remain present. Presently, the gathering of Indigenous peoples in Milwaukee is one of the largest urban Indigenous populations within the U.S. This acknowledgement goes a very small way towards seeking justice for Indigenous peoples who have been dispossessed by settler colonialism. As this article concerns matters of justice, it bears mentioning that land acknowledgments constitute a very imperfect step towards justice, but I hope that this instills a curiosity in readers and prompts action. For forms of action that one should participate in, please consult Indigenous activists and organizers and provide those forms of material and political support as they direct you. I have tried to follow the cues from the leaders of HIR Wellness (Healing Intergenerational Roots), a wellness center in Milwaukee who are a survivor and woman-led organization. The forms of support and solidarity we practice must lead to restoration of Indigenous sovereignty and land back.

[2] These and all other names within this article are pseudonyms. Milwaukee's Circuit County Court is an open court and all felony hearings are open to the public. Court records can also be accessed by the public through an electronic system where many details are available. Convicted "sex offenders" also find themselves placed on public registries. Despite the public nature of these cases, Heather Hlavka and I agreed to protect the identities of participants in part because of conventions in the field of gender-based violence that center privacy of sexual assault victims. This is one of many instances in which the identities of the people being prosecuted lead readily to identifying those who are their victims, even if unnamed, precisely because these are forms of violence that are intimate and regularly kin-based.

sexual assault prosecution, where care for the victims of violence, predominantly Black women and girls in this case, was also accompanied by the denigration of their caring practices. The spectacle of humiliation and rejection of Black socialities persists in part because of the subject position of the sex offender whose lifeworld is used to narrate deficits. I want to suggest that we should be suspicious of the forms of juridical sorting of Black lifeworlds that are accepted when they are attached to a person who has been found responsible for sexual assault, and that we should still think about the way racism and anti-Blackness are operating within these spaces. I develop my ethnographic interpretation through some insights from Black feminist thought which theorize the ways in which institutional sites produce racial inequalities.

My research shows that sentencing rejected caring practices that sustain Black lives, while normalizing and centering those associated with middle class whiteness. The court situated mores of Black kinship, employment, care and intimacy within what Damien Sojoyner has labeled the carceral archive (2023). They produce a logic of inevitable imprisonment of Black adjudicants who may only be reformed and cared for within the prison. Finally, every instance of sentencing sustains the fiction that the prison and the apparatus of corrections are sites of care, one of the ways in which "racial violence" is presented "as 'commonsense'" (McKittrick 2015, 3). Sentencing served as a snapshot into the commitments courts make to particular social systems, revealing how the court mobilizes a hierarchy of the human. These very hierarchies were deployed to seem commonsensical. Thinking about hierarchies, Katherine McKittrick suggested that Sylvia Wynter's

> research on social systems, the biological sciences, and human activities… points to her understanding that our present analytic categories—race, class, gender, sexuality,

> margins and centers, insides and outsides—tell a partial story, wherein humanness continues to be understood in hierarchical terms (McKittrick 2015, 7).

The ethnographic description of the courts in this article centers care as the analytic through which race, class, gender and sexuality can be articulated for sorting into hierarchies of the human. This marking moves beyond identity to condemnation, an altering of life chances that are cast as natural. At stake is what Sylvia Wynter termed "dysselection" (Wynter 2003).

> The realization of the living, then is a *relational* act and practice that identifies the contemporary underclass as colonized-nonwhite-poor-incarcerated-jobless peoples who are not simply *marked* by social categories but are instead identifiably condemned due to their dysselected *human* status (McKittrick 2015, 7, italics in the original)

Dysselection enters Wynter's lexic in relation to natural selection, but in the form of an action that is tied to human practice. Wynter and her interlocutors "[dislodge] the naturalization of dysselection" turning a critical eye toward categories that found "a knowledge system that mathematizes the dysselected" (McKittrick 2015, 8). In the context of sexual assault sentencing practices, those who were deemed to have inadequate care were prevented from serving out of custody sentences, and were sent to prison or jail.

On Care and Anthropology

Within anthropology, care has been interrogated broadly in clinical and humanitarian settings. Critiques of the institutionalization of care undergird feminist philosophical investigations that press those concerned about care to discern good from bad care (Tronto 2010). In the courts, however, it is the very discernment of good and bad care that serves as a carceral technique and an active mechanism of dysselection. Care figures in the sentencing

hearing as a component of rehabilitation, both therapeutic and disciplining.[3] Attorneys both prosecuting and representing the client convicted of a sex offense would often open their sentencing arguments with the phrase, "Your honor, he has many needs." Following this statement, they would recite a litany of therapeutic and pharmaceutical interventions, ranging from prescriptions treatments for depression, anxiety, and schizophrenia, as well as needs for addiction counseling, and then sex offender treatment. When the courts parsed through these needs in the name of crafting a sentence, the caregiving capacity of the adjudicants was evaluated through metrics of good or bad care. It is these evaluations that inevitably result in lengthy periods of incarceration for Black men and youth.

In *Toward a Political Philosophy of Race*, Falguni Sheth argues that racial discrimination is not an accidental formation of liberalism. Rather, race itself is embedded in a range of legal technologies that produce and divide racialized populations (2009). In particular, Sheth focuses on the production of unruliness of the racialized other, and the state's subsequent naturalization of this unruliness. I take up the call to scrutinize the naturalization of unruliness by turning to care as a legal technology through which unruliness is produced. Critiquing the "appeal to care about care with care," Carlo Caduff urged readers to move beyond the taken for granted notion that to care about care as a sociological object was in itself "a progressive project of devotion, conversion, and protection" (Caduff 2019, 787). When the court turns its attention to care, it is the attention itself that erodes care, and it emerges as that which is claimed and assessed by the court. When the courts "care about care" by sorting care into its good and bad forms, they participate in a form of social reproduction that castigates and cuts short Black forms of living in

[3] One obvious genealogy of care's steadfast co-constitution with discipline is through the Foucauldian lens of care as self-mastery, the trajectory of which is mapped out in the progression from *Discipline and Punish* to multiple volumes of *The History of Sexuality*.

the mode of dysselection introduced by Wynter. This article extends ethnographic study of care within carceral settings following those carceral modalities into the courts, where care is claimed, weighed, valued and projected into uncertain futures prior to incarceration (Rhodes 2004; Sufrin 2017).

Anthropological conversations of care have often turned to what Miriam Ticktin characterized as the lived consequences of the state mobilization of care (Ticktin 2011). I analyzed the state mobilization of care for sexual assault victims in the emergency room in *The Violence of Care: Rape Victims, Forensic Nurses, and Sexual Assault Intervention* (2014). At moments, the care encountered there shifted from coercive to cruel, harmful, racist, alienating, and disciplining. This care, I argued, was indicative of how the state, which ultimately organizes those resources offered to the "victim-patients" who seek services in the emergency room, viewed the harm of sexual assault. Another state mobilization of care is critiqued in Dorothy Roberts's decades long scrutiny of family surveillance and what the state terms "child protective services" (2022). This article moves from the clinic and child policing systems to a separate site of the state mobilization of care, the felony courtrooms of Milwaukee, WI.[4] The court is an important node of anthropological scrutiny as it is distinctive from the clinic and from the operations of child policing systems in the public nature of its assessment of care. The institutional authority of courts to engage care as criteria for sentencing also contrasts heavily with the approaches to care taken by clinical and child policing regimes. Sentencing occurs with the authoritative structures of legal precedent, surveying the past while simultaneously contributing to future sentencing. Judges consult elements of previous cases, building and acting

[4] The ways in which the trial relies on forensic science and medical knowledge in the prosecution of sexual assault is detailed in *Bodies in Evidence: Gender, Race and Science in Sexual Assault Prosecution*, 2021, which I researched and co-authored with Heather Hlavka. Our book references some of the sentencing hearings we observed, while largely focused more on pre-trial and trial stages of adjudication.

on a corpus of knowledge that has accrued over time. This aggregation of the fate of one adjudicant with those of many others also differentiates the mechanisms of social reproduction in the courtroom from those of other institutional sites.

In reproducing ethnographic descriptions of anti-Black racism in Milwaukee's courts, there is a danger of creating a violent spectacle that participates in the abjection of Black subjects. It is useful to recall McKittrick's reminder in her discussion of Sylvia Wynter's North Atlantic abstract that "the question-problem-place of blackness is crucial, positioned not outside and entering into modernity but rather the empirical-experiential-symbolic site through which modernity and all of its unmet promises are enabled and made plain" (2015, 2). Following care into the courtroom as it adheres to persons being sentenced allows us to consider how care emerges as an integrated phenomenon that enfolds defendants, victim-witnesses, and their kin in complex ways (Taylor 2008), and serves to locate them within "the underside of the category of Man-as-human," (McKittrick 2015, 3). By deliberating about the form of a prison sentence, the court directly opened up the question-problem-place of Blackness through the proxy of care. The mobilization of care, as Ticktin argues, can be observed in the sorting of subjects into categories, the definition of the forms of care that are made available to those deemed eligible for care, and the deploying of resources to sustain the forms of care that will be offered (Ticktin 2011).

In addition, during sentencing hearings, the state asserts its authority to evaluate the inadequacies of the infrastructures of care to which the person being sentenced has access. The state then simultaneously claims that it can provide the forms of care that will result in the rehabilitation of the person being sentenced, while protecting the community from the potential harms of the criminalized subject. I excavate details from several sentencing hearings I observed during my field research in Milwaukee's court system to discern those local understandings of

care as attested to by those navigating the court system as witnesses, concerned kin, and sometimes even people on trial. The cases I chose for this article represent two selection criteria. First, they are typical instances of the forms of talk that characterized each hearing. Second, the cases I chose were deliberately those with less serious criminal charges. The last case I discuss in this article is a felony battery case that was on the sexual assault docket because it initially included sexual assault charges, but the prosecutor did not choose to pursue these charges. The spectacular nature of the court's condemning talk contrasts with the unspectacular nature of the forms of violence adjudicated by the courts. The stark contrast between the state's characterizations of Black kinship and care, and the complex, subtle, and creative tactics narrated by Black interlocutors demonstrates the ways in which the state seeks to surveil Black mores of kinship, and assign particular categories of worthiness or unworthiness to modes of care. In undertaking a legal ethnography in the courts, I contended with the ethical and methodological challenge of observing those who were compelled to appear and to speak, and for whom speaking was often a risky proposition. While I did not attempt to interview or recruit adjudicants to participate in interviews related to this study, in the conclusion I will return to the question of how we might consider and represent adjudicants' orientations to care when they often chose silent.

Care in/by the Courts

In the courts, judges and attorneys repeatedly evoked the figure of a deficient community that could not care for itself. These courtroom logics mirrored culture of poverty arguments that have long been challenged. Culture of poverty theories explained "the persistence of poverty in terms of presumed negative qualities within a culture: family disorganization, group disintegration, personal disorganization, resignation, and fatalism" (Stack 1974, 23). What emerged in the

courts was what Nicole Gonzalez Van Cleve has called a ceremony of racial degradation (2016), one with a particular gendered valence and a distinctive anti-Blackness that reproduced its logics by claiming the authority to evaluate and dispense care.

Researchers of sexual violence have established that this form of violence predominantly occurs within communities, with perpetrators and victims even hailing from within families, and within shared intimate spaces (Department of Justice, 2000). Statistically, it has also been understood that sexual assault is not a racially stratified crime; in particular, there appear to be minor differences in the prevalence of sexual violence when comparing Black and white survey respondents in large data sets (Centers for Disease Control, 2014). Policing of Black and Latino communities, however, is more intensive. Black men in Milwaukee County, especially, are more likely to experience police contacts, stops, arrests and charges. This context is important to understand the racial spectacle that unfolds in a court system like Milwaukee's, where researchers almost exclusively see people of color being prosecuted and charged for sexual assault. The large majority of these defendants are Black men. As a result, the people who are subsequently ordered and produced in the courts to testify against them, including the victim-witness, are primarily Black women and girls. The court personnel and all of the attorneys are almost exclusively white.

In the courts, my research team observed proceedings involving 364 distinct defendants, and of these, 206, or 57%, were Black men and women. The County was about 26% African-American, indicating an inversion in which Black defendants were over-represented by more than two-fold. On the other hand, 86 of the individuals were white men and women, which was 24% of the

defendants whereas the County's population was about 51% white, a corresponding under representation by less than half.

As noted above, to be in the courts was to be conscripted into a particular form of racial spectacle. In *Bodies in Evidence*, Heather Hlavka and I detailed many of these scenes of spectacle, for example, the twice daily march of Black men in orange jumpsuits plodding in unison from the jailhouse to the courthouse, shackled ankle to ankle—paraded down the hallways by sheriff's deputies for all to see. In the book, we worked through the court's requirement that Black women and girls produce a spectacle of suffering as they testify before the courts about the harms that have befallen them. This article turns to a different dynamic—the way in which the court, through the sentencing hearing, generates a racial spectacle that focuses on the inadequacies of care in the worlds of the men they are sentencing. In drawing attention to the ways in which the world of the person being prosecuted cannot capacitate the care he needs, the court simultaneously draws attention to the world that his family, neighbors, kin, friends, and most often, his victim, occupy. The defendant becomes a conduit to other people in his world of care, opening their practices to the scrutiny of the courts.

The familiar pattern of the sentencing hearing is reflected in the fieldnotes from the 190 sentencing hearings I observed, which follow a very structured form of discourse. There was a tripartite formula through which the judges invoked punishment, safety of the community, and rehabilitation. In considering rehabilitation, often times the defendant emerged as a therapeutic subject. There was also an assessment of community-based resources that would be a part of restoring this person to being a productive, in a capitalist sense, part of community. The courts

produced the notion that the rehabilitation of adjudicants was rooted within those community infrastructures. When a sentence required in custody incarceration in a prison (or sometimes a jail), this was almost always set out in contrast to the impoverished infrastructures of the community which were deemed insufficient features of an ecology of rehabilitation. As the court spelled out the deeply flawed infrastructures of care the adjudicant and their kin, neighbors and community were often present to hear this condemnation. The language of the courts suggested that community practices of care were pathological, and rooted in unproductive spaces which were far from amenable to the defendant's healing and rehabilitation. At the conclusion of the hearing, it was as if the judge was left with no choice but to declare that the defendant could not be rehabilitated within the community, and therefore would be "more successful" if taken into custody and incarcerated.

Incarceration as Life-Saving

In many sentencing hearings, the court often established that the person being sentenced was, himself, incapable of caring for himself. Take, for example, these words from an attorney representing Mr. Wilson. Wilson had been released after serving a 15-year term and only a few months later pled guilty to charges of exposing a minor to a sex act.

> Your honor, I agree with the state this is a prison case. Primarily because Mr. Wilson has a prior record and should have known better engaging in this type of conduct. I'm asking the court to consider five years globally: two in and three out. I think that would be enough punishment and time on extended supervision for him to get treatment. He tells me that when he was in prison he did not get sex offender treatment. The PSI [pre-sentencing investigation] indicates on page 5 that he was released from prison without the

benefit of sex offender treatment. It appears it wasn't ordered for whatever reason by the court or the Department of Corrections didn't have a program available for him.

He's low functioning and would require that. I think I have that now. […] hopefully when he gets out this time he'll have the benefit of that. I think just as important he needs a serious look at his alcohol use. He tells me that the entire time he was interacting with this girl […] he said he was drunk all day, every day. Was drinking from morning until night. And it's, you know, you say, geez, you should exercise better judgment. You should be able to tell when this girl says she's 18 she's really not. But when you're drunk all day, it's hard to be able to do that.

So he's got a really serious alcohol abuse issue. And he tells me that it's so bad he probably is going to have health problems around his liver and other issues that he's going to have to deal with. I don't know if he doesn't make change in that area how much longer he's going to live based on what he tells me. So I think prison is appropriate.

Here, the defense attorney made the case for a five-year sentence in which Mr. Wilson would serve two years in custody under the premise that Wilson was unable to exercise good judgement or restrain himself from abusing alcohol. He also referenced sex offender treatment, and pointed out that during Wilson's last period of incarceration, he did not access this treatment. He was vague about why the treatment never took place, but suggested that more prison time would give Wilson an opportunity to participate in sex offender treatment and also to deal with his "alcohol abuse issue." The defense attorney painted the alcohol abuse issue as potentially life threatening. In this setting, incarceration is lauded as life-saving. The judge seemed to concur, sentencing

Wilson to three years in custody and three years under supervision. This sentence upholds the prison as the site of successful sex offender and alcohol rehabilitation, though the previous sentence Wilson serves can be regarded as evidence of the state's therapeutic failure.

Judges and court personnel commonly discussed the defendant's history of employment within sentencing hearings. Employment served as an important marker of one's ability to conform to traditional masculine social roles, and to demonstrate pro-social behaviors such as steady employment. In the fieldnote excerpt that follows, a judge expanded the scope of inquiry to condemn the defendant's former employer. When Mr. Steel's defense attorney, a Black woman, pointed out her client's successful history of employment as a factor suggesting his ability to be rehabilitated and conform to expectations for a future without reoffending, the colloquy unfolded with the judge asking what the job had been:

> Attorney: He was working as a driver for a daycare van.
>
> Judge: So let me get this straight. Some daycare in the city, God forbid, hires Mr. Steel who is a convicted felon, who has auto theft on his record, that would be problematic if he was to steal the van that he's driving with kids in it. […] What ridiculous daycare hired Mr. Steel, violating, I'm sure, their moral duty, if not some legal duty of the State?

And then turning to the defendant, the judge asked, on the record, for more details of employment.

> Judge: Who were you working for?
>
> Defendant: Angel Daycare.
>
> Judge: Angel Daycare, what on God's earth is that? That is some half-baked, unlicensed, storefront daycare, right?

Defendant: It was a real daycare.[5]

Judge: A real daycare run by who?

Defendant: Rainbow Smith. That was the owner.

Judge: (snorting) Rainbow Smith?

You could hear the judge's voice oozing disapproval of the name, 'Rainbow Smith.'

Defendant: That's her real name, Rainbow.

Judge: Of course. Good God. People cannot believe what I see. There should honestly be a camera in this court every single day. So we have a convicted felon working at the "Angel Daycare" who is hired by "Rainbow," going with the theme, "God save us all." Go ahead.

Referencing the camera in the court suggested that the judge was aware of the spectacular nature of the hearings that he adjudicated, that he invited a collective gaze on the racial spectacle in the court. As the hearing continued, the judge then incorporated Steel's attorney into the rapport. After Mr. Steel explained that he was a "basically a nice guy," the judge contradicted him by announcing:

Judge: Basically, Mr. Steel, who is 30 years old, is a law breaker. Contrary to popular belief in some segments of this community, it is actually possible to reach the ripe old age of 30 without going to jail or prison. For instance (addressing defense attorney), Ms. Hunter, you're young, you're probably not even 30 yet, but have you ever been in jail or prison except as a visitor?

Attorney: No, and I'm over 30.

[5] Though "Angel Day Care" is a pseudonym, I did confirm that this daycare is a real and licensed facility in a predominantly Black and Latino neighborhood in Milwaukee.

> Judge: I've never been either. Mr. Steel, you're a law breaker. You're a bad actor. You are someone that I need to take out of the community, because when you're in the community, you've done poorly on probation previously, you've been revoked previously on more than one occasion. You know when you say you're a "sweetheart," that's hard for me to believe. Big, sweet, teddy bear kind-of-guys don't punch and beat on women. See, in the old days, men wouldn't hit women. That, like all kinds of morals in this community, has gone the way of the dinosaur.

It is in these small moments, the expression of disdain for a name that is normalized within Black naming conventions, or in the careful use of the term "community" as a proxy for race or more precisely for Black communities, that I saw the court dance around naming Blackness outright. Evident here was also the judge's lack of familiarity with Black social life, perhaps even an intentional distance and disconnection. Additionally, the judge's claim that certain "segments of the community" saw arrest and imprisonment as an inevitability draws parallels with culture of poverty arguments around resignation and fatalism. When he attempted to recruit Steel's attorney into his critique by asking her about her criminal justice history, he was demonstrating which "segment of the community" he was referencing in his proclamation.

Returning to one of the quotes with which I opened this article, the judge ended his colloquy with a revisionist history of a past in which men wouldn't hit women. I often wondered whether these so-called glory days were perhaps a reflection of a time when domestic violence and marital rape were not criminalized, so they never drew the type of public scrutiny they do now, nor served as engines of carceral creep (Kim 2020).

The "Uncivilized" Trope as a Descriptive Statement

The trope of the "uncivilized" appeared frequently during hearings. In describing Mr. Steel's abusive actions, the judge reproached:

> I mean seriously, Mr. Steel? That is uncivilized behavior. A civilized 30-year-old male or female… black, white, Hispanic, Hmong, Chinese, Italian—whatever ethnic group—does not behave that way.

Almost catching himself in the act of suggesting Black communities were uncivilized, the judge made sure to specify that his accusation of being uncivilized was a standard applying to all races, cultures, ethnicities and genders.

Contextualizing the judge's declaration of the "uncivilized behavior" with the previous condemnations of Steel's employment and employer, these utterances were organized within a unitary descriptive practice or what Sylvia Wynter may characterize as a "descriptive statement" (Wynter and McKittrick 2015, 10). Wynter and McKittrick turn to origin stories of the human to identify the ways in which particular descriptions of what it means to be human produce hierarchies of value. They work between thinkers like Frantz Fanon who presents *homo economicus* as one descriptive statement, and Gregory Bateson who notes the work that descriptive statements play in self-corrective systems (Wynter and McKittrick 2015, 12). Such statements conserve and recommit to the hierarchy of the human which, through the use and repetition of particular words or tropes, "devalorizes" particular modes of the human (Wynter and McKittrick 2015, 14).

While this case, and this particular judge, made it a point to condemn the inadequacy of the daycare that had previously employed Mr. Steel, the general criticism of childcare practices was not limited to daycares. Inadequate and uncivilized actions were also extended to the practices and decisions of Black mothers. In another case, the district attorney spent a great deal

of time explaining the limitations and deficiencies of a defendant's partner. There were two victims in this case, and they were both the daughters the defendant's partner. Speaking about the partner, LaKeisha Green, who was not herself on trial, the DA said:

> The defendant was dating or married to La Keisha Green, which the Court may have noted from his adult criminal record because three of his four convictions involve her. She is somebody who has had, and I don't know if she continues to have, but she had in the past a drug and alcohol problem. She was the victim of Mr. Green physically. She has been involved in the Bureaus before and has had her children taken away and placed in foster care. So she's not somebody who is eager to be part of the system, I would say. And based on her previous drug use and her victimization by the defendant, I think she is—and what's happened through the child welfare system, which was all necessary, but I think this has made her afraid of the authorities and, frankly, afraid of Mr. Green.

Later, as she explained why the disclosure from the victims was delayed, the DA noted that one of the girls, Sarina, had told her mom and:

> Her mom told her not to tell because her mom would get in trouble and all her brothers and sisters would get in trouble and all her brothers and sisters would get taken away because that's what previously happened […] So Sarina, with the mom putting essentially the weight of all of this on her, because the Bureau would take all the children, and that is what was the experience in the past, Sarina didn't tell. A horrible place to put a 7-year-old in. And Ms. Green probably is not going to win any awards. And as the Court has said in the past, she has limited parenting skills, is the nice way of putting it, but Sarina kept this all in and didn't tell.

This hearing was one of many in which comments were made about Black maternal figures, and while Blackness was never named, it was clear whose mothering was deficient. These tropes are also characteristic of the language of child policing systems (Roberts 2022), though once again, they are reported in the court as a form of public talk rather than simply limited to the administrative space of social work files. Later in this same hearing, the DA lamented that neither of the two girls had shown up to make a victim impact statement. The older child, she commented, would have impressed the judge as she was a "very articulate girl."

When cases involved Black children, their mothers were frequently reporters of the harm to their children, and powerful witnesses during trials, this despite the risk of triggering more surveillance and potent intervention of child protective services or loss of custody. I spoke with some of the DAs who did note the difficult terrain these mothers navigated (see for example the case of Maya Peeples in Hlavka and Mulla 2021, 96), though the DAs limited these acknowledgments to off the record conversations.

I want to draw on one more case in which the judge we heard from earlier, who complained about Mr. Steel's uncivilized behavior, roundly critiqued all of the nurturing forces in the life of 19-year-old Travis Horton. Young Mr. Horton was one of the few people who received a probationary sentence, though he was in custody for 6 days in the county jail. With no criminal record, and his charges reduced to misdemeanor pleas, it was still critical for the judge to evaluate the deficiencies in Mr. Horton's support system, in a packed courtroom and on the official court record. Invited to address the court, the back and forth began with Mr. Horton apologizing.

Horton: Your Honor, I just would like to say that I'm sorry for what I've done in the past, and I would like to apologize to the victim and her family, and I'm looking forward to doing better.

Judge: Mr. Horton, are you working?

Horton: I'm trying. I have to wait until my ID comes.

Judge: How can you be almost 19 and not have an ID?

Horton: Because my ID is in Chicago, my birth certificate is in Chicago and my mom just sent for it.

Judge: Where does your mother live?

Horton: She live in Milwaukee.

Judge: So why is your identification in Chicago?

Horton: Because she used to stay in Chicago.

Judge: And she didn't bring it up with you; it was too heavy or what? […] So what are you doing with your time right now, Mr. Horton? Are you basically hanging out?

As the hearing continued, the judge asked Horton why he physically assaulted his girlfriend, the victim in this case. When Horton responded that they had gotten into a fight over how to spend Sweetest Day, the judge responded:

Judge: This is just another one for the book that I'm going to write. […] Mr. Horton, that may be the dumbest, stupidest thing I've ever heard in the last four, five years, and believe me that takes in a lot of bad behavior. "So honey, do you want to go out for a walk in the park and a nice ice cream cone? No, I'm not in the mood, okay," you bang her head on the table. […] This is another case where this community is so far gone, I've got to leave, I've got to move to Montana or somewhere else. The behavior in this

community is so uncivilized it's unbelievable. And, Mr. Horton, I hate to ask, because I'm sure I'm not going to like the answer, do you have a father in your life?

[…]

Horton: I have a father, but he not in my life.

Judge: Where is he?

Horton: In Chicago.

Judge: Doing what?

Horton: I have no idea.

Judge. Lovely. And what does your mother do? Does she have a job or what does she do for a living?

Horton: She take care of old people.

Judge: Are you still living at home?

Horton: Yes.

Judge: See, Mr. Horton, if you had a decent father in your life, what your father should have done upon finding out about this, […] he should have kicked your butt from one end of Milwaukee County to the other and then locked you in the basement, but you don't have a good father. And since your father is not around, your mother should have done the same thing, kicked your rear end from one side of the county all the way to the other and then lock you in a basement without a TV, without an Xbox, without cable, without a Game Boy because you're a bad actor. And when it comes to your graduation—I could get started on this topic. You graduated, if you want to call it that, from CENTRAL HS with a 0.8 GPA on a 4.0 scale ranking 283rd out of 317 at Central. Central, which has never been confused with Harvard or Stanford, never been confused with even Rufus

> King or Marquette. So, in other words, you graduated because they were sick of seeing you, and they said, "See you later, here's your diploma, congratulations," and MPS put out another child in Milwaukee County who can't fend for themselves, can't or doesn't have any employment skills and will probably be a drain on society.

This last comment by the judge, whose irritation now turned to the Milwaukee Public School System, an underfunded and overwhelmed public school system serving the largest group of children in the state, the majority of whom qualified for free school lunches, and the majority of whom were Black children, was one the closest the judge came to making a systematic critique of a systematic failure that was disadvantaging Milwaukee's Black communities. He certainly did not give Mr. Horton any credit with earning his diploma, even under challenging circumstances.

Once again, the judge had impugned the failures of the maternal care in the defendant's network, insulting his mother's ability to produce required documents for her now adult child, and admonishing her for not "kicking Mr. Horton from one end of the county to the other" in the absence of his father. The judge offered an image of paternal care as discipline, and positioned the state to carry out this disciplinary care in the absence of Mr. Horton's father, while proclaiming the inadequacy of his mother to provide the care he needed.

Closing: Condemning Care, Condemning Communities

In 1965, in his infamous and influential report titled, "The Negro Family: The Case for National Action," Daniel Patrick Moynihan asserted that "for vast numbers of the unskilled, poorly

educated city working class the fabric of conventional social relationships has all but disintegrated." Clearly, there were eerie shadows of this disavowed evaluation saturating the discourses of sentencing hearings. The opening quote from the judge lamenting the fiction of a present in which morals have eroded in contrast with, "the old days, [when] men wouldn't hit women," applied this logic of social disintegration. It did so without invoking the racist strictures of these same old days. The stickiness of this anti-Black logic clung not only to the person being sentenced; the fieldnotes and court transcripts we collected were replete with many more examples of the ways in which sentencing hearings became a trap for all of the people in the social world of the person being convicted. The victims, lovers, wives, partners, girlfriends, mothers, employers, educators, pastors, and many other kin and relations were often the subject of scrutiny, scornfully dismissed or deemed inadequate. The sentencings served as a conduit into the social world of the person being convicted. The fate of the "sex offender" was then sutured to the future of Black communities with which he was associated, who were themselves disciplined through the sentencing hearing. This is how the state sent its tendrils deeply into the very fabric of Milwaukee's Black social worlds, expanding its carceral reach and institutionalizing the condemnation of Blackness that is fundamental to racial orders that uphold urban life (Muhammed 2010). This mode of narrating Black community and home life in Milwaukee is a way of subjecting it to the descriptive statement of the court. In the 1960s, Carol Stack "became poignantly aware of the alliances of individuals trading and exchanging goods, resources, and the care of children, the intensity of their domestic cooperation, and the exchange of goods and services among those persons, both kin and non-kin," in the midwestern city she called the Flats. This article has sought to show that the sentencing hearing serves to disavow those intensities of care and kinning (Stack 1974, 28). The carceral technology of the hearing not only disavows the

caring capacity of Black men, but also the Black women who they draw into the courtrooms in their narration of the caring worlds of which they are a part. Here, too, we see a courtroom that denies the careful work that Stack undertook to negate the way that cultures of poverty insisted on the social disorganization of young Black families, particularly drawing attention to the intensity of labor that Black women put into sustaining family life. When the court calculates the caring capacity of adjudicants and their communities, it is not "about the business of living with people, sharing in and amplifying their life force, recognizing their value and worth" (Finch 2022, 2).

I want to end this article with a call back to some insights from anthropologist Aimee Meredith Cox. Her interlocutor, Janice, a young Black girl in Detroit, recognized the dangers and difficulties of the ways in which institutional narratives are "missing the middle." When Cox asked Janice to explain what "missing the middle" meant, Janice explained that it is "the way we always have to think about how other people see us and compare it to how we see ourselves," (Cox 2015, 10). Scholar Farrah Jasmine Griffin writes that "Janice describes a kind of DuBoisian double consciousness, in which black girls are fully aware of the ways that dominant discourses define them" (Griffin 2016). In Cox's ethnographic meditation on what she terms shapeshifting is a description of how Black girls might create possibilities to evade the ways in which social service institutions attempt to shape them into "manageable and respectable members of society" (Cox 2015, 7). In the courts, adjudicants are well aware of the pernicious narratives that are being spun around them, and they have little recourse to speak without consequence. Contempt charges and immediate incarceration meet those who are perceived to speak out of turn, or even,

in some cases, to speak with too much passion.[6] Even as the court dismisses the modes of care in which they participate, Mr. Horton and Mr. Steele were able to make some assertions in their responses to the judge. Mr. Horton drew attention to his connection with his mother, and also claimed his status as a high school graduate. Mr. Steele worked for a daycare, participating in the caring work that his employer undertook on behalf of the community. During sentencing hearings, each man appeared beside an attorney who represented his interests, while a few of his family members sat quietly in the gallery. While they were unable to speak with their family members during the hearing, they gently locked eyes through the bullet proof partition as they entered and exited the court room.

Following Roberts, my own work has brought me to recognize the ways in which these social service institutions are extensions of the carceral logics of the criminal justice system, and when Cox describes the "social meanings that are shackled" (Cox 2015, 29) to young Black girls, I hope that I have shown how the state conducts this shackling through the Black men who have been convicted of sexual assault, even as the courts make claims to protect Black women and girls whom they invoke as the "community" in whose name they punish and imprison. Care has long been the concern of feminist anthropologists, and as such, our attention to care must consider the ways in which it can, in fact, serve carceral expansion and anti-Black surveillance. Care in this work becomes a central focus for the descriptive statements of the courts that fix adjudicants and their lifeworlds in place. In the name of protecting the community, courts participate in an evaluation of the capacity to care that reproduces a spectacle of a pathologized and inadequate world of Black care, of failing Black mothers, and struggling institutions. When

[6] In a 2018 case, a Milwaukee judge charged a defense attorney with contempt and then had him handcuffed and taken into custody. https://www.wjiinc.org/blog/borowski-vacates-contempt-order-recuses-himself

courts practice care during sentencing hearings, they too often suggest "the disturbing possibility of care as a form of not caring," (Caduff 2019, 803). These modes of dysselection depend on evaluating care in the name of the victim, and in the name of a future that claims to prevent sexual violence. The reality of the continued proliferation of sexual violence suggests that this form of care does little to affirm and support Black women and girls who seek futures free from harm.

Acknowledgements

I am grateful to the editors of *Feminist Anthropology,* and to the reviewers, particularly the eponymous Reviewer 2 who suggested texts by Sylvia Wynter and pressed me to think about the ways to include the perspective of the sentenced. I have many years of sitting with Wynter's words ahead of me. This project was funded by the National Science Foundation's Program in Law and Social Science (Award 1250606). My thanks to the New York Academy of Sciences which was the first audience for the early version of this article, and to April Petillo, who offered thoughtful comment there as my discussant. I am also grateful to my academic home, the Department of Women's, Gender and Sexuality Studies at Emory University, where I also presented this work, and to Heather Hlavka and Amber Powell, who I continue to think and work with though our fieldwork is many years behind us.

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