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Racialized Pathways of Protection: The Politics of Family Preservation and Child Protection in  
New York City Foster Care, 1920s-1960s

By  
Michaela Christy Simmons

A dissertation submitted in partial satisfaction of the  
requirements for the degree of  
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in  
Sociology  
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University of California, Berkeley

Committee in charge:

Professor Raka Ray, Chair  
Professor Cybelle Fox  
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Professor Jill Berrick

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## Abstract

### Racialized Pathways of Protection: The Politics of Family Preservation and Child Protection in New York City Foster Care, 1920s-1960s

by

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Doctor of Philosophy in Sociology

University of California, Berkeley

Professor Raka Ray, Chair

*Racialized Pathways of Protection* examines the history of racial inclusion in early foster care. Child welfare histories tend to focus on the processes of racialization that occurred in the 1960s as a result of racist ideologies of family pathology, legislative amendments to welfare, and the scientific “discovery” of abuse. However, this work fails to account for the vast demographic changes that occurred in the post-war decades. I argue that the history of foster care racialization actually began with the New Deal, which enabled many white children to be cared for within their own homes and gave way to vast transformations in the purpose and aims of child protection. In contrast to previous historical accounts, I find that between the 1930s and 1960s, New York City foster care transformed from a system that primarily served white youth to one that disproportionately served Black and Puerto Rican youth. I argue that the disproportionality of minorities in foster care is an enduring consequence of racial inequality in the American welfare state.

As the foster care population transformed, local private and public child welfare services struggled to define the contours of racial responsibility, creating vastly different pathways of inclusion. Using archival data from Children’s Courts, social welfare conferences, and private welfare agencies, I find that not only did the foster care demographics change in the post-war era, white and non-white youth were rarely cared for within the same services. While white youth were increasingly cared for in their own homes or in therapeutic institutions, reformers insisted on race-matched foster family care for Black youth as a way to accommodate diversity without upsetting the racial balance of orphanages. Yet Black families faced significant barriers to formal fostering, and the reliance on this method of inclusion, coupled with the discriminatory practices of private orphanages, racialized the “hard-to-place” category. As a result, many non-white youth were warehoused in temporary shelters or delinquency institutions. Non-white youth were not excluded from substitute care, but rather, incorporated through segregated channels in ways that deeply informed meanings of childhood, family, and social citizenship along racial lines.

The findings of this dissertation extend discussions of state growth in the context of a delegated welfare system. As public foster care grew, it came to absorb the many non-white



youth rejected by private child welfare agencies. In the shadow of private child welfare, public programs appropriated the very classifications created by the private sector to exclude non-white children—aggressive, low-IQ, pre-delinquent. Given the role that race plays in perceptions of deservingness and opinions about welfare, the increasing association of public foster care with minority children may have shaped ideas about the social problem and investment in the subsidized care of “other people’s” children. The way New York City public foster care developed and evolved in response to private child welfare suggests we must pay attention not only to the myriad ways delegated governance fosters inefficiencies through privatization, but also how the private sector influences the policy agenda of the public sector. The analysis presented in this dissertation helps us understand how the public foster care system came to be informed by strategies of racial accommodation, private sector interests, and stratified access to policies of family preservation, and how, with a different state approach, the investment in Black and Puerto Rican children’s lives might have been otherwise.

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## Chapter 1: Introduction

*Marion<sup>1</sup> is writing to a judge in the Domestic Relations Court because, in her words, she's "too tired to be a mother."<sup>2</sup>*

*"I am very sorry but there just isn't room for both Lonnie and I here. Either someone has to find him a place to stay or I am not coming home anymore. It's truly not Lonnie's fault... I told the court the last time I was there that I am not a good mother because I just don't have the proper feelings or something."*

It's the winter of 1944 in New York City and Lonnie has been in and out of the foster care system since infancy. Now, at age 13, the court is trying one last time to return him to his home. But his mother, Marion, a 28 year-old single, African American woman from the Bronx, works ten-hour shifts with an hour-long commute each way: "I don't have any future anyway and what little is left of my life I want to be as happy as I can make it, and it will be if I can go to work and come home to my peanut-sized room without any aggravation... There is no use saying I'll have to adjust myself or lick my problems and not shy away. In fact, none of those high sounding phrases make the slightest impression on me. I'll never be noble, sacrificial or unselfish."

Marion and Lonnie's story illustrates a key moment in the post-war foster care system when pathways opened up for minority youth access in a service originally designed for the needs of white children. For much of American history, "foster care"<sup>3</sup> was a voluntary service for struggling parents.<sup>4</sup> Less punitive than the system of today, the Children's Courts and Department of Welfare worked side-by-side to allocate access to a mix of public and private agencies, including institutions, temporary shelters, training schools, and boarding (foster) homes. These agencies were often filled with "half-orphans," the children of impoverished, single parents, and offered temporary assistance after marital breakdown or inflexible work schedules. Such was the case for Marion, who at 14 years-old, was abandoned by the child's father shortly before the birth. When Lonnie was five months-old, she placed him in the New York Child Foster Home Service, intending that the separation be temporary; but months became years as she remarried, gave birth to a second child, and found herself a single parent again in a small apartment where she cared for her elderly mother and disabled son.

After a long history of racial exclusion, Lonnie was part of a push in the 1930s and 1940s by liberal reformers who fought to ensure equal access to substitute care. But his start at the New York Child Foster Home Service was just the beginning. After having spent most of his life in race-matched foster homes, he was brought before the court on allegations of delinquency at age

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<sup>1</sup> All names from historical records are changed or fabricated.

<sup>2</sup> Polier Manuscripts. 1944. "Court Action." June 22, MC 413/Box 19/Folder 228.

<sup>3</sup> During the era of study, foster families were one method among many used to place children outside of their familial home for reasons of abuse, neglect, or dependency. When referring to the 'foster care system' or 'out-of-home care,' I utilize the 1933 Bureau of the Census definition for out-of-home placement, which included free foster families, group boarding homes, institutions for the dependent and neglected, and to a small extent, work or wage homes (Source: United States. Bureau of the Census, Alba M. Edwards, Mrs. Mary W. Dillenback. 1935. *Children under Institutional Care and in Foster Homes, 1933: Dependent and Neglected Children under the Care of Public and Private Institutions or Agencies, Not Including Juvenile Delinquents*. Washington, DC: United States Government Printing Office).

<sup>4</sup> Maas, Henry S. and Richard E. Engler, Jr. 1959. *Children in Need of Parents*. New York: Columbia University Press; Rymph, Catherine E. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press.

11 for having “deserted his foster home on six different occasions within a period of ten days.” He was placed in a temporary shelter, what journalists of the era described as “jails that were miscalled shelters,” while he awaited commitment to a long-term facility. There for nine weeks, he underwent “intensive study”; psychiatrists found him to be of “borderline intelligence” and “emotionally unstable.” He was unruly, threw temper tantrums, and stole small sums of money. Finally, he was committed to Wiltwyck, a predominantly Black training school for pre-adolescent boys. But after developing tuberculosis and spending two years in the hospital, he was too old to return and his applications to private, Protestant agencies were rejected on the basis of his low IQ and behavioral problems. With no other place for him, the only alternative was the N.Y. State Training School at Warwick, “a locked and barred”<sup>5</sup> public delinquency institution which judges avoided for all but the most serious cases.

On one level, this dissertation examines how minorities were incorporated in the early system of foster care. Lonnie’s experience captures the voluntary nature of foster care in this era, in fact, this was a moment in history when minorities fought for access to such services. How did court and social welfare actors negotiate with private, discriminatory child welfare agencies over responsibility for minority youth? How did this struggle shape ideas about the status of minority children—their innocence, deservingness, and capacity for civic incorporation? In the end, Lonnie’s own self-advocacy swayed the court against commitment to the state training school. After a series of rejections from Protestant agencies that aligned with his mother’s religious beliefs, he knowingly or not claimed to have converted to Catholicism during his youth. The judge was able to find a private Catholic agency willing to accept him and the case was closed. His journey from foster homes and temporary shelters to the threat of a delinquency institution illuminate child protection not as a singular institution, but as a complex system of different childcare services, including orphanages, foster family care, and temporary shelters—all of which were one step away from delinquency institutions when there were no other alternatives. As this dissertation will show, pathways to protection were shaped by the interplay between race, powerful religious institutions, and progressive child welfare reformers, with significant consequences for frameworks of non-white children’s needs.

On another level, this dissertation examines how the state can be a force for the preservation *or* destabilization of family life through economic aid and social protections. Poverty has always been a defining feature of the foster care population and “the child welfare system stands alongside criminal justice and welfare systems in managing problems arising from adversity.”<sup>6</sup> Marion’s letter captures the complicated relationship between poverty and family preservation. As she rejected sacrificial motherhood, her words underscored the deeply personal, and often uncomfortable, reasons for fostering a child: “I want to live too. I really want to see Lonnie settled in a nice home where he can be reasonably happy, where he will have a chance to make something of his life but not at the expense of my own.” But if her experience does not sound like pure economic survival that is because the effects of poverty are complex and often impossible to unravel. Even Marion didn’t presume that a more comfortable existence would ensure the love of her first born: “If my place was larger and there was room where Lonnie

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<sup>5</sup> Polier Manuscripts. 1945. “Report To the Board of Justices from the Committee on Institutions, regarding the visit to the State Training School Warwick.” May, MC 413/Box 4/Folder 40.

<sup>6</sup> Fong, Kelley. 2020. “Getting Eyes in the Home: Child Protective Services Investigations and State Surveillance of Family Life.” *American Sociological Review* 85(4): 615. See also: Roberts, Dorothy E. 2002. *Shattered Bonds: The Color of Child Welfare*. New York: Basic Cevitas Books.

would be out of the way sometimes, perhaps I would feel different but I can't be sure of that even." But then again, Marion had never known a more affluent life. In the end, we need not separate her inner motivations from the experience of poverty and racial injustice to know that social policies which enable dignified personhood encourage dignified parenthood.

In fact, Marion's lifelong struggle with poverty—from her cramped, "peanut-sized" apartment to long hours as a domestic worker—occurred during a time of great prosperity and increasing economic security in America. This dissertation argues that the increasing racial disproportionality of foster care during this era was an enduring consequence of racial inequality in the American welfare state. The transformations in child protection at this moment in history marked a shift in how the state invested in families. By emphasizing the economic gains made by white families as a result of New Deal federal intervention, the project reframes understandings of how foster care came to be a racialized state service. While the effects may not be visible on the granular level—when looking at one individual life—the generational effects of "white affirmative action" in the post-depression decades reconfigured the relationship between poverty, family, and child protection.

Finally, *Racialized Pathways of Protection* engages the understudied racial politics of early foster care development with attention to the experiences of white youth. Lonnie's turbulent childhood in substitute care sheds light on the bitter experience of racial accommodation in early foster care; but as he bounced from place to place, an extraordinary shift was occurring in New York City—white children were quietly disappearing from foster care. Minorities are often understood to have become targets for foster care during the 1960s, when racist portrayals of family pathology, welfare amendments, and the scientific "discovery" of abuse incentivized Black child removal.<sup>7</sup> However, this dissertation offers an account of history that underscores the interconnectedness between the white and Black experience at this time. As a result of racial cleavages in the developing welfare state, white youth experienced a near exodus from New York City foster care in the post-war years. By the late 1950s, the city's foster care system came to disproportionately serve Black and Puerto Rican youth through a public system which accommodated the color-line as a supplement to discriminatory private services. This is at once a history of the deeply entrenched racism within private child welfare and the developing welfare state, as well as the struggle of well-intentioned progressives who fought for minority inclusion. The struggles and failures of Black and Puerto Rican child protection reveal much about the ironies of racial inclusion in American welfare history. Non-white youth were not excluded from substitute care, but rather, incorporated through segregated public channels in ways that deeply informed meanings of childhood, family, and social citizenship along racial boundaries.

### **Setting Up the Puzzle: From Exclusion to Over-Inclusion**

To examine these forces, this dissertation first starts with the puzzle of the demographic shift in substitute care. Over the course of the 20<sup>th</sup> century, minority youth shifted from near total exclusion to overinclusion, with nearly 1 in 9 Black children at risk of foster placement before the age of 18 in the contemporary era (compared to 1 in 17 for all youth).<sup>8</sup> Parallel shifts

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<sup>7</sup> Webb-Lawrence, Claudia. 1997. "African-American Children in the Modern Child Welfare System: A Legacy of the Flemming Rule." *Child Welfare League of America* 76(1): 9-30; Raz, Mical. 2020. *Abusive Policies: How the American Child Welfare System Lost Its Way*. Chapel Hill: The University of North Carolina Press.

<sup>8</sup> Wildeman, Christopher, and Natalia Emanuel. 2014. "Cumulative Risks of Foster Care Placement by Age 18 for U.S. Children, 2000-2011." *PLOS ONE* 9(3): 1-7.

occurred in other institutional settings, such as juvenile justice, which transformed from exclusion to overinclusion in the early to mid-twentieth century.<sup>9</sup> Similarly, Christopher Muller's work has shown that while the rapid growth of incarceration rates is a recent phenomenon, racial imbalance in incarceration is not, and as such, it "follow[s] its own historical path."<sup>10</sup> Drawing on this framework, this dissertation examines the historical origins of racial transformation in the foster care system. The next section explores the history of racial exclusion in early substitute care settings. This is then followed by a discussion of scholarship that has rooted the shift from exclusion to overinclusion in legislative changes during the 1960s that transformed the relationship between welfare and foster care. In contrast to this work, I present a different timeline of foster care racialization which I argue began in the late 1930s continuing through to the early 1960s—a history which I refer to as the *white exodus*. In contrast to scholarship that focuses on the policing of Black families, I make the case that the demographic shifts were rooted in the racial divergence in family preservation as a result of the New Deal. This intervention is important not simply as a new chronology of foster care racialization, but because it illuminates a distinct "historical path" rooted in the development and consequences of the racial welfare state.

### *The History of Racial Exclusion: The Private, Sectarian Child Welfare in NYC, 1850-1900s*

Amidst pleas for reform of a foster care system that disproportionately disrupts and restructures Black families, it is hard to imagine a time when Black children were ever excluded from these so-called services. But substitute care services were originally developed to meet the needs of white children. It is important to trace the historical roots of racial exclusion in early substitute care in order to understand the radical transformations that occurred sometime in the twentieth century, when Black exclusion shifted to overinclusion. This section offers background on the history of racial exclusion with attention to the forces that set the stage for racial incorporation processes in the twentieth century.

The exclusion of Black children from substitute care in early history had much to do with the power and autonomy of private religious agencies which dominated child welfare in urban areas through the mid-twentieth century. Private child caring institutions arose in the mid-1800s as reformers and the public alike became concerned with the placement of young, unwanted children in asylums alongside criminal and vagrant adults. A prominent coalitional force behind these agencies were the Child Savers, a loosely organized movement that spread as a powerful campaign against cruelty to children. The child savers movement sought to protect children from "un-American" environments, particularly focusing on Catholic immigrants for what they perceived to be a tendency for drunkenness, debauchery, and neglect of children.<sup>11</sup> Between 1865 and 1885, they helped pass a series of child protection statutes in New York and laid claim to proper mothering, as well as meanings of abuse and neglect. Eventually they helped achieve legislative incorporation for religious and nonsectarian child care agencies, and in doing so, profoundly "altered the legal relationships between children, their parents, and the state."<sup>12</sup>

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<sup>9</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>10</sup> Muller, Chris. 2012. "Northward Migration and the Rise of Racial Disparity in American Incarceration, 1880-1950." *American Journal of Sociology* 118(2): 310.

<sup>11</sup> Kasinsky, Renee G. 1994. "Child Neglect and 'Unfit' Mothers: Child Savers in the Progressive Era and Today." *Women and Criminal Justice* 6(1): 100; Gordon, Linda. 1988. *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston 1880-1960*. New York: Penguin Books.

<sup>12</sup> Sobie, Merril. 1988. "The Family Court: An Historical Survey." *New York State Bar Journal* July: 56.



Child-saving organizations held great moral sway in the urban landscape, combining charity and religious propaganda to lay claim to impoverished and immigrant children as future citizens.<sup>13</sup> Protestant institutions dominated during this era, and some, like the Children's Aid Society, refused to place Catholic children with families of the same religious heritage. Fearing the "persistent threat of proselytizing [by] Protestant charities," other religious denominations, including the Catholic and Jewish faiths, began to open competing child welfare organizations.<sup>14</sup> Such institutions enabled them to maintain cultural autonomy through child welfare work. While parents often sought the aid of these institutions voluntarily, the founding of the Society for the Prevention of Cruelty to Children (S.P.C.C.) in 1872 brought the "arm of the law" to protect and rescue children. They sought to find and remove mistreated children whose cases would be decided upon by their own legal tribunal. Their strategies included surveillance and warnings, arrests for nonsupport, social assistance, and punishment, particularly in New York.<sup>15</sup> They generally placed children in institutions rather than foster homes. Through the "single-minded approach to the rescue of children and prosecution of parents, the SPCC substantially increased the numbers of children in large institutions as wards of public or private charities."<sup>16</sup>

In 1874, this network of private, religious institutions grew more entrenched as New York City halted "outdoor relief."<sup>17</sup> Instead, the local government gave funds to private charities directly, which were then distributed to the poor however they saw fit. One year later, the Children's Act of 1875 formally mandated that all unwanted children over the age of three be placed in children-only institutions.<sup>18</sup> The act also mandated that "children be placed, when practicable, in institutions controlled by persons of the same religious faith as the parents of the children."<sup>19</sup> As one of the only resources available to struggling parents, child-caring agencies gained great power over the lives of children, and though they were supported through public funds, they had little accountability.

In the subsequent decades, the state made attempts to regain supervisory control over the expanding sectarian child welfare system, but many of these efforts were thwarted by powerful religious federations. Their autonomy and power had lasting effects on the organization and fairness of the child welfare system. As youth were transferred from asylums to children's institutions, Black and disabled youth were left behind.<sup>20</sup> Black youth were relegated to the care of a few underfunded colored orphan asylums, as well as extended family and community resources.<sup>21</sup> Those who fell through these safety nets were instead cared for in almshouses,

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<sup>13</sup> Platt, Anthony M. 1969. *The Child Savers: The Invention of Delinquency*. Chicago: The University of Chicago Press; Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>14</sup> Creagh, Diane. 2012. "The Baby Trains: Catholic Foster Care and Western Migration, 1873–1929." *Journal of Social History* 46(1): 198.

<sup>15</sup> Gordon, Linda. 1988. *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston 1880-1960*. New York: Penguin Books.

<sup>16</sup> Costin, Lela B. 1992. "Cruelty to Children: A Dormant Issue and Its Rediscovery, 1920–1960." *Social Service Review* 66(2): 179.

<sup>17</sup> Kaplan, Barry J. 1978. "Reformers and Charity: The Abolition of Public Outdoor Relief in New York City, 1870-1898." *Social Service Review* 52(2): 202-214.

<sup>18</sup> English, Peter. 1984. "Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920." *Pediatrics* 73(5): 701.

<sup>19</sup> Folks, Homer. 1900. "The Care of Destitute, Neglected, and Delinquent Children." *The Charities Review*: 120.

<sup>20</sup> English, Peter. 1984. "Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920." *Pediatrics* 73(5): 701.

<sup>21</sup> Mabee, Carleton. 1974. "City in Travail: Two Orphan Asylums for Blacks." *New York History* 55(1): 55–77.

workhouses, and jails alongside adults.<sup>22</sup> The bifurcation of the public and private child welfare system created in the 19<sup>th</sup> century severely inhibited the ability of the state to mandate services for Black children in the twentieth century. Ultimately, this arrangement enabled pervasive racial exclusion by private agencies, and set the stage for a struggle between emerging public child welfare authorities and private agencies over non-white youth.

### *The Oppressive Inclusion of Minorities in Child Protection, 1960s and 1970s*

Scholars argue that in the 1960s, the dominant stance of Black exclusion gave way to a form of “oppressive inclusion,” which saw many Black children suddenly swept up into a coercive child protection system. The oppressive inclusion of Black children in substitute care was rooted in a changing relationship between welfare and foster care that functionally transformed foster care from a voluntary service to a coercive, punitive system. This work has come a long way in pushing for a longer historical timeline in accounts of racial disproportionality in foster care, and has expanded understandings of the relationship between welfare, race, and foster care. However, as I will show, this work is limited by a lack of empirical insight into the demographic shift and a fundamental misrepresentation of the timeline.

Prior to the 1960s, states were allowed to set the eligibility rules for access to Aid to Families with Dependent Children (AFDC), and many created “home suitability clauses,” “man-in-the-house rules,” and “illegitimate child clauses,” which were used to deny welfare benefits to African American families.<sup>23</sup> A number of states conducted purges wherein families with “unsuitable homes” were expelled from the welfare rolls. Louisiana became the most inflammatory case when, in 1960, they expelled thousands of clients, most of whom were African American. As a result, the Flemming Rule was passed in 1961, finally providing states with a federal definition of “home suitability.” Agencies could no longer deny welfare coverage based on their own rules, rather, if a home was “unsuitable” they had to provide alternative services for the child, of which foster care was one solution. Yet concern with immorality and illegitimacy did not disappear; instead, the “language of morality” shifted to the “language of neglect.”<sup>24</sup> While the ruling was intended as a safeguard to welfare access, it led to the use of judicial processes for AFDC clients deemed “unsuitable.” This was quickly transforming foster care from a voluntary program for needy parents to a coercive system.<sup>25</sup>

Scholars argue that the coercive separation of children from impoverished, minority families may never have been so prevalent had it not been for the establishment of federal funds for foster care. While the Flemming Rule mandated the provision of “alternative services” to families with “unsuitable homes,” there was little money or programming to “provide effective clinical intervention” to neglectful families. But the passage of the 1962 Public Assistance

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Billingsley, Andrew, and Jeanne M. Giovanni. 1972. *Children of the Storm: Black Children and American Child Welfare*. New York: Harcourt, Brace, Jovanovich.

<sup>22</sup> Frey, Cecil P. 1981. “The House of Refuge for Colored Children.” *Journal of Negro History* 66(1): 10–25; Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>23</sup> Webb-Lawrence, Claudia. 1997. “African-American Children in the Modern Child Welfare System: A Legacy of the Flemming Rule.” *Child Welfare League of America* 76(1): 11. See also: Piven, Frances Fox, and Richard A. Cloward. 1971. *Regulating the Poor: The Functions of Public Welfare*. New York: Pantheon Books.

<sup>24</sup> Webb-Lawrence, Claudia. 1997. “African-American Children in the Modern Child Welfare System: A Legacy of the Flemming Rule.” *Child Welfare League of America* 76(1): 17.

<sup>25</sup> Rymph, Catherine E. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press, 168.

Amendments enabled Title IV AFDC funds to be used for children who received AFDC prior to entering out-of-home care. Scholars argue that this shift in funding may have incentivized the removal of Black children “whose families were, in the 1960s, increasingly qualifying for AFDC.”<sup>26</sup> Whereas previously, states could deny welfare to Black mothers based on “unsuitable homes” rules, now states could “draw upon federal funds to support the practice of separating African American children from their parents using the justification of “unfit parents.””<sup>27</sup> By 1963, “the largest groups of children placed in [public] foster care consisted of both Negro and American Indian children.”<sup>28</sup> This solidified “foster care’s association with “welfare”—and not incidentally—with children of color.”<sup>29</sup> Claudia Webb-Lawrence argues that these interlinked political, economic, and racial factors led to the “*oppressive inclusion*” of African American children in the foster care system after a long history of exclusion.<sup>30</sup>

However, few studies have empirically studied the changing racial demography of foster care during this time period. Lawrence-Webb shows that Black and American Indian children were the largest group of children in public and voluntary foster care by 1963. Her work remains critical to understanding the coercive relationship between welfare and foster care, and the negative impact this had on the treatment of Black families. Yet, much of this demographic shift either occurred in a few short years or prior to the Flemming Rule and Public Assistance Amendment. This is not to say that these forces did not have a great impact on the *oppressive inclusion* of Black youth, but rather, that an extended historical timeline helps us identify new explanations for the racialization of foster care, particularly as they relate to white children. The racialization of foster care is not only a story of the oppressive policing of Black families, it is also a story about white families. Did the Great Migration and Puerto Rican migration simply funnel so many minority youth into substitute care that their numbers surpassed the white population, or did fewer white youth need foster care? The invisibility of white children in histories concerning the racialization of foster care is problematic, and should be examined alongside histories of minorities. This dissertation argues that examining the white substitute care population during this moment not only reveals that racialization started earlier, but also points to a different trajectory of origin.

### **Racial Accommodation in the Developing Foster Care System**

This dissertation offers a different timeline of foster care racialization beginning in the late 1930s, and illuminates a distinct historical explanation rooted in the racial welfare state. In the post-war years, the white foster care population declined dramatically—a history which I refer to as the *white exodus*. In 1937, white youth made up nearly 88% of those in substitute care in New York City; by 1963, their proportion had dropped to 35.4% (Figure 6.1, Chapter 6). The number of white youth in substitute care decreased by two-thirds in a little over two decades.

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<sup>26</sup> Rymph, Catherine. 2012. “From “Economic Want” to “Family Pathology”: Foster Family Care, the New Deal, and the Emergence of a Public Child Welfare System.” *The Journal of Policy History* 24(1): 19.

<sup>27</sup> Berrick, Jill Duerr and Daniel Heimpel. 2018. “How Federal Laws Pertaining to Foster Care Financing Shape Child Welfare Services.” *The Oxford Handbook of Children and the Law* Ed. James G. Dwyer. Oxford University Press.

<sup>28</sup> Webb-Lawrence, Claudia. 1997. “African-American Children in the Modern Child Welfare System: A Legacy of the Flemming Rule.” *Child Welfare League of America* 76(1): 23.

<sup>29</sup> Rymph, Catherine. 2012. “From “Economic Want” to “Family Pathology”: Foster Family Care, the New Deal, and the Emergence of a Public Child Welfare System.” *The Journal of Policy History* 24(1): 19.

<sup>30</sup> Webb-Lawrence, Claudia. 1997. “African-American Children in the Modern Child Welfare System: A Legacy of the Flemming Rule.” *Child Welfare League of America* 76(1): 21.

While the proportion of Black children alarmingly rose from 12% to 42% in this same time period, the swift drop in the white substitute care population cannot be overlooked in histories of foster care racialization—the post-war years were an extraordinary moment of mass decline among white children that reflected dramatic transformations in family poverty. This intervention is important not simply because it offers a new chronology of foster care racialization, but because it illuminates a distinct “historical path” rooted in the development and consequences of the racial welfare state.

In contrast to work that roots foster care racialization to policies of punitive surveillance and regulation of minority families beginning in the 1960s, I argue that the origins actually began with the New Deal. The developing welfare state marked a profound turn from “saving children” through out-of-home care to preserving families through programs of economic security. I link the mass exodus of white children from New York City foster care to the post-war prosperity buoyed by breadwinner programs which enabled a growing number of white children to be cared for in their own homes. But the turn to family preservation was not an all-encompassing shift, nor were the racial dynamics solely defined by exclusion. Black, Puerto Rican, and white children were systematically connected in the struggle to define the contours of responsibility in child protection—one in which family preservation took on different meanings for white and non-white youth. As African American families struggled to gain access to New Deal social engineering, welfare and out-of-home care began to emerge as the more accessible solution to Black child poverty than the wage-earner protections afforded to white families. This dissertation argues that the racial welfare state is a critical part of the history of foster care. New Deal social policy not only underwrote white socioeconomic prosperity and widened the racial wealth gap, but also racialized family preservation in such profound ways as to change the demography of foster care.

After establishing the alternate timeline, this dissertation demonstrates how diversity was managed within the early foster care system. I show how different pathways of inclusion formed through negotiations between private religious agencies and public authorities. A number of solutions emerged for Black and Puerto Rican youth rejected by discriminatory private agencies, including public training schools for the delinquent, public shelters, and race-matched foster family care. In a climate of segregation, these forms of care proved to be solutions that both discriminatory institutions and interracial liberal reformers alike could agree on. Though this could be seen as an exceptionally progressive moment after a long history of exclusion, I show that the terms of inclusion were more driven by concerns over what I call *racial accommodation*. The ‘race question’ in early substitute care revolved around how Black and white children would be managed by the developing substitute care system. In effect, these were solutions that allowed Black and white children to coexist within the same child welfare system without significantly disrupting the color-line nor disturbing the power of private religious agencies.

By examining both the declining concern with white child removal and the emerging concern with racial accommodation in foster care, this dissertation shifts the focus away from exclusion to pathways of inclusion. The fight for foster care inclusion mirrored juvenile justice struggles during this era. In *The Black Child Savers*, Geoff Ward shows that Black reformers fought for racial access to juvenile justice institutions, but once access was granted, the rehabilitative efforts and aims were abandoned in favor of more punitive approaches. These reformers struggled for integration hoping that it would “institutionalize racial justice itself,” but

while it granted access, it did not foster “inclusion.”<sup>31</sup> I argue that previously excluded minorities began to gain access to out-of-home care precisely because they were excluded from the emerging trend in child welfare toward family preservation and home-based care for white youth. The color-line shaped frameworks of racial justice in early child protection by narrowing conversations to points of access rather than the more difficult issue of racial injustice and family poverty. As northern cities struggled to resolve the tension between segregation and increasing racial need during the depression, progressive social welfare professionals and city officials began to see race-matched foster care, training schools, and public shelters as consistent with the need for interracial accommodation since they did not threaten the color-line nor the interests of private agencies. But in doing so, child welfare authorities built a public child caring system as a supplement to the existing discriminatory private system, with detrimental consequences for the services, treatment, and understandings of Black and Puerto Rican children. While the welfare state is a central site for the study of racial inclusion and exclusion, child welfare is rarely analyzed in such terms in sociological studies. I show that non-white youth were not excluded from substitute care, but rather, incorporated through segregated channels in ways that deeply informed meanings of childhood, family, and social citizenship.

## Methodology

Methodologically, this dissertation uses New York as a case study of the racialization of foster care. New York is an important case because historically it makes up a large portion of foster cases in the U.S., it experienced racial transformation during the post-war years, and it is incredibly influential in the child welfare sphere. During the time of this study, it had the largest foster population and the largest child welfare budget in the U.S.<sup>32</sup> In 1960, during a one-day count of public child welfare programs from 42 states, New York accounted for 14% (10,225) of all children in the country in institutions for the dependent and neglected, and close to 19% of all children in foster or group homes.<sup>33</sup> Statistics also show that the post-war decades were marked by a “trend toward increasing proportions of nonwhite children in the public child welfare caseload.”<sup>34</sup>

However, New York child welfare was distinct from other state systems. Of great importance was the fact that their system was “decentralized” as opposed to state-run systems, such as New Jersey.<sup>35</sup> The Child Welfare League of America reported in 1945 that no public agency operated a child care program of its own in New York.<sup>36</sup> Instead, care was provided by 94 non-profit voluntary organizations which received city funding. In the first decades of the 20<sup>th</sup> century, New York attempted to coordinate these agencies under the control of the recently established Children’s Court and Department of Welfare. But private agencies viewed the public

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<sup>31</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press, 198.

<sup>32</sup> Sauber, Mignon and Jack Weiner. 1954. “Selected Child Welfare Expenditures by State and Local Agencies, 1951-52.” *Children’s Bureau Bulletin*, July.

<sup>33</sup> Jeter, Helen R. 1963. *Children Problems and Services in Child Welfare Programs*. Washington D.C.: U.S. Department of Health, Education, and Welfare, Welfare Administration, Children’s Bureau.

<sup>34</sup> Jeter, Helen R. 1963. *Children Problems and Services in Child Welfare Programs*. Washington D.C.: U.S. Department of Health, Education, and Welfare, Welfare Administration, Children’s Bureau.

<sup>35</sup> Gurak, Douglas, David Smith, and Mary Goldson. 1982. *The Minority Foster Child: A Comparative Study of Hispanic, Black and White Children*. Fordham University: Hispanic Research Center.

<sup>36</sup> Child Welfare League of American. 1945. *Child Care Facilities for Dependent and Neglected Negro Children in Three Cities: New York City, Philadelphia, Cleveland*. New York.

foster care efforts as competition, and so the public sector remained stunted. The tension between public and private interests lasted through the 1970s, when the entire foster care system of New York was brought to court. The case became a decade-long class action suit (*Wilder v. Sugarman*) against all private and public foster care agencies in New York City on the grounds that their policies resulted in a child welfare system that discriminated against children who were Black and Protestant.<sup>37</sup>

The history of the struggle between the city and private child welfare was preserved in the archival collection of a prominent judge in the Domestic Relations Court named Justine Wise Polier. The Children’s Court, which first separated juvenile and criminal courts in the early 1900s, was consolidated into the Domestic Relations Court in 1933.<sup>38</sup> They had jurisdiction over abuse and neglect proceedings, child support, paternity and custody determinations, and juvenile delinquency.<sup>39</sup> The Court “embodied the progressive ideal of paternalistic intervention by the State in what was considered the best interests of children.”<sup>40</sup>

Polier was appointed in 1935 (until 1973) becoming the “first woman in the state to hold a judicial office higher than that of magistrate.”<sup>41</sup> She was part of an increased effort to uphold racial and religious diversity in public appointments by Mayor Fiorello LaGuardia.<sup>42</sup> Through his efforts to eliminate discrimination against minorities, the composition of city staff, particularly court judges, changed from predominately Irish Catholic to Jewish, Italian, and African American in the 1930s. Judge Polier worked alongside Jane Bolin, the first African American female judge who joined in 1939, and Hubert Delany, one of the first African American judges appointed in 1942. Judge Polier was inspired by “an activist judicial philosophy,” and she, alongside her more progressive judges, worked to reform the Court.<sup>43</sup> She was an early champion of civil rights in education, juvenile justice, foster care, and mental health access. In her role on the Committee on Institutions, which investigated New York City’s children’s facilities, as well as her work for the private reform organization the Citizens’ Committee for Children, she worked to make public the failures and discrimination in child welfare services. The efforts of these judges represented the best minority youth could have hoped for—an interracial court with an activist reform mindset that recognized and struggled to secure civil rights for racial and religious minorities.

The archival collection, held at the Schlesinger Library at Harvard University, intimately preserves the work of the court during these years, capturing the opinions and decisions of numerous judges, as well as others in the child welfare network, including agency directors, social workers, probation officers, and psychiatrists. As an initiator in the class action suit *Wilder v. Sugarman*, Polier’s records document racial discrimination through statistical reports and committee and task force records, which were used as evidence in the lawsuit. The documents

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<sup>37</sup> Bernstein, Nina. 2001. *The Lost Children of Wilder: The Epic Struggle to Change Foster Care*. New York: Random House Inc.

<sup>38</sup> New York State. 1933. *Annual Report of Domestic Relations Court of the City of New York*. New York: The Beacon Press, Inc.

<sup>39</sup> Edelstein, Nathan. 1973. “The Law Guardian in the New York Family Court.” *Juvenile Justice* 24(1): 14–21.

<sup>40</sup> *Papers of Justine Wise Polier, 1892-2015: A Finding Aid*. Arthur and Elizabeth Schlesinger Library on the History of Women in America, Radcliffe Institute for Advanced Study, Harvard University.

<sup>41</sup> *Papers of Justine Wise Polier, 1892-2015: A Finding Aid*. Arthur and Elizabeth Schlesinger Library on the History of Women in America, Radcliffe Institute for Advanced Study, Harvard University.

<sup>42</sup> Katz, Elizabeth D. 2020. “‘Racial and Religious Democracy’: Identity and Equality at Mid-Century.” *Stanford Law Review* 72: 1467-1579.

<sup>43</sup> *Papers of Justine Wise Polier, 1892-2015: A Finding Aid*. Arthur and Elizabeth Schlesinger Library on the History of Women in America, Radcliffe Institute for Advanced Study, Harvard University.

show history from a rare vantage point that is hard to grasp from court case outcomes alone, which by themselves suggest that Black children engaged in delinquent behavior at higher rates than their peers. But the qualitative nature of the archives reveals, instead, a struggle between state and private interests over how Black children would be included in the system.

This dissertation also relies on archival materials from the Citizens' Committee for Children (CCC) held at the Rare Book and Manuscript Library at Columbia University Library. Established as a non-profit organization in 1945, participants saw themselves as regulators of government initiatives. They worked to "produce research, publish reports and bulletins, establish guidelines, and make policy and program recommendations," particularly around issues of substitute care.<sup>44</sup> Members included director Miss Charlotte Carr, former Hull House Director and director of the Emergency Relief Bureau in New York during the depression, as well as Judge Polier. Though an interracial organization, most members were upper-class professional white women of the Jewish faith. The CCC exposed discriminatory racial practices by both the city and private child welfare, and was a big part of the push for public foster care programs.

I also relied on the Annual Reports from the Domestic Relations Court and the Board of Social Welfare available through Hathitrust. These documents lend insight into the aims, responsibilities, and concerns of the Children's Court and Social Welfare Department. They covered issues such as the care of children in their own homes, public and private welfare support, and captured the statistical nature of children in various types of care, including probation, foster and institutional care, and delinquency. I used these data to piece together racial trends in out-of-home care which have been missing from the literature during this era, as well as neglect and delinquency case trends.

I also had the good fortune to access case files from the Sheltering Arms Children's Service at the Special Collections and University Archives at Rutgers University. I examined 35 case files ranging from 1904 to 1952, which were composed of letters and reports from various social welfare agencies, including the Department of Public Welfare, charitable private agencies, hospitals and nurseries, probation departments, and psychological testing facilities (namely Bellevue). The reports referenced the family's history and included investigative interviews with extended family, landlords, neighbors, and employers. The reports primarily focus on three areas: (1) the behavior and history of the mother, (2) a chronology of events following admission of the child, and (3) a chronology of the child in foster care (how they are adjusting, illnesses, school performance, etc.). These files shed light on the aims, methods, and motivations of case workers in assigning foster care, and offer insight into the experience of children and families against the more bureaucratic data from the courts and activist organizations.

Finally, to get a sense of broader social welfare thought and debate, I pored over papers from the National Social Welfare Conference (NCSW) papers between 1910 and 1965. The conference brought together thousands of social welfare scholars, as well as charity and institutional workers, to discuss and debate emerging methods, ideas, and programs. I focused on work that conveyed social welfare opinion about foster care, institutions, juvenile delinquency, public and private welfare aid, and family ideals. Additionally, I read through the White House Conferences on Children and Youth, which focused more specifically on children's welfare needs. This research was supplemented by academic literature from the fields of law, social welfare, and child welfare from the era, city and state reports, and publications from the National Urban League. These sources capture the experiences of race, poverty, labor, and relief during

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<sup>44</sup> McDonald, Mary Jean. "The Citizens' Committee for Children of New York and Evolution of Child Advocacy (1945-1972)." *A History of Child Welfare* Ed. Eve P. Smith and Lisa Merkel-Holguin, 278.

these decades. I also read through news articles referencing foster care from the *New York Times*, *New York Amsterdam News*, and the *Afro-American*.

### **Contributions and Through-Lines**

This dissertation argues that three factors were critical to the shifting racial demographics of foster care in New York. First, I show that these shifts occurred within the context of the developing racial welfare state and in doing so, open new lines of inquiry into the lasting consequences of welfare state development. Second, I show how the conflict between the emerging public system and the private child welfare system shaped pathways of inclusion for non-white youth, and in doing so, offer insights into the racial consequences of the delegated welfare state. Finally, I show how liberal reformers developed responses to racial exclusion that accommodated the color-line, contributing to a growing literature in the sociology of race that shifts the study of racial power away from intent and meanings of inclusion in projects of racial justice. I discuss these further in the following sections.

#### *The Racial Welfare State: Consequences for Family Preservation and Foster Care*

This dissertation contributes to the sociology of the welfare state by showing how racial cleavages in the New Deal were a critical part of foster care development. Foster care rates are not a simple reflection of maltreatment cases, but rather deeply informed by poverty policy. This is what sociologist Frank Edwards has referred to as policy regimes, which he argues are structured relationships and interactions between “families, street-level bureaucrats, agency administrators, advocacy groups, politicians, courts.”<sup>45</sup> These interactions take shape as particular styles of intervention in the lives of impoverished families. Over the years, certain forms of family violence have become more salient or subject to public scrutiny based on changing political factors, and the post-war years represented a time of great transformation in understandings of the sources and roots of family poverty and child dependency. Understanding how foster care developed within the context of the emerging welfare state illuminates why the substitute care population transformed along racial lines in the post-war era.

Prior to the Progressive era, solutions to family poverty centered around institutionalization. Orphanages were grounded in the rehabilitative logic of the asylum, which treated family poverty through child separation. Children were placed into new institutional environments in order to remold their behavior according to different logics and values.<sup>46</sup> But as concern over family breakdown and the harmful realities of institutions emerged during the progressive era, reformers began to advocate for the care of children in their own homes. Yet, for children to flourish in their own homes, an extensive set of reforms was needed to create environments conducive to child rearing. The introduction of welfare, including mothers’ pensions and Aid to Dependent Children (ADC), was part of this new approach to family poverty. Matthew Crenson argues that the rise of direct aid led to the development of a different range of techniques for defining and addressing social problems—a new policy regime.<sup>47</sup>

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<sup>45</sup> Edwards, Frank. 2016. “Saving Children, Controlling Families: Punishment, Redistribution, and Child Protection.” *American Sociological Review* 81(3): 576.

<sup>46</sup> Crenson, Matthew A. 1998. *Building the Invisible Orphanage: A Prehistory of the American Welfare System*. Cambridge: Harvard University Press; Vandepol, Ann. 1982. “Dependent children, child custody, and the mothers pensions: the transformation of state family relations in the early 20th century.” *Social Problems* 29(3): 221-235.

<sup>47</sup> Crenson, Matthew A. 1998. *Building the Invisible Orphanage: A Prehistory of the American Welfare System*. Cambridge: Harvard University Press, 18.



Welfare enabled children who otherwise would have been placed in substitute care to remain in their own home.<sup>48</sup>

But welfare was one part of the broad policy reform under the New Deal which solidified the shift from “saving children” to preserving families. National level policies of work relief, wage protections, unemployment insurance, and direct aid finally accomplished a modicum of family stability that had long been thwarted by private charities. Yet welfare scholars have shown that the New Deal was a critical force in the structure of American racial stratification.<sup>49</sup> Ira Katznelson argues that the racial exclusion of domestic and agricultural workers from Unemployment Insurance and Old-Age Insurance, as well as the decentralized administration of large-scale social welfare programs “launched new and potent sources of racial inequality.”<sup>50</sup> Likewise, Jill Quadagno argues that “[i]nstead of a “universal” welfare state that could create solidarity among workers, the New Deal welfare state instituted a regime that reinforced racial inequality.”<sup>51</sup> The history of the racial welfare state is a critical, but often understudied, force in the development of foster care.

This dissertation argues that the shift from saving children through separation to family preservation was a shift in the policy regime of child welfare, but it was a racially divided one. Offering new insights into the long-lasting consequences of racial welfare state development, I argue that the turn to family preservation through federal economic relief transformed white children’s need for out-of-home care, and, in turn, racialized perceptions of the foster care population, setting the stage for many of the changes that occurred to child protection policy in the 1960s. Other scholars have noted that shifts in the racial dynamics of poverty deeply impacted the foster care population during this time. Catherine Rymph argues that families of color did not garner “family security” through New Deal programs because of the exclusion of categories of work dominated by African Americans.<sup>52</sup> Likewise Billingsley and Giovanni allude to the decline in poverty among white youth during the 1940s and 1950s.<sup>53</sup> But we lack empirical insight into the transformations that were happening to the foster care population at this time.

This dissertation pieces together social welfare and statistical data from New York City to show that the seeds of racialization began in the 1930s, when family stability diverged for Black and white Americans as the policy regime of family preservation stratified along racial lines. While the government endeavored to uplift white working men as wage-earners through a restructuring of the social economy, Black families struggled to gain access to New Deal social engineering. Instead, welfare and race-matched foster care began to emerge as the more accessible solution to Black child poverty than wage-earner protections. As the hardship of the Depression and WWII faded, the nuclear family was revived through “economic and political

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<sup>48</sup> Ashby, LeRoy. 1997. *Endangered Children: Dependency, Neglect, and Abuse in American History*. New York: Twayne Publishers; Hacs, Timothy. 1997. *Second Home: Orphan Asylums and Poor Families in America*. Cambridge: Harvard University Press.

<sup>49</sup> Brown, Michael K. 1999. *Race, Money, and the American Welfare State*. Ithaca: Cornell University Press; Lieberman, Robert C. 1998. *Shifting the Color Line: Race and the American Welfare State*. Cambridge: Harvard University Press.

<sup>50</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 18.

<sup>51</sup> Quadagno, Jill. 1994. *The Color of Welfare: How Racism Undermined the War on Poverty*. New York: Oxford University Press, 19.

<sup>52</sup> Rymph, Catherine E. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press.

<sup>53</sup> Billingsley, Andrew, and Jeanne M. Giovanni. 1972. *Children of the Storm: Black Children and American Child Welfare*. New York: Harcourt, Brace, Jovanovich.

support systems” that rewarded “socially-sanctioned families.”<sup>54</sup> Over the years, the economic stability of white families greatly increased as a result of state intervention, and the presence of neglected white children in the out-of-home care system began to show signs of decline. By the 1940s and 1950s, white children experienced an exodus from out-of-home care.

The fact that the welfare state legislated racial cleavages is a critical part of the foster care history, I argue, because it stratified access to family stability. The 1930s was a critical time for the institutionalization of white privilege,<sup>55</sup> and the family was a critical site for this. Extending Katznelson’s examination of the widening disparity between white and Black Americans after the Second World War, these chapters show that the era of “affirmative action for whites” had underappreciated consequences for child welfare.

### *Finding Race in the Delegated Child Welfare State*

As state sponsored programs of stability lifted white families out of poverty, migration brought many needy Black families to the north. This dissertation shows that the public/private divide was significant in shaping their reception in established northern child welfare systems. Scholars have shown that the American state has historically relied on the organizational capacities of private associations to advance welfare provisions, and that this sets the stage for inequalities. Particularly, scholarship has highlighted the racial consequences that stem from a decentralized organization of social welfare. New York child welfare exemplified this delegated form of state growth; rather than building a centralized bureaucratic state, public child welfare agencies co-opted pre-existing private institutions into a coordinated network of public and private provision.<sup>56</sup> But as minority children began to represent a new public responsibility, the fragmentation between state child welfare and voluntary associations created conflict over how to classify and confer public status upon them. The racial consequences of this arrangement were not limited to the discretionary power of private agencies to discriminate and exclude non-white youth; rather, this dissertation shows how the private sector determined the development of public child welfare.

Researchers have pointed out that the delegation of government responsibilities to the private sector convolutes political authority and accountability.<sup>57</sup> Nonprofits assume a large portion of the responsibility for “diagnosing problems, prescribing courses of action, and offering direct services.”<sup>58</sup> As such, they wield substantial power over the administration and operation of social welfare programs and social control “with respect to public rights and claims

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<sup>54</sup> Coontz, Stephanie. 1995. “The Way We Weren’t: The Myth and Reality of the “Traditional” Family.” *National Forum* 75(3): 13.

<sup>55</sup> Lipsitz, George. 1995. “The Possessive Investment in Whiteness: Racialized Social Democracy and the “White” Problem in American Studies.” *American Quarterly* 47(3): 369.

<sup>56</sup> Sutton, John R. 1990. “Bureaucrats and Entrepreneurs: Institutional Responses to Deviant Children in the United States, 1890–1920s.” *American Journal of Sociology* 95(6): 1367–1400; Tanenhaus, David. 2015. “Degrees of Discretion: The First Juvenile Court and the Problem of Difference in the Early Twentieth Century,” Pp. 105-121 in *Our Children, Their Children: Confronting Racial and Ethnic Differences in American Juvenile Justice*. Ed. D. Hawkins and K. Kempf-Leonard. Chicago: University of Chicago Press.

<sup>57</sup> Clemens, Elisabeth S. 2006. “Lineages of the Rube Goldberg State: Building and Blurring Public Programs, 1900–1940.” Pp. 187–215 in *Rethinking Political Institutions: The Art of The State*, Ed. by I. Shapiro, S. Skowronek, and D. Galvin. New York: New York University Press; Morgan, Kimberly, and Andrea Louise Campbell. 2011. *The Delegated Welfare State: Medicare, Markets, and the Governance of Social Policy*. New York: Oxford University Press.

<sup>58</sup> Smith, Steven Rathgeb, and Michael Lipsky. 1993. *Non-profits for Hire: The Welfare State in the Age of Contracting*. Cambridge: Harvard University Press, 98.

of citizenship.”<sup>59</sup> This delegation of authority over social welfare to local nongovernmental actors can have deleterious consequences for equal treatment. This arrangement implies that the treatment of vulnerable populations “is not an appropriate subject for public regulation or collective responsibility.”<sup>60</sup> In locally administered relief, racial context has historically been a powerful predictor of welfare generosity and the treatment of clients. Scholars have found that prior to the New Deal, areas with greater African American and Hispanic populations tended to rely on privately funded relief, which was typically less generous and more paternalistic than publicly funded programs.<sup>61</sup> Delegated governance tends to amplify discrimination by shifting discretion over the rules of eligibility and sanctions to lower levels of government, private nongovernmental organizations, and front-line administrators.<sup>62</sup>

However, I find that the racial consequences of delegated governance are not limited to the deleterious effects of a localized structure of social welfare. Rather, this dissertation highlights how the public and private sector negotiate accountability in ways that have profound consequences for racial incorporation. First, I show that the division between public and private child welfare was not just a division between good and bad services, but a categorical distinction between types of children. During the Progressive era, John Sutton (1990) shows that private child welfare institutions lobbied in favor of indiscriminate admission policies, which granted them access to a broad range of noncriminal children, including dependent, neglected, and wayward children.<sup>63</sup> This left the slower growing public sector with the primary responsibility for criminal youth. These deeply entrenched divisions in responsibility shaped the possibilities for racial inclusion during the early twentieth century. Within this context, court actors used the public tools available at their disposal—public delinquency institutions—to provide protective care to neglected Black and Puerto Rican youth who were excluded from the private institutional system. I suggest that the racial consequences of delegated governance are not limited to the deleterious effects of a localized structure of social welfare. Rather, this case points to how the public and private sector negotiate accountability in ways that have profound consequences for racial incorporation.

Second, this dissertation extends discussions of state growth in the context of the delegated welfare state. Delegated governance is not simply a weakening of the state, as some scholars suggest; rather, the relationship between the state and private organizations is one of “reciprocal dependence”<sup>64</sup> or “symbiosis,”<sup>65</sup> with the state dependent on the organizational capacities of private associations, and private agencies reliant on public funding. Both have their

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<sup>59</sup> Smith, Steven Rathgeb, and Michael Lipsky. 1993. *Non-profits for Hire: The Welfare State in the Age of Contracting*. Cambridge: Harvard University Press, 14.

<sup>60</sup> Metzger, Gillian E. 2003. “Privatization as Delegation.” *Columbia Law Review* 103: 1367–1502.

<sup>61</sup> Fox, Cybelle. 2012. *Three Worlds of Relief: Race, Immigration, and the American Welfare State from the Progressive Era to the New Deal*. Princeton: Princeton University Press.

<sup>62</sup> Lieberman, Robert C., and John S. Lapinski. 2001. “American Federalism, Race, and the Administration of Welfare.” *British Journal of Political Science* 31(2): 303–29; Schram, Sanford F., Richard C. Fording, and Joe Soss. 2008. “Neo-liberal Poverty Governance: Race, Place and the Punitive Turn in US Welfare Policy.” *Cambridge Journal of Regions, Economy and Society* 1(1): 17–36.

<sup>63</sup> Sutton, John R. 1990. “Bureaucrats and Entrepreneurs: Institutional Responses to Deviant Children in the United States, 1890–1920s.” *American Journal of Sociology* 95(6): 1367–1400.

<sup>64</sup> Bernstein, Susan. 1991. *Managing Contracted Services in the Nonprofit Economy*. Philadelphia: Temple University Press.

<sup>65</sup> Clemens, Elisabeth S. 2017. “Reconciling Equal Treatment with Respect for Individuality.” Pp. 35–57 in *The Many Hands of the State: Theorizing Political Authority and Social Control*, Ed. by K. Morgan and A. Shola Orloff. Cambridge: Cambridge University Press.

strengths and weaknesses: the state has more reliable sources of revenue, a democratic agenda, and professionalism, whereas private nongovernmental associations are better able to personalize the provision of services.<sup>66</sup> Although voluntary organizations are often framed as filling in for “government failure,” scholars have pointed to the myriad ways government programs develop in response to the inherent limitations of private social aid.<sup>67</sup> This dissertation shows how the New York City public foster care system grew as a response to weaknesses in equity and program efficacy in private child welfare. But rather than resolving these deficiencies, this case shows how the “derivative” development of public foster care legitimated the very classifications and frameworks created by the private sector.

As public foster care grew, it came to absorb the many non-white youth rejected by private child welfare agencies. In the shadow of private child welfare, public programs appropriated the very classifications created by the private sector to exclude non-white children—aggressive, low-IQ, pre-delinquent. Given the role that race plays in perceptions of deservingness and opinions about welfare,<sup>68</sup> the increasing association of public foster care with Black children may have shaped ideas about the social problem and investment in the subsidized care of “other people’s” children. The way New York City public foster care developed and evolved in response to private child welfare suggests we must pay attention not only to the myriad ways delegated governance fosters inefficiencies through privatization, but also how the private sector influences the policy agenda of the public sector. The findings suggest that delegated governance does not simply foster a lack of state accountability or administrative weakness; by allowing deficiencies in the private sector to set the policy agenda, this arrangement is actually formative to the development of public social welfare.

### *Meanings of Inclusion: Post-War Liberalism and Racial Accommodation*

This dissertation contributes to emerging discussions around the racial politics of inclusion. Usually when we think about inequality in state services, we focus on aspects of exclusion. Reformers struggled to develop pathways of inclusion in early substitute care services precisely because there were so few resources for orphaned and abandoned Black children. But this dissertation examines how the well-intentioned child welfare reformers devised viable responses to inequality through modes of inclusion that accommodated the color-line.

The racialization of inclusion in post-war foster care is a bitter and compelling story that raises the questions about the relationship between inclusion and racial justice. The post-war years were not defined by the *oppressive inclusion* of Black youth that Lawrence-Webb describes; in fact, reformers were struggling to increase access for a previously excluded group. In many ways we might think of their shift from exclusion to inclusion as representative of broader shifts in the welfare state or other institutions from “segregation via exclusion... [to]

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<sup>66</sup> Clemens, Elisabeth S. 2017. “Reconciling Equal Treatment with Respect for Individuality.” Pp. 35–57 in *The Many Hands of the State: Theorizing Political Authority and Social Control*, Ed. by K. Morgan and A. Shola Orloff. Cambridge: Cambridge University Press; Salamon, Lester M. 1987. “Of Market Failure, Voluntary Failure, and Third-Party Government: Toward a Theory of Government-Nonprofit Relations in the Modern Welfare State.” *Nonprofit and Voluntary Sector Quarterly* 16(1–2): 29–49.

<sup>67</sup> Quadagno, Jill. 2000. “Promoting Civil Rights through the Welfare State: How Medicare Integrated Southern Hospitals.” *Social Problems* 47(1): 68–89; Salamon, Lester M. 1987. “Of Market Failure, Voluntary Failure, and Third-Party Government: Toward a Theory of Government-Nonprofit Relations in the Modern Welfare State.” *Nonprofit and Voluntary Sector Quarterly* 16(1–2): 29–49.

<sup>68</sup> Gilens, Martin. 1999. *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy*. Chicago: University of Chicago Press.

segregation through unequal incorporation.”<sup>69</sup> But while Black youth did face alternative pathways of inclusion, such as through training schools and foster family care, their problematic inclusion had much more to do with the establishment of inclusion on top of a deeply entrenched history of discrimination and oppression of Black family life and child protection.

Other scholars challenge the idea that inclusion is a form of racial justice. Joyce Bell calls attention to the way institutions are able to “retreat behind a commitment to integration,” while doing little to disrupt the structure of power relations that maintain racial inequality.<sup>70</sup> Other work in this vein challenges the idea that inclusion in previously exclusionary programs is enough to overcome the devastation wrought by long histories of discrimination. Taylor Keeanga-Yamahtta shows how governmental programs of the 1960s meant to overcome the decades of exclusion from home-ownership programs underwritten by the New Deal and GI Bill actually became a process of *predatory inclusion*. Black homeowners were systematically exploited through their incorporation into the credit and housing market that sought to turn a profit by selling substandard homes to Black families. She argues that, in this case, inclusion “created the conditions for continued extraction as opposed to development and renewal.”<sup>71</sup>

Geoff Ward (2012) has raised similar questions about the nature of inclusion. His work on the juvenile delinquency system shows that Black moderate liberals fought for racial inclusion of Black youth in the exclusionary juvenile justice system. But once Black youth were formally integrated, there was little adherence to citizen-building initiatives and rehabilitative programs which had defined the early juvenile justice system. He argues that this history should give pause to calls for racial proportionality in juvenile justice today.<sup>72</sup> Margaret Jacobs has also questioned ideals of inclusion against narratives of exclusion. Her work shows that the Indian Adoption Program of the 1950s, devised by the Bureau of Indian Affairs, emphasized the idea that Indian children suffered from racial discrimination because they had been deprived of adoption opportunities available to other children. “A color-blind approach to Indian children rested on the belief that they should have the same access to child welfare services as other American children.”<sup>73</sup> This led to the one of the largest and most devastating child removal projects in American history that saw “*between 25 and 35 percent* of Indian children ... separated from their families.”<sup>74</sup> The relationship between exclusion and inclusion in projects of racial justice suggest that a color-blind commitment to racial equality can shield institutions from addressing historical and structural racial inequality.<sup>75</sup> This work challenges race scholars to critically assess meanings of inclusion, especially in instances where integration processes ignore deeply entrenched histories of discrimination.

This dissertation illuminates a key issue in projects of inclusion which I call *racial accommodation*. Of key concern was the way progressive reformers worked to create pathways

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<sup>69</sup> Ray, Victor. 2019. “A Theory of Racialized Organizations.” *American Sociological Review* 84(1): 34.

<sup>70</sup> Bell, Joyce M. 2014. *The Black Power Movement and American Social Work*. New York: Columbia University Press, 77.

<sup>71</sup> Keeanga-Yamahtta, Taylor. 2019. *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*. Chapel Hill: The University of North Carolina Press, 255.

<sup>72</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press, 198.

<sup>73</sup> Jacobs, Margaret D. 2014. *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Post-War World*. Lincoln: University of Nebraska Press, 50.

<sup>74</sup> Jacobs, Margaret D. 2014. *A Generation Removed: The Fostering and Adoption of Indigenous Children in the Post-War World*. Lincoln: University of Nebraska Press, xxvi.

<sup>75</sup> Moore, Wendy L., and Joyce M. Bell. 2017. “The Right to Be Racist in College: Racist Speech, White Institutional Space, and the First Amendment.” *Law & Policy* 39(2): 99–120.

of inclusion that accommodated the color-line and appeased the interests of discriminatory private agencies. In the case of post-war foster care, it was an inclusion of last resort—one built around assumptions about non-white families’ ability to thrive within the developing welfare state that had assumedly lifted most families out of destitution. It was a form of inclusion that represented a negotiation or racial accommodation between liberal public reformers and discriminatory private child caring agencies—one which created new and racialized pathways to protection.

Inclusion in the emerging era of family preservation took on new meaning through race-matched foster family care. Race-matched foster care did indeed offer increased access for Black youth and attempted to preserve children’s relationship to Black family life and culture, but it was a strategy that also appealed to racially exclusive child welfare agencies because it did not threaten the color-line nor require a reallocation of financial resources. Another mode of inclusion that worked within the parameters set by the discriminatory private sector was the growth of public foster care. To ensure inclusion and ward against a future of maladjusted adults, the city pushed for the creation of a public foster care system. But instead of insisting on the more difficult and costly task of dismantling the delegated authority of private child welfare, they opted to construct a “derivative” public foster care system—one built as a supplement to the voluntary sector. This compromise over responsibility racialized the developing public foster care system of New York City, and it legitimated negative classifications of behavior and capacity as an underlying force in the state’s framing of how and why Black and Puerto Rican children deserve to be protected. This history calls into question the goal of inclusion as a form of racial justice, and the cost of the turn away from family preservation for Black communities.

### **Racialized Meanings of Childhood**

At the heart of this dissertation is a focus on the development of racialized meanings of childhood. Childhood is typically understood as an “essential category,” the principal characteristics of which are innocence and the need for protection from the harshest realities of adulthood. Social policy, particularly protective legislation, constructs and reinforces ideas about the vulnerability and innocence of children.<sup>76</sup> Yet Black children are often “denied the “developmental reality” of childhood that structures protective policy.<sup>77</sup> Goff et. al (2014) find that Black children are perceived as being older in age, less innocent, and more culpable for their actions than their peers. These constructs have substantial consequences, rendering Black children less likely to be viewed as “children” for the purposes of protection.<sup>78</sup> Priscilla Ocen (2015) finds that Black girls who are subject to sexual exploitation are often “labeled as offenders rather than victims” as a result of racialized and gendered constructions of childhood innocence and maturity.<sup>79</sup> Racialized perceptions of maturity also cause a disproportionate

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<sup>76</sup> Shanahan, Suzanne. 2007. “Lost and Found: The Sociological Ambivalence toward Childhood.” *Annual Review of Sociology* 33:407–28.

<sup>77</sup> Ocen, Priscilla A. 2015. “(E)racing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors.” *UCLA Law Review* 62(6): 1604.

<sup>78</sup> Goff, Phillip A., Matthew C. Jackson, Brooke A. L. Di Leone, Carmen M. Culotta, and Natalie A. DiTomasso. 2014. “The Essence of Innocence: Consequences of Dehumanizing Black Children.” *Journal of Personality and Social Psychology* 106(4): 526–45.

<sup>79</sup> Ocen, Priscilla A. 2015. “(E)racing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors.” *UCLA Law Review* 62(6): 1586.

number of Black children to be sentenced as adults in criminal courts, and leads to “racially disparate police violence toward Black children.”<sup>80</sup>

This dissertation links this work to studies of racialization in the foster care system. With 1 in 9 Black youth at risk of entering the system before the age of 18,<sup>81</sup> many scholars seek to explain the causes of racial disparity, focusing on the social control features of a carceral and welfare system that disproportionately regulate motherhood for poor women, particularly Black mothers.<sup>82</sup> But the racial politics of childhood are a necessary counterpart to accounts of Black women’s punitive regulation by the state. Racialized constructs of childhood percolate into traditionally nurturing institutions, like schools and community centers, which label and punish behavior in Black and Latinx children that is often overlooked or characterized as innocent in others.<sup>83</sup> By examining the segregated pathways to protection non-white youth faced in the post-war years, this dissertation illuminates a key structural mechanism that historically contributed to the exclusion of Black children from the “full essence of childhood and its definitional protections.”<sup>84</sup>

As the foster care population began to change in post-war years, local private and public child welfare services struggled to define the contours of responsibility for non-white youth. In the shuffle, white impoverished children became “unmarked.”<sup>85</sup> But, to borrow from Evelyn Nakano Glenn, “White [childhood] has been constructed not in isolation, but in relation to that of [children] of color.”<sup>86</sup> This dissertation offers insight into how foster care came to be a racialized state service, not just through the oppressive policing of Black families, but through the uplift of white families. The records from this era suggest that the association between color, crime, and childhood were built into the very institutional structures meant to protect and nurture children. At a time when “the notion of the innocent, developmental child emerged [and] white children

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<sup>80</sup> Goff, Phillip A., Matthew C. Jackson, Brooke A. L. Di Leone, Carmen M. Culotta, and Natalie A. DiTomasso. 2014. “The Essence of Innocence: Consequences of Dehumanizing Black Children.” *Journal of Personality and Social Psychology* 106(4): 540. See also: Agyepong, Tera. 2010. “Children Left Behind Bars: Sullivan, Graham, and Juvenile Life Without Parole Sentences.” *Northwestern University Journal of International Human Rights* 9(1): 83-102; Poe-Yamagata, Eileen, and Michael A. Jones. 2007. “And Justice For Some: Differential Treatment of Youth of Color in the Justice System.” *National Council on Crime and Delinquency*; Young, Malcolm C., and Jenni Gainsborough. 2000. “Prosecuting Juveniles in Adult Court: An Assessment of Trends and Consequences.” *The Sentencing Project*.

<sup>81</sup> Wildeman, Christopher, and Natalia Emanuel. 2014. “Cumulative Risks of Foster Care Placement by Age 18 for U.S. Children, 2000–2011.” *PLOS ONE* 9(3):1-7.

<sup>82</sup> Edwards, Frank. 2016. “Saving Children, Controlling Families: Punishment, Redistribution, and Child Protection.” *American Sociological Review* 81(3): 575–95; Lee, Tina. 2016. *Catching a Case: Inequality and Fear in New York City’s Child Welfare System*. New Brunswick: Rutgers University Press; Roberts, Dorothy E. 2002. *Shattered Bonds: The Color of Child Welfare*. New York: Basic Civitas Books.

<sup>83</sup> Ferguson, Ann A. 2001. *Bad Boys: Public Schools in the Making of Black Masculinity*. Ann Arbor: University of Michigan Press; Rios, Victor M. 2006. “The Hyper-Criminalization of Black and Latino Male Youth in the Era of Mass Incarceration.” *Souls* 8(2): 40–54.

<sup>84</sup> Goff, Phillip A., Matthew C. Jackson, Brooke A. L. Di Leone, Carmen M. Culotta, and Natalie A. DiTomasso. 2014. “The Essence of Innocence: Consequences of Dehumanizing Black Children.” *Journal of Personality and Social Psychology* 106(4): 539.

<sup>85</sup> Choo, Hae Yeon, and Myra Marx Ferree. 2010. “Practicing Intersectionality in Sociological Research: A Critical Analysis of Inclusions, Interactions, and Institutions in the Study of Inequalities.” *Sociological Theory* 28(2): 129-149.

<sup>86</sup> Glenn, Evelyn Nakano. 1992. “From Servitude to Service Work: Historical Continuities in the Racial Division of Paid Reproductive Labor.” *Signs* 18(1): 35.

began to enjoy greater protections,”<sup>87</sup> efforts to afford Black children the same protections from abuse, neglect, and poverty became increasingly carceral. In fact, the public services that developed in response to their needs were not simply “inferior and rotten,”<sup>88</sup> they were deeply connected to the system of criminal justice. This dissertation contributes to our knowledge of the institutional origins of Black childhood—one in which notions of nurturance and protection revolve around punitive solutions.

## Chapter Overview

Chapter 2 argues that the shift to family preservation remained largely rhetorical until Depression-era state intervention. National level policies of work relief, wage protections, unemployment insurance, and direct aid enabled a modicum of family stability that had long been thwarted by private charities. Child welfare reformers celebrated these reforms as successful experiments in the reduction of child dependency. However, they failed to acknowledge the racial divergence in family stability. The fact that the welfare state legislated racial cleavages is a critical part of the foster care history.

While racial minorities were excluded from family preservation programs, they were also excluded from out-of-home care. Chapter 3 shows how delinquency became the impetus for foster care development for Black and Puerto Rican youth in both the philanthropic and public policy agenda. I argue that the division between public and private responsibility left training schools as the only public tool for judges, and many used delinquency as a pathway of inclusion for children rejected from private institutions by reason of race.

If delinquency represented one mode of inclusion, foster care became another. Chapter 4 argues that race-matched foster care arose as a family-centered solution to Black children’s protective care, not because it was perceived as a better method of care than institutions, but because it did not disrupt the color-line. Race-matched foster care proved to be a solution that both discriminatory institutions and interracial liberal reformers alike could agree on.

Chapter 5 traces the emergence of public foster care in New York City, and argues that public programs grew as a supplement to private child welfare. As private agencies rejected minority youth, public programs became associated with Black and Puerto Rican children. The reasons for their rejection—aggression, low-IQ, pre-delinquency—were underscored by public programs and policy reformers who considered them “hard-to-place.” I argue that the shared responsibility between public and private welfare created conflict that shaped not only how minorities were incorporated in foster care, but how they were classified.

Chapter 6 shows that out-of-home care rates for white youth dramatically declined in the 1940s, and by the late 1950s, Black and Puerto Rican youth were the majority of foster children in New York City. I argue that while the increase in white adoption and out-migration of whites to the suburbs help contextualize the decline, it is only a partial account. Rather, the unequal economic prosperity of the postwar era enabled white family stability and reduced the need for out-of-home care. Social welfare workers reasoned that with the advent of welfare and labor protections, the needs of foster care youth had shifted away from poverty. Now pathology, not poverty, explained why children still needed foster care.

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<sup>87</sup> Ocen, Priscilla A. 2015. “(E)racing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors.” *UCLA Law Review* 62(6): 1606.

<sup>88</sup> Polier Manuscripts. 1975. “Foster Care in New York: Church and State and the Kids.” January 6, MC 413/Box 22/Folder 255.



This dissertation concludes with a discussion of the contemporary connections between foster care and juvenile justice, and the reverberations this has within a long history of the denial of Black childhood innocence. The analysis presented in this dissertation helps us understand how the public foster care system came to be informed by racial politics and how, with a different state approach, the investment in Black children's lives might have been otherwise.

## Chapter 2: From Saving Children to Preserving Families, 1920s-1930s

Speaking at the White House Conference in 1930, Grace Abbott, chief of the Children's Bureau, stated that low wages, unemployment, and work accidents were "among the causes of the dependency which children's agencies [were] created to relieve." "Am I being so foolish," she asked, "as to think that the child welfare agencies ... are going to change the wage levels in the United States? I am not, but I am prepared to say that we should be informed on the subject and prepared to take our part in its solution... high wages means better care, better homes, and better health for children, which is certainly good business for the Republic."<sup>89</sup> Abbott's emphasis on the economic well-being of lower class wage-earners represented an astounding turn in child welfare from saving children through separation and removal to preserving families through direct aid and economic reform.

This chapter sets up the dissertation by showing how the development of the welfare state and the structure of the economy during the New Deal racialized access to the emergent emphasis on family preservation. American child welfare underwent a profound transformation in its services, aims, and mission in the early 20<sup>th</sup> century. The New Deal solidified the shift from "saving children" to preserving families. I argue that national level policies of work relief, wage protections, unemployment insurance, and direct aid finally accomplished a modicum of family stability that had long been thwarted by private charities. Child welfare reformers celebrated Depression era reforms as successful experiments in the reduction of child dependency. However, they failed to acknowledge the divergence in family stability between African American and white families.

The shift to family preservation was not an all-encompassing shift, nor were the racial dynamics solely defined by exclusion. By examining child protection not as a unitary policy regime, but as a complex branching of different child care logics and services, I find that the *terms of inclusion* differed by race in ways that deeply shaped meanings of family, childhood, and social citizenship. On the eve of the second world war, white families had gained access to policies of long-term economic security under the second New Deal, and the presence of neglected white children in the Children's Court, the Department of Public Welfare, and out-of-home care began to show signs of decline in favor of care within their own homes. Meanwhile, as African American families struggled to gain access to New Deal social engineering, welfare and out-of-home care began to emerge as more accessible solutions to Black child poverty than wage-earner protections. Believing economic assistance programs were saving thousands of children from separation, child welfare reformers overlooked the divergence in family stability and the rising number of Black children in out-of-home care.

This chapter argues that the racial welfare state is a critical part of the history of foster care. This was a moment when a number of large-scale national programs under the New Deal transferred social privileges and economic protections to white Americans, particularly European immigrants through generous social insurance programs that had lasting generational effects on wealth accumulation, access to affordable housing, and job security. This chapter examines the implications of the New Deal for racial inequality with an eye toward child welfare. Extending Katznelson's arguments that that post-depression period of federal economic relief was a moment of "affirmative action for whites," this chapter argues that New Deal social policy not

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<sup>89</sup> Abbott, Grace. 1933. "Prevention of Child Dependency Through Prevention of: Accidents, Irregular Employment, Unemployment and Insufficient Income." *Dependent and Neglected Children: Report of the Committee on Socially Handicapped—Dependency and Neglect* New York: D. Appleton-Century, Co.: 79, 74.

only underwrote white socioeconomic prosperity and widened the racial wealth gap, but also racialized family preservation in such profound ways as to change the demography of foster care in subsequent decades.

I argue that this divergence in out-of-home care was rooted in both the development of social protections and the changing structure of the economy. First, building on previous foster care literature and welfare scholarship, I argue that the structure of social protections were developed in ways that excluded categories of labor associated with African Americans and Mexican Americans, which forced reliance on relief for African Americans and reified their position as “dependents,” subject to investigation and regulation of family life. The occupational exclusion of domestic and agricultural work is a familiar history which hindered mobility and access to the developing safety net; but equally important was the changing structure of the economy, which brought about the family wage that protected white men and, by extension, white women. At the same moment in history that white men gained increasing access to labor protections as wage-earners, African American men’s access to the labor market declined. While Katznelson has focused on farm and domestic work as the key axes of differentiation in the racial welfare state, this chapter highlights the role of the breadwinner and family organization as important within the context of the northern labor market. The increasing shift to breadwinner policies of protection had an underappreciated set of consequences for child welfare. The reconfigurations of the economy and the developing welfare state deeply shaped citizenship and rights, among which family preservation was a critical component.

### **Out-of-Home vs. At-Home Care: Private Interests and Public Relief, Late-1800s**

To provide context to the vast political changes that occurred during the New Deal, this chapter first begins by offering background on the long battle between public and private relief. The origins of the twentieth century foster care crisis lay in the historic relationship between private religious institutions and city politics. Nineteenth century poverty policy sought to improve the lives of the poor through projects of separation from harmful environments. Scholars refer to this as the “logic of the asylum,” wherein individuals were removed from “negative” environments and placed in constructive institutions, usually workhouses, almshouses, or orphanages, where they were reeducated according to proper habits and morals.<sup>90</sup> The asylum took on great significance in New York when outdoor relief—the temporary provision of goods, coal, or cash to recipients who lived at home—was abolished and subsequently placed under the jurisdiction of private charity organizations in 1874.<sup>91</sup> Counties instead provided public funds to private charities, giving rise to a private child welfare system that advocated for out-of-home care through institutional placement. The Children’s Bureau later referred to the late 1800s as the “institutional era” in child welfare.<sup>92</sup> The strength of private religious agencies deeply shaped the nature of child welfare well into the 20<sup>th</sup> century as they thwarted public policies for the care of children in their own home.

The issue of children’s care took on great urgency in New York after a number of studies found infants and young children residing in asylums alongside adults. In 1844, Dorothea Dix, a

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<sup>90</sup> Crenson, Matthew A. 1998. *Building the Invisible Orphanage: A Prehistory of the American Welfare System*. Cambridge: Harvard University Press; Katz, Michael B. 1996. *In the Shadow of the Poorhouse: A Social History of Welfare in America*. New York: Basic Books.

<sup>91</sup> Kaplan, Barry J. 1978. “Reformers and Charity: The Abolition of Public Outdoor Relief in New York City, 1870-1898.” *Social Service Review* 52(2): 202-214.

<sup>92</sup> U.S. Department of Health, Education, and Welfare. 1967. *The Story of the White House Conferences on Children and Youth*. Children’s Bureau, Washington, D.C.

mental health reformer, was assigned to inspect the New York almshouse system, looking specifically for abuses in their treatment of the mentally ill. But what she documented in her findings incensed the public—the presence of babies with the likes of criminals, vagrants, and prostitutes. Reformers and the public alike became concerned that young, unwanted children had little hope for becoming ‘productive citizens’ in such environments. In 1856, the New York State Senate Select Committee was appointed to investigate charitable institutions and they confirmed Dix’s findings, reporting that between 15% and 20% of the almshouse population were children. The committee recommended that New York remove its unwanted children from almshouses and place them in separate children’s institutions. But while a number of private child-caring institutions arose following public concern, it took nearly three decades for separation to be legally mandated.<sup>93</sup>

Finally, in 1875, New York passed the Children’s Act, which formally mandated children over the age of three could no longer stay in almshouses with their family; instead, all able-bodied white children were to be placed in children-only institutions in line with their parents’ religion, mainly Protestant, Catholic, and Jewish.<sup>94</sup> Ethno-religious groups competed to maintain their cultural and religious distinctiveness through child welfare work, especially against the anti-Catholic tide.<sup>95</sup> David Adie, the Commissioner of Social Welfare, later wrote that this coincided with a shift from a “custodial attitude,” to a more “curative attitude” on the part of the state.<sup>96</sup> Institutions for dependent and neglected children offered temporary assistance to needy parents who, without direct relief, struggled to feed, clothe, and supervise their children because of poverty, illness, or marital dissolution. Whereas parents sought assistance for children they could no longer care for, private institutions saw children who were innocent and malleable, and could be molded into proper American citizens.<sup>97</sup> The institutions developed to place children outside of their homes and apart from their parents in the asylum were considered the only sure way to “substitute another culture for the old one.”<sup>98</sup>

The Children’s Act strengthened the policing power of the private, religious child welfare system. One year later, the Society for the Prevention of Cruelty to Children (S.P.C.C.), a private organization, was designated as “the city’s and state’s representative in all child abuse cases.”<sup>99</sup> While many struggling parents voluntarily sought the assistance of orphanages for temporary care, the S.P.C.C. began to field abuse complainants from family members, truant officers, police, and other charities organizations, and after 1888, S.P.C.C. agents were permitted by the state to make arrests in the interest of child protection. As Linda Gordon argues, they were “a key force behind the increased state regulation of children’s activities and parents’ child-

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<sup>93</sup> English, Peter. 1984. “Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920.” *Pediatrics* 73(5): 699-711.

<sup>94</sup> Polier Manuscripts. 1940. “Memorandum: Care of Destitute, Dependent, Neglected and Delinquent children in the City of New York.” January, MC 413/Box 22/Folder 257.

<sup>95</sup> Creagh, Diane. 2012. “The Baby Trains: Catholic Foster Care and Western Migration, 1873–1929.” *Journal of Social History* 46(1): 197–218; Gordon, Linda. 1999. *The Great Arizona Orphan Abduction*. Cambridge: Harvard University Press; Kasinsky, Renee G. 1994. “Child Neglect and ‘Unfit’ Mothers: Child Savers in the Progressive Era and Today.” *Women and Criminal Justice* 6(1): 97–129.

<sup>96</sup> Adie, David. 1933. “A State Handles its Public Welfare Problems.” *Social Service Review* 7(3): 415.

<sup>97</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press; Gordon, Linda. 1988. *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston 1880-1960*. New York: Penguin Books, 29.

<sup>98</sup> Costin, Lela B. 1992. “Cruelty to Children: A Dormant Issue and Its Rediscovery, 1920–1960.” *Social Service Review* 66(2): 179.

<sup>99</sup> Gilfoyle, Timothy. 1986. “The Moral Origins of Political Surveillance.” *American Quarterly* 38(4): 641.

raising.”<sup>100</sup> Private, religious organizations were increasingly given “the strong arm of the law and the ample resources of the public purse,” as Homer Folks, the Commissioner of Public Charities, stated. Folks argued that the promise of public funds created conflict between competing religious agencies for the care of children, saying, “there existed for a time what can be described only as a rivalry on the part of the various institutions to secure the commitment of large numbers of children to their care.” He reasoned that public funding for private agencies caused children’s institutions to grow to “a size hitherto unknown,” as “the number of dependent children increased out of all proportion to the population.”<sup>101</sup>

The Children’s Act led to the rapid growth of children’s care outside the home. Between 1875 and 1900, the population of New York increased 55 percent. But in this time, the number of children in institutions increased 139 percent.<sup>102</sup> Not only were more children entering out-of-home care, they were also staying longer. At the start of the Act in 1875, only 8 percent of children remained in care for longer than five years, but by 1894, 23 percent of children in institutions were “long-term residents.”<sup>103</sup> By 1899, the State Board of Charities reported that there were 30,973 public charges in 125 different private institutions in New York.<sup>104</sup> The majority of these children were between the ages of 5 and 16 years old, and most were the children of single parents. Importantly, while most were native-born Americans, a little more than half were the children of immigrants, with the vast majority being Irish, followed by German and Italian. Most children were Catholic, as statistical breakdowns from 1910 revealed that nearly 69% of the 34,530 children resided in Catholic institutions.<sup>105</sup> This was fueled in part by the fact that almost half of all immigrants arriving to the U.S. between 1840 and 1879 were Catholic.<sup>106</sup> Increased focus on the behavior of immigrant families saw Protestant values imposed on poor Catholic newcomers.<sup>107</sup> But resistance to this child saving work also generated a growing number of Catholic child saving operations that began to compete for children. They saw their mission as twofold; they rescued homeless children while also “bolstering Catholic culture.”<sup>108</sup> Ultimately, “the response of religious and ethnic minorities to the perceived threat of Protestant organizations would have long-lasting effects for child welfare in NYC.”<sup>109</sup>

Despite the dramatic growth of the institutional population, private charities thwarted substantive change to public policy. In 1897, New York attempted to pass its first mothers’ pension, called the Destitute Mothers’ Bill. The reform bill sought to provide direct aid to destitute parents, which would enable children to be cared for in their own homes, rather than

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<sup>100</sup> Gordon, Linda. 1988. *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston 1880-1960*. New York: Penguin Books, 52.

<sup>101</sup> Folks, Homer. 1900. “The Care of Destitute, Neglected, and Delinquent Children.” *The Charities Review*: 122.

<sup>102</sup> Folks, Homer. 1900. “The Care of Destitute, Neglected, and Delinquent Children.” *The Charities Review*: 122.

<sup>103</sup> Smith, Eve. 1987. “The Failure of the Destitute Mother’s Bill: The Use of Political Power in Social Welfare.” *The Journal of Sociology & Social Welfare* 14(2): 71.

<sup>104</sup> New York (State). 1900. *Annual Report of the State Board of Charities for the Year 1899, Vol. 1*. Albany: James B. Lyon, State Printer: 398.

<sup>105</sup> New York (State). 1911. *Annual Report of the State Board of Charities for the Year 1910, Vol. 1*. Albany, NY: J. B. Lyon Company, State Printers.

<sup>106</sup> Creagh, Diane. 2012. “The Baby Trains: Catholic Foster Care and Western Migration, 1873–1929.” *Journal of Social History* 46(1): 197–218.

<sup>107</sup> Gordon, Linda. 1999. *The Great Arizona Orphan Abduction*. Cambridge: Harvard University Press.

<sup>108</sup> Creagh, Diane. 2012. “The Baby Trains: Catholic Foster Care and Western Migration, 1873–1929.” *Journal of Social History* 46(1): 198.

<sup>109</sup> Nunez, Ralph and Ethan Sribnick. 2015. *Family Poverty and Homelessness in New York City: The Poor Among Us*. New York: Palgrave MacMillan, 88.

necessitating separation.<sup>110</sup> The bill was vetoed by New York City officials in response to opposition by private charities, particularly Protestant child welfare workers, “who labeled the measure the “Shiftless Fathers Bill.””<sup>111</sup> They argued that the proposed legislation would “promote pauperism, discourage self-reliance and thrift, and . . . (would be) liable to flagrant abuses,” encouraging fathers to abandon their responsibilities.<sup>112</sup>

Nonetheless anti-institutionalism grew by the turn of the century. In 1901, Homer Folks, who at that time was serving on the Board of Charities in New York, warned:

“When we remove children from the care of their own parents, we ought to be pretty certain that we are going to do the work better than their parents would have done. The parents may be poor and shiftless and not very wise, but unless we charitable agencies are better than they are in all of these respects, perhaps, after all, the children’s position may not be improved by our well-intended interference.”<sup>113</sup>

Even as institutions faced accusations of “child-snatching,” private charity opposed public relief, opting instead to maintain control through their own uneven direct aid programs. They reasoned that in the hands of their own thorough investigators, direct relief could be a way to *increase parental responsibility* among poor families. The Charity Organization Society (COS) was one such agency in New York City that offered home relief as a way to “keep the family together and prevent the commitment of children.” Where parents were found to be destitute and “of good character,” the COS offered direct assistance. In 1902, 677 families applied for commitment of their children, and, after investigations, 297 families were “induced or enabled to keep their children at home.”<sup>114</sup> Reformers felt this fostered a sense of accountability among parents who they assumed turned to institutional care to avoid responsibility. But by the early 1900s, changing ideas about the family, childhood, and role of public responsibility began to chip away at the power of private charities to determine poverty policy.

### “Mother, Child, Home”: Preserving Worthy Families, 1890s-1920s

At the turn of the century, Progressive era reformers turned to the power of government to reform the nation’s social ills. The changes and ideals of this era generated the blueprints for future New Deal reforms. Of particular importance was the rise of mothers’ pensions and the changing understanding of the relationship between mother and child. The “institutional era” understood child separation as a method of socializing children as future citizens, but by the 20<sup>th</sup> century, the mother-child relationship was reconceptualized to this end. By performing duties which parents could do “more or less efficiently,” reformers began to believe that institutions represented a “special danger of neglect.”<sup>115</sup> This section examines the changing approach to children’s protective care, showing that *family preservation* became the ideal method of care, but was prevented on a large scale due to continued interference by private charities.

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<sup>110</sup> Sznajder, Natan. 2000. *The Compassionate Temperament: Care and Cruelty in Modern Society*. Lanham: Rowman & Littlefield Publishers, Inc., 68.

<sup>111</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press, 32.

<sup>112</sup> 25<sup>th</sup> Annual Report of the State Charities Aid Association to the State Board of Charities of the State of New York. 1897. New York, United Charities Building, 81-82.

<sup>113</sup> *Proceedings of the National Conference of Charities and Corrections*. 1901. Boston: Press of Geo. H. Ellis, 341.

<sup>114</sup> 1903. *Annual Report of the State Board of Charities for the Year 1902 Vol. 1*. Albany: The Argus Company, Printers, 150.

<sup>115</sup> *Proceedings of the National Conference of Charities and Corrections*. 1901. Boston: Press of Geo. H. Ellis, 341.

As children became increasingly valued for sentimental reasons, emotion and affection became an important aspect of the parent-child relationship.<sup>116</sup> Character formation in young children was closely associated with maternal affect and care in particular. Educated, middle-class reformers worked to improve quality of life for children through social protections that upheld the mother-child relationship. Maternalist policy reformers helped create the Children's Bureau in 1912, and a few years later helped bring about mothers' pensions, as well as the Sheppard-Towner Maternity and Infant Health Act in 1921. Gwendolyn Mink argues that these policies upheld maternal care as "the linchpin of the family."<sup>117</sup> The importance of mothers was solidified by a number of medical studies which raised the alarm on the high mortality rates of infants cared for in institutions. Following the advice of medical leaders, the New York Infant Asylum changed policy so that mothers stayed with their infants for the first few months in order to breastfeed.<sup>118</sup> Likewise, the New York Foundling Hospital followed the global standard of the Red Cross,<sup>119</sup> requiring orphaned infants be boarded in a foster family for the first few years of life before being returned to the institution. By the end of the Progressive era, few would deny that nursing infants needed their mother for both sentimental and medical reasons.

The increasing importance of the impoverished family, particularly the mother, was legitimized at the 1909 White House Conference where it was argued that "institutions—no matter how well-intentioned—had failed to meet the biologic and psychologic needs of unwanted children."<sup>120</sup> Child welfare reformers reasoned that impoverished children should not be separated from their families, but that the poor family should be assisted so that they might raise their children in their own home. Emma Lundberg, the Director of the Social Service Division of the Children's Bureau, wrote that "Children of reasonable efficient and deserving mothers who are without support of the normal breadwinner, should, as a rule, be kept with their parents, such aid being given as may be necessary to maintain suitable homes for the rearing of children."<sup>121</sup> Increasingly, child welfare reformers distinguished between problems of poverty and the more "urgent and compelling" reasons a child might require care outside the home, including neglect, questionable morality, and marital problems.

Yet even as the mother-child relationship took on great importance, private charities resisted public relief for mothers. In 1914, the Commission on Relief for Widowed Mothers reported in that 2,716 children in New York state had been institutionalized for reasons of poverty, and another 933 because of their mothers' illness.<sup>122</sup> But even as other states, including Illinois and Missouri, developed mothers' aid in 1911, major private charities opposed public assistance in New York which, according to the Commission, "emanated from the charity

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<sup>116</sup> Zelizer, Viviana A. 1985. *Pricing the Priceless Child: The Changing Social Value of Children*. New York: Basic Books, Inc; Vandepol, Ann. 1982. "Dependent children, child custody, and the mothers pensions: the transformation of state family relations in the early 20th century." *Social Problems* 29(3): 221-235.

<sup>117</sup> Mink, Gwendolyn. 2018. *The Wages of Motherhood: Inequality in the Welfare State, 1917-1942*. Ithaca: Cornell Press University, 3.

<sup>118</sup> English, Peter. 1984. "Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920." *Pediatrics* 73(5): 699-711.

<sup>119</sup> 1920. "Society Report: The New York Academy of Medicine, Section of Pediatrics." *Archives of Pediatrics* Vol. 37: 568.

<sup>120</sup> English, Peter. 1984. "Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920." *Pediatrics* 73(5): 708.

<sup>121</sup> Lundberg, Emma O. 1921. "Aid to Mothers with Dependent Children." *The Annals of the American Academy of Political and Social Science*, 97.

<sup>122</sup> New York (State). 1914. *Report of the New York State Commission on Relief for Widowed Mothers*. Albany, J. B. Lyon Company, Printers, 7.

workers that dominate[d] the New York School of Philanthropy and the Russell Sage Foundation.”<sup>123</sup> Mothers’ pension advocates finally overcame the opposition in 1915 with the passage of the Child Welfare Act. As David Adie, New York Commissioner of Social Welfare, later reflected, mothers’ pensions drew the state closer to the ideal that “social insurance should center around children.”<sup>124</sup> He framed the shift as “a partial recognition by the state that it must set itself to remedy the initial inequalities which a faulty social structure imposes.”

Mothers’ pensions reimaged the family according to the mother-child relationship. Recipients of mothers’ aid were primarily widows, as deserted women were excluded from the New York program until 1924 over fears of encouraging abandonment. In *Wives Without Husbands*, Anna Igra finds that women were required to cooperate with antidesertion courts and agencies, “bringing mothers’ pensions into closer relation with the poor law system of family liability.”<sup>125</sup> Fathers came under the eye of reformers only in so far as they fulfilled their financial role as breadwinners, and were increasingly subject to “parental responsibility” through court mandated child support. Kate Barrett, President of the National Florence Crittenden Mission, wrote that even when the sacred “father, mother, child” family structure was impossible, “by aiding and assisting the mother to fulfill her responsibilities, we can have that trinity, powerful for much good, *mother, child, home*.”<sup>126</sup>

In many ways, mothers’ pensions continued the late 19<sup>th</sup> century “child saving” agenda of socialization through provisions that entailed the regulation of parenting. Whereas children were previously Americanized through institutional care, now the focus turned to influencing mothering techniques through investigation and training according to American ways of parenting. Alice Higgins, an agent at the Associated Charities of Boston, argued that “mother and child are kept together for the good of both”<sup>127</sup> The mother was considered vital to the culling of future citizens, and in return she gained “something to live for, something to love, something to work for.”<sup>128</sup> Mothers made an invaluable contribution to the state by socializing children, thus reducing delinquency, neglect, and strengthening citizenship. But many need “training,” in addition to direct aid. Mothers were to be aided and reformed through the work of “visitors,” and if they disagreed with parenting styles or advice, aid could be withheld.

By 1921, more children in New York state were cared for in their own homes with mothers’ aid than in out-of-home care (See Figure 2.1). The ascendance of mothers’ pensions over out-of-home care coincided with the industrial depression of 1920 and 1921. By 1924, deserted mothers became eligible for mothers’ pensions; however this had a negligible impact as deserted women continued to be steered into the courts.<sup>129</sup> By 1933, roughly 19,201 of the

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<sup>123</sup> New York (State). 1914. *Report of the New York State Commission on Relief for Widowed Mothers*. Albany, J. B. Lyon Company, Printers, 115.

<sup>124</sup> Adie, David. 1933. “A State Handles its Public Welfare Problems.” *Social Service Review* 7(3): 416.

<sup>125</sup> Igra, Anna R. 2006. *Wives Without Husbands: Marriage, Desertion, and Welfare in New York, 1900-1935*. Chapel Hill: The University of North Carolina Press, 109.

<sup>126</sup> Barrett, Kate Waller. 1910. “The Unmarried Mother and Her Child.” *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 100.

<sup>127</sup> Higgins, Miss Alice L. 1910. “Helping Widows to Bring up Citizens.” *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 142.

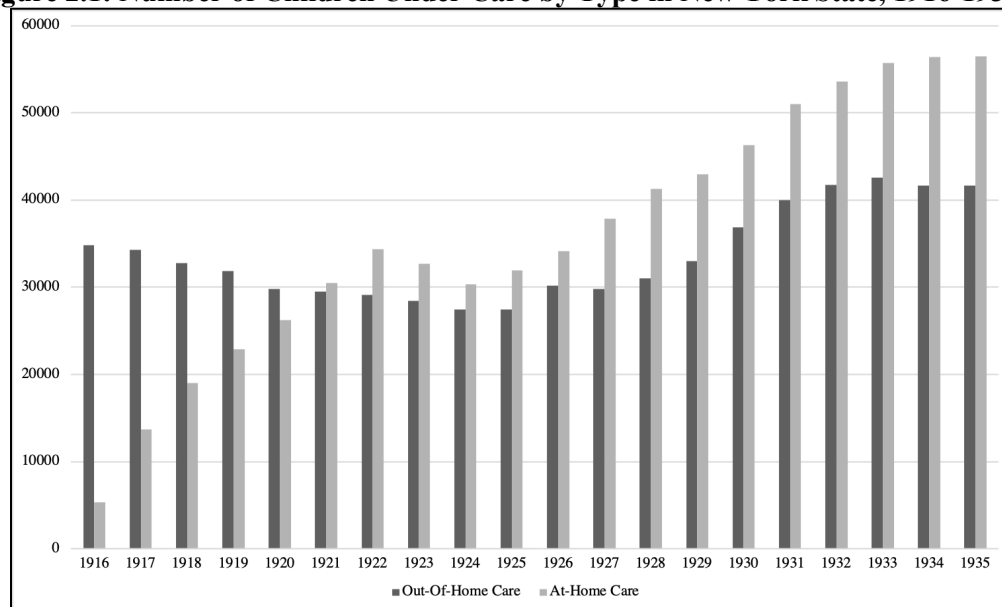
<sup>128</sup> Barrett, Kate Waller. 1910. “The Unmarried Mother and Her Child.” *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 98.

<sup>129</sup> Igra, Anna R. 2006. *Wives Without Husbands: Marriage, Desertion, and Welfare in New York, 1900-1935*. Chapel Hill: The University of North Carolina Press, 105.



22,058 women aided by mothers' pensions in New York were widows.<sup>130</sup> While social agencies "had developed a better appreciation of the impoverished home,"<sup>131</sup> according to Reverend John Doherty of the Catholic Charities, there was great variation in the aims and methods of different agencies and public services. Most importantly, these agencies differed greatly in "the readiness with which they break up families."<sup>132</sup> Scholarship suggests that home-based care was reserved for the children of single, white widows, while the children of single fathers and African American women were instead channeled into out-of-home care.<sup>133</sup>

**Figure 2.1: Number of Children Under Care by Type in New York State, 1916-1935<sup>134</sup>**



<sup>130</sup> Carstens, C. C. 1936. "Social Security Through Aid for Dependent Children in Their Own Homes." *Law and Contemporary Problems* 3(2): 247.

<sup>131</sup> Doherty, Rev. John. 1925. "Agencies for Determining Whether Care Outside of Own Home Is Necessary, And If So, What Kind of Care." *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 88.

<sup>132</sup> Costin, Lela. 1992. "Cruelty to Children: A Dormant Issue and Its Rediscovery, 1920-1960." *Social Service Review* 66(2): 187.

<sup>133</sup> Bell, Winifred. 1965. *Aid to Dependent Children*. New York: Columbia University Press; Tanenhaus, David S. 2001. "Growing up dependent: family preservation in early 20th century Chicago." *Law and History Review* 19(3): 554.

<sup>134</sup> At-home refers to children in the homes of widowed mothers, cared for by boards of child welfare. Out-Of-Home refers to those in institutional or boarding care (committed and non-committed), excluding delinquent, deaf, blind children.

1916-1920: New York (State). 1921. *Fifty-Fourth Annual Report of the State Board of Charities for the Year 1920*. Albany: J.B. Lyon Company, Printers, 53.

1917-1923: New York (State). 1924. *Fifty-Seventh Annual Report of the State Board of Charities for the Year 1923*. Albany: J.B. Lyon Company, Printers, 24.

1924: New York (State). 1925. *Fifty-Eighth Annual Report of the State Board of Charities for the Year 1924*. Albany: J.B. Lyon Company, Printers, 33.

1925: New York (State). 1926. *Fifty-Ninth Annual Report of the State Board of Charities for the Fiscal Year Ending June 30, 1925*. Albany: J.B. Lyon Company, Printers, 26.

1926-1935: New York (State). 1937. *Legislative Documents: One Hundred and Sixtieth Session, Vol V-No. 22 to 24 INCL*. Albany: J.B. Lyon Company, Printers, 49.

While mothers' pensions upheld at-home maternal care, it did so within a particular formulation of the labor market. Though mothers' pensions in New York City were generous relative to the rest of the country, they were still too low to provide adequate support. Igra (2006) notes that mothers' pension in New York were "restricted to an amount not exceeding the cost of institutional care." As a result, the Board of Child Welfare encouraged mothers to continue working, and, in fact, almost half of mothers receiving pensions in the city continued to work for wages.<sup>135</sup> Kate Barrett, of the Florence Crittenden Mission, wrote that "[w]hat they need most of all is somewhere that they can be trained in order that they may be fitted to earn a living for themselves and their children under circumstances conducive to a healthy, moral and physical life."<sup>136</sup>

For white women, the labor market privileged work within their own home, including "out-work" such as sewing or laundry, that enabled them to continue their domestic and parental duties.<sup>137</sup> By contrast, Black women's labor often mandated physical separation as domestic workers. By 1930, almost three-quarters of Black women in Manhattan were in domestic or personal service.<sup>138</sup> The high employment rate outside the home was reported by the Children's Courts as a critical reason for the increasing numbers of neglected Black youth in the 1920s.<sup>139</sup> Even as occupational segregation and limited access to pensions prevented them from working and caring for their children in the home, Black women were able to create a social welfare movement that was tailored more toward their experiences. Through church groups and women's clubs, African American social welfare programs provided day-care and recreational services guided by principles of "self-help" and racial uplift to help preserve Black families outside of the context of official support.<sup>140</sup>

The Progressive era brought great transformation in children's care—from an emphasis on institutional care to family preservation. In 1929, on the eve of the Great Depression, the New York Board of Charities was reorganized as the Department of Social Welfare. The Commissioner of Social Welfare, David Adie, described the shift in title as "an implicit scrapping of the old condescending spirit behind "charity." Social welfare was henceforth to be conceived of in terms of scientific, not sentimental, treatment of human and social behavior."<sup>141</sup> The century-old Poor Law, which "contemplated care in an almshouse as the chief method of relief," was replaced by the Public Welfare Law. The new law mandated that "[a]s far as possible families should be kept together and they shall not be separated for reasons of poverty alone."<sup>142</sup>

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<sup>135</sup> Igra, Anna R. 2006. *Wives Without Husbands: Marriage, Desertion, and Welfare in New York, 1900-1935*. Chapel Hill: The University of North Carolina Press, 109.

<sup>136</sup> Barrett, Kate Waller. 1910. "The Unmarried Mother and Her Child." *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 99.

<sup>137</sup> Sacks, Mercy S. 2011. *Before Harlem: The Black Experience in New York City Before World War I*. Philadelphia: University of Pennsylvania Press.

<sup>138</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 122.

<sup>139</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children's Court, 1925*. New York, 31.

<sup>140</sup> Carlton-LaNey, Iris. 1999. "African American Social Work Pioneer's Response to Need." *Social Work* 44(4): 311-321; O'Donnell, Sandra M. 1994. "The Care of Dependent African-American Children in Chicago: The Struggle Between Black Self-Help and Professionalism." *Journal of Social History* 27(4): 763-776.

<sup>141</sup> Adie, David. 1933. "A State Handles its Public Welfare Problems." *Proceedings of the American Public Welfare Association* 7(3): 418.

<sup>142</sup> New York (State). 1929. *Laws of the State of New York*. Vol. 1-2. Albany: J. B. Lyon Company, State Printers, 1170.

Within a few years, the Depression would dramatically shift in the relationship between public welfare and private charity.

### **Economic Relief as Child Welfare, 1930s**

While the breadwinner ideal never disappeared during the maternalist era, reformers began to shift to a more explicit focus on the breadwinner role during the 1930s as a result of the Depression. In October 1929, the stock market crashed signaling the start of a decade-long global depression that did not end until mobilization for World War II in 1941. Many of the causes of the Great Depression were rooted in political and economic shifts that occurred during the 1920s when the nation embraced business-friendly policies that called for less government and let the interventionist reforms of the Progressive era fall by the wayside.<sup>143</sup> The first response to the depression under President Hoover continued the tradition of limited government, entrusting aid to struggling private charity and religious organizations. But the election of President Roosevelt in 1933 “changed the political landscape” through unprecedented recovery efforts.<sup>144</sup> This section shows how New Deal developments were celebrated by social welfare professionals as a solution to child dependency. The protection of children shifted from out-of-home care to economic protections that strengthened the family—underscoring an ideal of family stability that Progressives had fought for decades earlier. But the New Deal policies connected child welfare to the men’s rights as wage-earners in ways that racially stratified access to family stability.

The roots of the depression began in the 1920s, as income inequality grew during an era of relative prosperity. Between 1920 and 1929, the income of the wealthiest one percent of Americans grew 53 percent, while the rest remained static. Alongside static incomes, a great shift occurred in the 1920s from traditional and long-established economic sectors, such as textiles, to new sectors, including the automobile industry and processed foods. When the stock market crashed, it signaled declining faith in investment and economic health, and as a result investment capital for new equipment and facilities evaporated, especially among new industries. Unemployment grew from 2.9 percent in 1929 to a staggering 22.9 percent in 1932, as the nascent sectors were not large enough to employ workers relative to the size of the economy. Meanwhile, the nation’s banking system, largely composed of small independent banks, collapsed. Between 1929 and 1933, almost half of the nation’s “twenty-five thousand commercial banks failed or merged with their competitors.”<sup>145</sup> Many Americans lost their savings and their faith in the banking system.

The Great Depression first struck manufacturing and construction industries, and by the spring of 1930 the conditions in New York City deteriorated rapidly. Irish and Italian men were greatly represented in construction industries,<sup>146</sup> and almost 22 percent of African American men and 17 percent of African American women in Manhattan worked in manufacturing and mechanical industries.<sup>147</sup> But as the Depression deepened, middle-class workers, particularly German and Jewish communities, who had been somewhat protected in managerial and

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<sup>143</sup> Smith, Jason Scott. 2014. *A Concise History of the New Deal*. Cambridge: Cambridge University Press, 12.

<sup>144</sup> Purcell, Aaron D. 2014. *The New Deal and the Great Depression*. Kent: Kent State University Press, 4.

<sup>145</sup> Smith, Jason Scott. 2014. *A Concise History of the New Deal*. Cambridge: Cambridge University Press, 16.

<sup>146</sup> Baylor, Ronald H. 1978. *Neighbors in Conflict: The Irish, Germans, Jews, and Italians of New York City, 1929-1941*. Baltimore: John Hopkins University Press.

<sup>147</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press.

proprietary positions, as well as skilled labor, also faced job loss.<sup>148</sup> Soon a wholly new group of first time relief recipients became known to social workers. By 1932, “white-collar workers constituted more than a quarter of the unemployed in New York.”<sup>149</sup> As the “new poor” diversified, social workers became concerned with the many families struck by unemployment who had never been on relief, and who faced family dissolution “through no fault of their own.”

Bankruptcies, foreclosures, and unemployment became commonplace in a downward economic spiral. Americans struggled to survive, relying on long-bread lines from private agencies for basic sustenance and setting up provisional encampments on the fringes of cities. Herbert Hoover, who had been reelected as president in 1928, staunchly committed to minimal government intervention during the early years of the depression. His 1930 State of the Union address affirmed this position: “Economic depression cannot be cured by legislative action or executive pronouncement. Economic wounds must be healed by the action of the cells of the economic body—the producers and consumers themselves.”<sup>150</sup> But by March 1933, almost three and half years after the stock market crash, nearly one-fifth of the American workforce was jobless and almost a third of those in the workforce were employed only part-time.<sup>151</sup>

On the one hand, there existed a sense that the depression had revived “the virtues traditionally associated with American family behavior” by fostering loyalty and togetherness, yet others worried that the family had been “demoralized, and broken by the depression.”<sup>152</sup> Reformers grew especially concerned about the increased occurrence of tuberculosis, disease, and mental and behavioral issues among children.<sup>153</sup> The Children’s Court and the Department of Welfare (DPW) worked side-by-side as the two primary public agencies in charge of assessing and allocating out-of-home care to private institutions. Neglect and delinquency cases were referred to the Children’s Court and children were generally placed in shelters as a protective measure until court proceedings could determine whether out-of-home care was necessary. Juvenile delinquency and neglect cases both rose until 1934. The Children’s Court attributed the increase in neglect cases to situations that necessitated “emergency relief,” as opposed to neglectful environments. In fact, in 1934, almost half of the neglect cases were voluntarily brought before the court by parents or relatives.<sup>154</sup> The Court reported that “sudden crises of destitution such as sickness, eviction or the lack of further aid forced the family to apply to [the] court for succor in the first instance.” In these cases, children were removed from the home according to standard procedure; however, “if the subsequent investigations showed no evidence of fault on the part of the parents [the court] would turn these families over to other appropriate agencies ... for adjustment and relief.”<sup>155</sup> For example, though 4,881 cases of neglect were

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<sup>148</sup> Baylor, Ronald H. 1978. *Neighbors in Conflict: The Irish, Germans, Jews, and Italians of New York City, 1929-1941*. Baltimore: John Hopkins University Press.

<sup>149</sup> Williams, Mason B. 2013. *City of Ambition: FDR, La Guardia, and the Making of Modern New York*. New York: W. W. Norton and Company, 92.

<sup>150</sup> Smith, Jason Scott. 2014. *A Concise History of the New Deal*. Cambridge: Cambridge University Press, 24.

<sup>151</sup> Smith, Jason Scott. 2014. *A Concise History of the New Deal*. Cambridge: Cambridge University Press, 1.

<sup>152</sup> Groves, Ernest R. 1935. “Adaptations of Family Life.” *American Journal of Sociology* 40(6): 772.

<sup>153</sup> Abbott, Grace. 1933. “Prevention of Child Dependency Through Prevention of: Accidents, Irregular Employment, Unemployment and Insufficient Income.” United States Children’s Bureau, 76.

<sup>154</sup> New York (State). 1934. *Annual Report of the Domestic Relations Court of the City of New York, 1934*. New York: Robley Press Service, Inc., 36. 0

<sup>155</sup> New York (State). 1932. *Annual Report of the Children’s Court of the City of New York, 1932*. New York: The Beacon Press Inc., 6.

reviewed by the court in 1934, only 1,172 children were actually committed to institutional care outside the home.<sup>156</sup>

Alongside the Children's Court, the DPW handled cases of destitution and managed out-of-home placement when parental struggles were beyond the help of relief. During the Depression, an increasing number of parents sought out-of-home care for their children through the DPW. Applications for commitment increased from roughly 10,000 in 1928 to 13,000 in 1930 and 16,000 a year later.<sup>157</sup> But while the number of applications rose, the number of actual commitments peaked in 1930 when the DPW accepted 6,191 children for out-of-home care.<sup>158</sup> The Children's Court reported that the placement rates should "prove heartening in these days of depression and change."<sup>159</sup> One would expect that the "whole structure of the family morale" to be shaken, but while many parents sought temporary out-of-home care, social welfare workers prided themselves on the provision of alternative forms of aid.

None-the-less, New York reformers argued that it was growing clear that private charity was "completely inadequate to meet the growing need for relief."<sup>160</sup> State protections were necessary to minimize the turbulence of the industrial economy. At the start of the Great Depression, Grace Abbott wrote that low wages, unemployment, and work accidents were key child welfare issues. Now the chief of the Children's Bureau, she was deeply informed by her early experiences in the maternalist era of reform. She studied law at the University of Chicago and later took up residency at Jane Addams' Hull House in 1908. She was schooled in progressive era poverty research which historian Alice O'Connor argues "redirected attention away from individual dependency to social underlying causes, particularly labor conditions, political economy and capitalism."<sup>161</sup> She brought this view into her work at the Children's Bureau arguing that the "kind of dependency which unemployment produces is the result not of any breakdown in the character of the individual parent, but is due to the absence of the wage earner's wages." She argued for a system modeled after mothers' pensions. In cases of unemployment, the "effectiveness" of the father was "temporarily destroyed." Abbott reasoned that it was the responsibility of child welfare agencies "to assume the leadership in the protection of children from these social and economic disasters."<sup>162</sup>

New York became the first state to provide aid for emergency unemployment and home relief when it established the Temporary Emergency Relief Administration (TERA) in 1931 (through 1937). Work-relief jobs were administered by special city and county emergency work bureaus, and functioned to put unemployed and underemployed men back into the labor force.<sup>163</sup>

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<sup>156</sup> New York (State). 1934. *Annual Report of the Domestic Relations Court of the City of New York, 1934*. New York: Robley Press Service, Inc., 39.

<sup>157</sup> Greenberg, Cheryl Lynn. 1991. *Or Does It Explode? Black Harlem in the Great Depression*. New York: Oxford University Press, 43.

<sup>158</sup> New York (N.Y.). 1937. *Department of Public Welfare Annual Report for the Year 1937*. New York, 19.

<sup>159</sup> New York (State). 1932. *Annual Report of the Children's Court of the City of New York, 1932*. New York: The Beacon Press Inc., 6. 0

<sup>160</sup> United States. 1939. *Reports on Public Assistance to the Administrator, Works Progress Administration for the City of New York*. New York, 66.

<sup>161</sup> O'Connor, Alice. 2001. *Poverty Knowledge: Social Science, Social Policy and the Poor In Twentieth-Century U.S. History*. Princeton: Princeton University Press.

<sup>162</sup> Abbott, Grace. 1933. "Prevention of Child Dependency Through Prevention of: Accidents, Irregular Employment, Unemployment and Insufficient Income." *Dependent and Neglected Children: Report of the Committee on Socially Handicapped—Dependency and Neglect* New York: D. Appleton-Century, Co., 77-78.

<sup>163</sup> New York (State). 1932. *Report of the New York State Temporary Emergency Relief Administration*. Albany: J.B. Lyon Company, Printers, 17-18.

Wages were paid in cash according to the prevailing standards,<sup>164</sup> and the average monthly salary for work relief in October of 1932 was \$42.47.<sup>165</sup> By contrast, home relief averaged \$30.88 per month in 1932, but was distributed as in-kind aid until 1934.<sup>166</sup> Families received “orders” for “food, shelter, clothing, fuel, light, necessary household supplies” and medical needs in their own homes.<sup>167</sup> Though a wide variety of services were offered, upwards of 80% of distributions were for food.<sup>168</sup> Eligibility for home and work relief was determined through an “investigation of the needs of the applicant or his family” with follow ups “at least once a month,”<sup>169</sup> as well as extensive investigation.<sup>170</sup> The creators of TERA argued that they were aware that family-based solutions were the best form of aid to safeguard children, and for this reason excluded out-of-home care as a method of aid.<sup>171</sup> By June 1933, New York estimated that approximately 380,000 families received work or home relief, including 748,000 children.<sup>172</sup>

In 1933, the Roosevelt administration passed the Federal Emergency Relief Administration (FERA), which was modeled after New York’s TERA program. At the time, Mr. Hopkins, chairman of TERA in New York, was warned that he would have to be “mighty careful lest” child welfare workers, social workers, and health reformers, “unloaded all their burdens on his shoulders.” But reformers agreed that “the new [FERA] act should be concerned solely with the relief of families or individuals in need due to unemployment.”<sup>173</sup> While some reformers were “shocked” that child-care was not included in federal assistance, child welfare advocates agreed that “the first line of defense for children [was] their own homes.”<sup>174</sup> As such, no FERA funds were allotted for the care of children in private institutions or boarding homes.<sup>175</sup>

Social welfare professionals lauded these efforts, which finally and forcefully brought direct home relief to families on the verge of breakdown—something local government had struggled to do for decades. C. W. Areson of the Cleveland Humane Society argued that the “development of home relief under the state relief administration... has held the number of

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<sup>164</sup> New York (State). 1932. *Report of the New York State Temporary Emergency Relief Administration*. Albany: J.B. Lyon Company, Printers, 18.

<sup>165</sup> Lundberg, Emma Octavia. 1932. “The New York State Temporary Emergency Relief Administration.” *Social Service Review* 6(4): 563.

<sup>166</sup> Lundberg, Emma Octavia. 1932. “The New York State Temporary Emergency Relief Administration.” *Social Service Review* 6(4): 563.

<sup>167</sup> New York (State). 1932. *Report of the New York State Temporary Emergency Relief Administration*. Albany: J.B. Lyon Company, Printers, 29.

<sup>168</sup> 80% of distributions in the summer months of 1932 were for food. Source: New York (State). 1932. *Report of the New York State Temporary Emergency Relief Administration*. Albany: J.B. Lyon Company, Printers, 29.

<sup>169</sup> New York (State). 1932. *Report of the New York State Temporary Emergency Relief Administration*. Albany: J.B. Lyon Company, Printers, 39.

<sup>170</sup> The minimum investigation included a home visit, verification of residence, an employer interview, financial inquiry, and determination of the ability of friends, family, or church to provide assistance.

<sup>171</sup> Jackson, Robert H. 2003. *That Man: An Insider’s Portrait of Franklin D. Roosevelt*. New York: Oxford University Press, 224.

<sup>172</sup> Foster, James H., and Robert Axel. 1934. “Volume, distribution and cost of child dependency in New York State.” Albany: J.B. Lyon company, printers, 9.

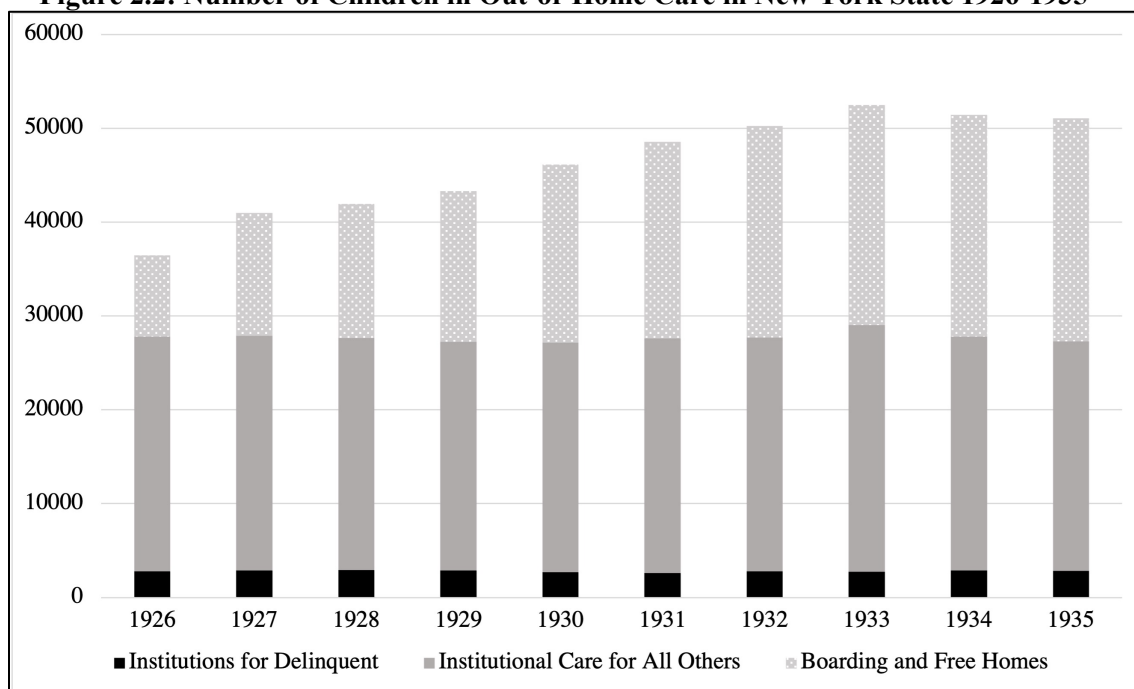
<sup>173</sup> Murphy, J. Prentice. 1934. “Children in the New Deal.” *Annals of the American Academy of Political and Social Science* 176(1): 122

<sup>174</sup> Murphy, J. Prentice. 1934. “Children’s in the New Deal.” *Annals of the American Academy of Political and Social Science* 176(1): 123.

<sup>175</sup> Rymph, Catherine E. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press, 54.

children requiring care away from their own homes to a minimum.”<sup>176</sup> This was reiterated by J. Murphy who wrote that the federal unemployment relief program was protecting millions of children in their own homes. He argued that the “F.E.R.A. has helped to keep children in the families of their parents or other relatives when otherwise there would have resulted a vast amount of family wrecking.”<sup>177</sup> Furthermore, relief had actually transformed understandings of child welfare, as Murphy argued that it had made clear that neglect, desertion, and other child welfare issues “often have certain underlying economic factors.”<sup>178</sup>

**Figure 2.2: Number of Children in Out-of-Home Care in New York State 1926-1935**<sup>179</sup>



<sup>176</sup> Areson, C. W. 1933. “Status of Children’s Work in the United States.” *Proceedings of the National Conference of Social Work*, 95.

<sup>177</sup> Murphy, J. Prentice. 1935. “Effects of the Mass Relief Program on Social Work for Children.” *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 276.

<sup>178</sup> Murphy, J. Prentice. 1935. “Effects of the Mass Relief Program on Social Work for Children.” *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 289.

<sup>179</sup> Source: New York (State). 1937. *Legislative Documents: One Hundred and Sixtieth Session, Vol V-No. 22 to 24 INCL*. Albany: J.B. Lyon Company, Printers, 49.

Description: The first category, Institutions for Delinquents, includes State Institutions such as training schools, as well as other institutions, including private delinquency agencies. “Institutional care for all others” includes the deaf, blind, destitute, improper guardianship, and non-committed children. “Boarding homes and free homes” includes boarding homes, free homes, and those at employment. These categories are not defined further in this report, however, Dula (1952) describes boarding homes as a situation in which a family is “paid for caring for a child placed and supervised by an agency after study” (133). Boarding homes tended to be used for younger children, and as Chapter 4 will show, was disproportionately used for African American children. Free homes were described as situations in which “no payment [was] made for the care of children” (133) and “at employment” referred to children who earned part or all of their board by working for the foster parents or outside the home (134). As Chapter 4 shows, free foster homes were usually reserved for apprenticing older children, and were on the decline by the 1930s, so that in 1935, only 9% of children in out-of-home care in New York City were in free foster homes. Meanwhile, the majority (48%) of children in out-of-home care in 1935 were in paid boarding homes, while 43% were in institutions.

The New York Division of Child Welfare reported that over the first few decades of the twentieth century, out-of-home care rates decreased as a result of growing social protections. Between 1911 and 1935, the out-of-home care population remained relatively stable at roughly 47,000, despite a 40 percent increase in the population of New York. The *rate* of children cared for outside the home declined from 51.3 per ten thousand in 1911 to 35.8 in 1935.<sup>180</sup> Fluctuations in the economy greatly impacted the dependent child population, which increased at the beginning of WWI and in 1932 before emergency relief for the Depression had become fully effective. The State Board of Social Welfare claimed that as relief became more widespread in New York the dependent child population decreased, reflecting the immediate effects of state intervention. Overall, all forms of out-of-home care peaked in 1933 and began to decline in the subsequent years, as can be seen in Figure 2.2. These state patterns were also visible in New York City, where child welfare workers reported that dependent children were more likely to be cared for in their own homes. By the end of 1932, 32.9 children per ten thousand in New York City were cared for in institutions and 16.4 in foster homes. By contrast, 59.8 per ten thousand were cared for in their own homes with the aid of mothers' allowances.<sup>181</sup>

By 1937, the Department of Welfare (DPW) reported that they accepted 3,494 children for care by reason of destitution (compared to 6,191 in 1930). Of these, 35% were accepted for reasons of parental illness,<sup>182</sup> 29% because of a "broken home,"<sup>183</sup> 25% due to homelessness,<sup>184</sup> 5% due to personal inadequacies of parents,<sup>185</sup> and only 3% due to economic insecurity including unemployment or insufficient income.<sup>186</sup> The State Board of Charities argued that these figures confirmed that the availability of relief measures were "successful in preventing the breaking up of families even under [the] conditions of severe economic depression."<sup>187</sup> Specifically, the report noted the significance of mothers' aid allowances beginning in 1915 and the Temporary Emergency Relief Administration (TERA) in 1931: the "fact that... no more children were being cared for apart from their families at the end of 1935 than at the end of 1911 [was] significant of the success of emergency and permanent relief measures designed for the preservation of family life."<sup>188</sup> Likewise, statistics prepared for New York State by the Temporary Emergency Relief Administration concluded that there was only a small increase in child dependency, indicating that relief measures were "largely successful in forestalling the break-up of families."<sup>189</sup>

In 1935, long-lasting measures were put into place at the national level when the Social Security Act was passed, and in the words of the Social Welfare Department, this was nothing

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<sup>180</sup> New York (State). 1937. *Seventieth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1936*. Legislative Document Vol. 70, No. 22. Albany, NY: J. B. Lyon Company, Printers, 46.

<sup>181</sup> Foster, James H., and Robert Axel. 1934. "Volume, distribution and cost of child dependency in New York State." Albany: J.B. Lyon company, printers, 40.

<sup>182</sup> Both physical and mental

<sup>183</sup> Includes death of one or both parents, desertion, separation or divorce, and imprisonment

<sup>184</sup> Including out-of-wedlock birth and abandonment

<sup>185</sup> Includes temperance, improvidence, and incompetence

<sup>186</sup> Polier Papers. 1939. :Memorandum by the Welfare Council of New York City: Care of New York City Children Away From Their Own Homes." March 17, MC 413/Box 19/Folder 218.

<sup>187</sup> New York (State). 1937. *Seventieth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1936*. Legislative Document Vol. 70, No. 22. Albany: J. B. Lyon Company, Printers, 46.

<sup>188</sup> New York (State). 1937. *Seventieth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1936*. Legislative Document Vol. 70, No. 22. Albany: J. B. Lyon Company, Printers, 47.

<sup>189</sup> Foster, James H., and Robert Axel. 1934. "Volume, distribution and cost of child dependency in New York State." Albany: J.B. Lyon Company, Printers, 9.



short of the “birth of a new era.”<sup>190</sup> Grace Abbott stepped down from the Children’s Bureau in 1934, but she worked alongside the new chief, Katharine Lenroot, to help draft the SSA. As Catherine Rymph notes, together they worked to advance a program of family security, which was “in keeping with the Children’s Bureau’s philosophy of treating the “whole child” and of viewing children’s interests as entwined with those of their parents.”<sup>191</sup> Like TERA, Social Security offered only minimal funds for out-of-home care, primarily in rural areas.<sup>192</sup> In New York, funds were used to improve case-work methods, hire trained workers, and to develop programs in counties where there were none, particularly rural areas.<sup>193</sup> The goal was not to build up the system of out-of-home care, but to instead improve a minimalist foster care system within a larger system of family preservation. Aid to Dependent Children (ADC) was billed as a cornerstone in family preservation, enabling many children who otherwise would have been sent into substitute care, to be cared for within their own homes.<sup>194</sup>

While ADC primarily assisted women as mothers, not workers, according to Abbott,<sup>195</sup> the old pauper relief system was quickly being replaced by modern assistance laws, which upheld social insurance benefits connected to labor participation. Rather than focusing only on the immediate unemployment needs, as the TERA and FERA did, the Social Security Act created a model for breadwinner family stability through two new undertakings: old age insurance and unemployment insurance. As Abbott argues (1934), these new programs protected wage earners from the turbulence of the industrial economy. However, these protections excluded workers from industries such as agriculture, domestic services, railroad and shipping, as well as nonprofit and government. African American and Mexican Americans were the predominant category of racial exclusion.<sup>196</sup> Further exclusionary programs of labor and wage protections were developed in the mid-1930s, when the National Labor Relations Act (NLRA) and the Fair Labor Standards Act (FLSA) were passed in 1935 and 1938, respectively. The NLRA affirmed the rights of wage workers to organize and bargain collectively leading to increased union membership, while the FLSA established minimum wage, maximum working hours, and prohibited child labor.

The New Deal did not end the Great Depression, but it helped ameliorate the worst of the crisis.<sup>197</sup> But the programs were important not simply for dealing with the conditions of the depression, but for establishing long-term solutions to the social welfare; however, as scholars have shown, these social insurance programs primarily benefited white Americans. As Ira Katznelson argues, this was a “moment when a wide array of public policies was providing most white Americans with valuable tools to advance their social welfare—insure their old age, get

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<sup>190</sup> Schneider, David M. and Albert Deutsch. 1939. *The Road Upward: Three Hundred Years of Public Welfare in New York State*. New York State Department of Social Welfare. Albany, 49.

<sup>191</sup> Rymph, Catherine E. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press, 58-9.

<sup>192</sup> 1938. *Child Welfare Services in Rural Area, Provided For Under the Federal Social Security Act, Title V, Part 3*. Washington, DC, 1. 3

<sup>193</sup> 1938. *Child Welfare Services in Rural Area, Provided For Under the Federal Social Security Act, Title V, Part 3*. Washington, DC: 116.

<sup>194</sup> Hacsí, Timothy A. 1997. *Second Home: Orphan Asylums and Poor Families in America*. Cambridge: Harvard University Press.

<sup>195</sup> Abbott, Grace. 1936. “Social Security Act.” *The University of Chicago Law Review* 4(1): 45-68.

<sup>196</sup> Abbott, Grace. 1936. “The Social Security Act and Relief.” *The University of Chicago Law Review* 4(1): 66.

See also: Fox, Cybelle. 2012. *Three Worlds of Relief: Race, Immigration, and the American Welfare State from the Progressive Era to the New Deal*. Princeton: Princeton University Press.

<sup>197</sup> Smith, Jason Scott. 2014. *A Concise History of the New Deal*. Cambridge: Cambridge University Press, 2.

good jobs, acquire economic security, build assets, and gain middle-class status.”<sup>198</sup> Cybelle Fox shows that “[t]he net effect of the social insurance legislation was that most European immigrants—even those not authorized to live and work in the United States—were extended the security and benefits of social insurance, while most blacks and Mexicans were denied these benefits.”<sup>199</sup> As Jill Quadagno argues, while the New Deal “united the industrial working class,” it “left intact—indeed reinforced—the rigid color-line,” granting economic security to white Americans while denying others.<sup>200</sup> As I will show in subsequent sections, the development of economic protections was key because it connected child welfare to men’s rights as wage-earners and ultimately uplifted a whole class of white American families, thus racializing access to family preservation.

### **Racial Divergence in Out-Of-Home Care, 1930s**

By the late 1930s, child welfare reformers grew confident that family preservation policies would soon render out-of-home care unnecessary. If in previous generations child separation was necessary in the absence of direct aid, now unemployment insurance, wage protections, workman’s compensation, and the residual forms of home relief for single mothers and widows enabled many children to be cared for in their own homes during turbulent times. Child welfare reformers, like Grace Abbott, began operating under the assumption that children were “now rarely removed from parent care on the grounds of poverty alone.”<sup>201</sup> Likewise, Helen Tyson, a high ranking official in the Children’s Bureau, wrote that the “[p]rovision for aid to dependent children and for survivors’ benefits under the Social Security Act will maintain many thousands of dependent children with their own families and relatives,” leaving only older children and problem families in need of out-of-home care.<sup>202</sup> But the excitement surrounding decreased out-of-home care rates in New York City belied the increasing divergence in court and placement rates between Black and white youth.

In 1936, William Hodson, the Commissioner of Public Welfare, reported that “[t]he depression ha[d] struck the Negro race harder perhaps than any other group in the community. Always at a disadvantage, the colored people have been particularly disadvantaged in this time of unemployment... [and] adequate provision for the colored child who is out of step in the march of life.”<sup>203</sup> Predictably, the number of Black neglect cases rose in the Children’s Court during the depression, from 338 per year in 1926 to a high of 806 cases per year in 1934 (see Figure 2.3). In 1930, 4.73% of the New York City population was Black, but by 1934, Black youth made up roughly 16% of neglect petitions. Overall the increase in Black neglect cases was minimal, and in many ways tells us little about their actual need for assistance. In fact, the stagnation of their neglect cases had much to do with their exclusion from institutions and the

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<sup>198</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 23.

<sup>199</sup> Fox, Cybelle. 2012. *Three Worlds of Relief: Race, Immigration, and the American Welfare State from the Progressive Era to the New Deal*. Princeton: Princeton University Press, 262.

<sup>200</sup> Quadagno, Jill. 1994. *The Color of Welfare: How Racism Undermined the War on Poverty*. New York: Oxford University Press, 24.

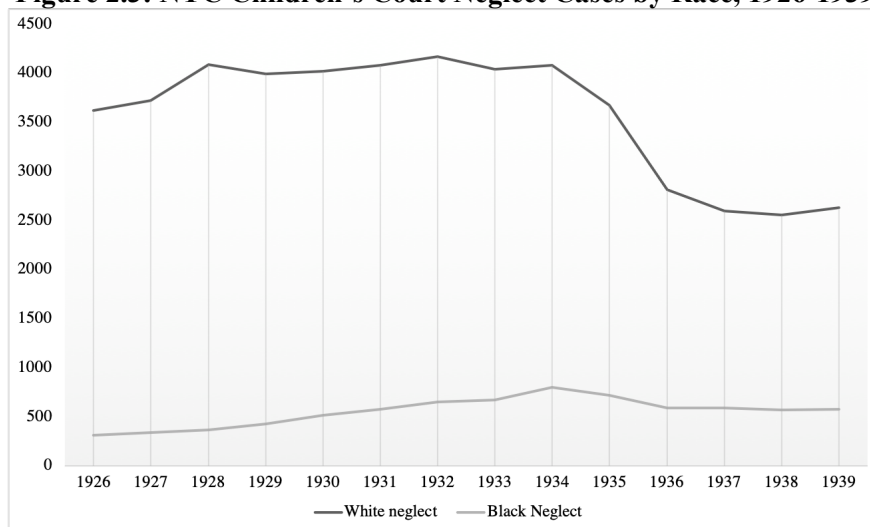
<sup>201</sup> Abbott, Grace. 1968. *The Child and the State Volume II: Dependent and the Delinquent Child*. University of Michigan, Greenwood Press, 20.

<sup>202</sup> Tyson, Helen Glenn. 1940. “Care of Dependent Children.” *The Annals of the American Academy of Political and Social Science* Vol. 212: 177.

<sup>203</sup> Polier Manuscripts. 1936. “Address by William Hodson, Commissioner of Public Welfare, at the Welfare Council’s Section on Dependent Children.” March 3, MC 413/Box 22/Folder 256.

unwillingness of judges to oversee cases in which there was no place to send a child (discussed further in Chapter 3).

**Figure 2.3: NYC Children’s Court Neglect Cases by Race, 1926-1939**



But the cases of white neglect tell us much more about their social position during the depression. In 1926,<sup>204</sup> 3,626 white neglect cases were seen by judges, accounting for 92 percent of all neglect cases in the Children’s Court. White neglect cases peaked in 1932 just as economic relief became more widespread in the city, then began to decline a full two years before Black neglect cases did. Overall, between 1926 and 1939, white neglect cases decreased by 27 percent, while Black neglect cases increased by 86 percent. In the final years of the Depression, white youth made up a declining majority of delinquent and neglected children in the Children’s Court. However, not all children’s cases were committed to out-of-home care; to better understand racial divergence in child protection during these years, we must examine the out-of-home care rates.

In 1933, white youth made up 91.7% of youth *across the country* in out-of-home care, while Black youth made up roughly 6.5%.<sup>205</sup> There was wide variation across states and localities, but at this point in time, white youth were overwhelmingly the population served by out-of-home care. In New York City, reports show that by the 1930s, Black youth ranged from 8 to 10% of children in substitute care. Though white children were the majority in out-of-home care, their numbers began to decrease by the end of the 1930s. By 1937, 23,119 children were being cared for in private institutions or foster home agencies in New York City.<sup>206</sup> Of these, 20,203 (87.4%) were white and 2,816 (12.2%) were Black.<sup>207</sup> By 1939, the number of white children in out-of-home care had decreased to 19,626 (86.8%), while the number of Black

<sup>204</sup> This graph includes data from 1926 onward because in 1924, a number of neglect categories were redefined as delinquency, including desertion of the home, incorrigibility, and ungovernability. This caused a dramatic decline in the number of neglect cases and an increase in the number of delinquency cases (See Chapter 3).

<sup>205</sup> U.S. Department of Commerce, Bureau of the Census. 1935. *Children Under Institutional Care and in Foster Homes, 1933*. Washington, D.C.: United States Government Printing Office.

<sup>206</sup> This includes 1,119 delinquent children.

<sup>207</sup> Polier Manuscripts. 1940. “Memorandum: Care of Destitute, Dependent, Neglected and Delinquent Children in the City of New York.” January 11, MC 413/Box 22/Folder 257.

children had increased to 2,984 (13.2%).<sup>208</sup> For reference, in 1940, roughly 94% of the New York City population was white, while 6% was Black. As the Department of Social Welfare celebrated the success of the “immediate effects of relief” in the declining out-of-home care population, reformers implicitly spoke about the success of relief for *white* children.

Why did white neglect and out-of-home care cases show decline in the final years of the Depression? On the one hand, the depression took a toll on institutions, which were increasingly seen as too costly in comparison to care in one’s own home. Institutions for the dependent and neglected, which primarily catered to white children, closed many of their programs, resulting in a “marked loss of facilities” according to the Department of Welfare.<sup>209</sup> But foster care cases rose in their place, so while the power of institutions may have declined, out-of-home care simply took on a new form as foster home care (See Chapter 4). Another explanation is that the Great Migration brought more needy children into the city and liberal reformers were increasingly developing channels of access for minorities thus changing the demographics of out-of-home care. This helps explain the increase in the number of Black children of out-of-home care, but cannot explain the decline in white children’s cases beginning at the tail end of the depression and continuing for the next two decades (Chapter 6). I suggest that the answer also lies in the social protections for child welfare through economic relief which uplifted white families. While it may be unsurprising that the New Deal helped white families weather the depression better than African Americans, what is key is that in this period, protections for breadwinners became the central focus of child welfare and prevention of out-of-home care.

### **Mothers’ Pensions Expanded: ADC Access in the North**

Mothers’ pensions were expanded as Aid to Dependent Children (ADC) in the Social Security Act, and as a nationalized program, more women gained access to direct relief. Scholars argue that ADC led to the decline of out-of-home care, and soon more mothers cared for children in their own home than were cared for by institutions or foster care.<sup>210</sup> ADC is generally understood as the cornerstone of at-home care, and though it is true that home relief was critical, it was only one part of a greater wage-based program in family preservation.

Although Black women worked at higher rates than white women, women in general did not gain access to the labor benefits of the Wagner and Fair Labor laws, nor the FERA and Social Security provisions. The vast majority of Black women in New York City were employed in domestic and personal service, occupations excluded from most New Deal provisions, including old-age insurance, unemployment insurance, survivor’s benefits, and minimum wage protections. Instead, Black families largely received assistance from direct relief. As Katznelson notes, “ADC was disproportionately black from the start”<sup>211</sup> in northern urban areas, which transformed Black women’s place in the developing welfare state from workers to dependents who were subject to state regulation. The New York City Harlem Riot Report stated that because home relief had been standardized and many administrators and social work investigators were

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<sup>208</sup> Polier Manuscripts. 1940. “Children Under Care of Department of Welfare According to Color, 1937-1940.” October 31, MC 413/Box 22/Folder 258.

<sup>209</sup> Polier Manuscripts. 1946-1949. “Summary Report on Needs and Facilities for Foster Care of Children in New York City.” Undated, MC 413/Box 35/Folder 434.

<sup>210</sup> Hacsí, Timothy A. 1997. *Second Home: Orphan Asylums and Poor Families in America*. Cambridge: Harvard University Press; Crenson, Matthew A. 1998. *Building the Invisible Orphanage: A Prehistory of the American Welfare System*. Cambridge: Harvard University Press.

<sup>211</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 45.

African American themselves, with roughly 8.6% of employees being African American in July 1933 among Home Relief and TERA staff, “it [was] difficult to see how racial discrimination could have figured greatly in home relief.” “[N]either the average amount of relief per case nor the average expenditure according to the number of persons per case show[ed] any discrimination against the distinctively Negro precincts.”<sup>212</sup>

Scholars primarily focus on the ways in which the introduction of ADC access was racialized through “unsuitability” clauses which limited access for African American women, particularly in the south; but the experience of ADC and the welfare state was distinct in the urban North. Unlike their southern counterparts, Black families were overrepresented on the ADC relief rolls in northern urban areas, and sometimes even received higher relief incomes than white families. Though Black Americans were only 6.4% of the New York population (in 1940),<sup>213</sup> they represented 25.3% of all children aided by ADC between 1938-39.<sup>214</sup> This was consistent with other northern states, including Pennsylvania which had a Black child population of 3.9% in 1930, but represented 24.3% of children accepted for ADC. Other overrepresented states included New Jersey, Maryland, and District of Columbia, among others, while in southern states, such as Alabama, Louisiana, and Georgia, Black children “scarcely benefited from aid to dependent children.”<sup>215</sup> On average, African American families in New York received \$24.15 per child and averaged \$44.36 per family per month in 1939-40. By contrast, white families received slightly less per child (\$22.0), but more as a family (\$46.56).<sup>216</sup> Likewise, the *Negro Share* reported that “[o]utside the South, Negro children usually received slightly higher average monthly payments than white children, while the reverse occurred in most southern states.”<sup>217</sup> The divergence between the north and the south in the developing welfare state highlights the fact that even with access to ADC, out-of-home care continued to climb for Black children. The issue, in the north, was not simply exclusion from welfare, but rather the larger economic issues intermingled with racial discrimination that shaped family stability at the time.

One of the greatest racial issues preventing Black mobility was housing. The National Urban League (NUL) reported that “the most pressing problem, aside from unemployment, facing the Negro ... is that arising from the eviction of tenants whose relief allotments make no provision for the payments of rent.”<sup>218</sup> Northern African Americans had substantial access to welfare, yet aid was stretched thin due to extraordinarily high rents in segregated communities where landlords gouged rent prices. In 1933, 43.2% of Black families in the Harlem area were on

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<sup>212</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 53.

<sup>213</sup> 1943. *New York City Composite*. New York City Market Analysis. Accessed from CUNY Center for Urban Research.

<sup>214</sup> Sterner, Richard, Ellen Winston and Lenore A. Epstein. 1943. *The Negro's Share: A Study of Income, Consumption, Housing and Public Assistance*. New York: Harper, 283.

<sup>215</sup> Sterner, Richard, Ellen Winston and Lenore A. Epstein. 1943. *The Negro's Share: A Study of Income, Consumption, Housing and Public Assistance*. New York: Harper, 283-284.

<sup>216</sup> Sterner, Richard, Ellen Winston and Lenore A. Epstein. 1943. *The Negro's Share: A Study of Income, Consumption, Housing and Public Assistance*. New York: Harper, 285.

<sup>217</sup> Sterner, Richard, Ellen Winston and Lenore A. Epstein. 1943. *The Negro's Share: A Study of Income, Consumption, Housing and Public Assistance*. New York: Harper, 284.

<sup>218</sup> National Urban League. 1933. *The Forgotten Tenth: An Analysis of Unemployment Among Negroes in the United State and Its Social Costs, 1932-1933*. New York: The League, 46.

relief rolls.<sup>219</sup> The average monthly grant was \$30.59 and by 1935 it had increased to \$49.06.<sup>220</sup> But by 1938, “the median rental for Harlem vacancies was \$30/month.”<sup>221</sup> The Harlem Riot Report noted that oftentimes, families paid over fifty percent of their income for rentals. NUL argued that the “effect of the depression on family life is one of the most blighting. While many families have been forced to move to cheaper quarters, two much more alarming evils have been noted in the loss of homes ... and in the “doubling up” of families in the larger urban centers.”<sup>222</sup> Michael K. Brown notes that studies of welfare state development must account for the different forms of racism in the North and the South. In the North, racism was governed by “pervasive labor market and residential segregation.”<sup>223</sup>

Importantly, white women gained increasing access to employment, while Black women’s labor stagnated during the Depression. As the white middle classes entered economic precarity during the depression, they ceased to employ domestic and personal service laborers which had traditionally been the occupational domain of African Americans. In New York City, the proportion of Black women age 20-64 gainfully employed grew from 64.2% to 65.2% between 1930 and 1940. Meanwhile, it grew from 61.8% to 68.3% for white women,<sup>224</sup> as they gained access to jobs Black women had previously performed.<sup>225</sup> As white women’s access to labor increased, they also began to benefit more from white men’s New Deal protections. While increased ADC was important to white women’s ability to care for children in their own homes, over the years, their use of ADC declined, particularly after the introduction of survivor benefits, which were added in 1939. Dalton Conley finds that many white widows of men covered by Social Security were transferred away from Aid to Dependent Children.<sup>226</sup> Michael K. Brown also notes the importance of this, arguing that by making married women eligible for old-age and survivors’ benefits, the amendments put the “social protection for nuclear, two-parent families at the core of the policy.” He argues that “[s]ubsequently, access to the welfare state was dependent on family structure and was structurally differentiated by race and gender.”<sup>227</sup> The amendments transformed social security from protections for individual workers to protections for families. And, after 1939, ADC became associated with African American mothers. While white women gained greater access to work and the benefits of men’s employment, Black women were relegated to unprotected, low-wage labor, and under ADC were subject to invasive monitoring of their moral character through eligibility rules, and treated as state dependents rather than citizens with rights to social protections.

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<sup>219</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 122.

<sup>220</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 37.

<sup>221</sup> Greene, Larry A. 1993. “Harlem, the Depression Years: Leadership and Social Conditions.” *Afro-Americans in New York Life and History* 17(2): 4.

<sup>222</sup> National Urban League. 1933. *The Forgotten Tenth: An Analysis of Unemployment Among Negroes in the United State and Its Social Costs, 1932-1933*. New York: The League, 46.

<sup>223</sup> Brown, Michael K. 1999. *Race, Money, and the American Welfare State*. Ithaca: Cornell University Press, 4.

<sup>224</sup> Sterner, Richard, Ellen Winston and Lenore A. Epstein. 1943. *The Negro's Share: A Study of Income, Consumption, Housing and Public Assistance*. New York: Harper, 359.

<sup>225</sup> Sacks, Mercy S. 2011. *Before Harlem: The Black Experience in New York City Before World War I*. Philadelphia: University of Pennsylvania Press. See also: Ross, Arthur M. 1940. “The Negro Worker in the Depression.” *Social Forces* 18(4): 551.

<sup>226</sup> Conley, Dalton. 1999. *Being Black, Living in the Red: Race, Wealth and Social Policy in America*. Berkeley: University of California Press, 36.

<sup>227</sup> Brown, Michael K. 1999. *Race, Money, and the American Welfare State*. Ithaca: Cornell University Press, 90.

### **Race and Breadwinner Policies: Divergent Access to Family Preservation**

“Men, particularly white men, were endowed with national citizenship” through social protections that treated them as laborers deserving of rights and protections.<sup>228</sup> Women benefited to the extent that their husbands, brothers, and fathers benefited from breadwinner policies. But emerging social protections intersected with the racism that dominated the northern labor market. As Michael K. Brown argues, “[t]o the extent that work regulate[d] access to the core social insurance policies or private fringe benefits, the victims of racial discrimination [we]re denied access or, when included, denied equal benefits.”<sup>229</sup> In a child welfare system increasingly devoted to economic relief as the solution to child dependency, men’s inability to access work and labor protections translated to decreased access to family preservation.

White-ethnic and African American communities showed growth before the Depression, but their ability to recover was different, especially for men. Work relief was thought to be the superior form of assistance to meet the needs of depression era families. As Ernest Groves, a sociologist during the depression wrote, “[t]he feeling [was] widespread that direct relief [was] disastrous in its fundamental effects upon the family. There [was] a unanimous feeling that the relief program ha[d] been accepted by a multitude of those on the lower economic level with parasitic responses...”<sup>230</sup> Work relief, by contrast, targeted unemployed industrial workers for labor in “socially useful projects,” including highway construction, sanitation, and parks construction, among other projects that didn’t interfere with private industry. As opposed to offering “handouts” or the dreaded “charity,” laborers were paid in cash at wages set by the prevailing rate for the category of work. Scholars find that “[p]ublic works jobs were offered primarily to white unemployed men; those given to men of color were generally lower-wage, and less skilled jobs.”<sup>231</sup> In New York, “two-thirds of the white relief recipients ... got WPA jobs, while only one-third of black relief recipients were hired.”<sup>232</sup>

When Black men did gain access to the various work-relief programs, they were often channeled into low status work. The Harlem Riot Report (1935) stated that it was “an incontrovertible fact that systematic discrimination ha[d] been carried on against the Negro in work relief.”<sup>233</sup> The report found that when work fluctuated, Black laborers were the first targeted for lay-offs, qualified and efficient workers were dismissed or refused hiring, and importantly, Blacks laborers were misclassified. “Negroes [were] assigned chiefly to menial jobs” in work relief programs and given inferior status though they had qualified experience and training. This practice erased decades of advancement; during the depression “the number of black skilled workers declined by 50%.”<sup>234</sup> Greene argues that Black skills, expertise, and stability were undermined by a strategic channeling into low-wage positions.

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<sup>228</sup> Mettler, Suzanne. 2018. *Dividing Citizens: Gender and Federalism in New Deal Public Policy*. Ithaca: Cornell University Press, 5.

<sup>229</sup> Brown, Michael K. 1999. *Race, Money, and the American Welfare State*. Ithaca: Cornell University Press, 16.

<sup>230</sup> Groves, Ernest R. 1935. “Adaptations of Family Life.” *American Journal of Sociology* 40(6): 778.

<sup>231</sup> Feagin, Joe R. 2000. *Racist America: Roots, Current Realities, and Future Reparations*. New York: Routledge, 64.

<sup>232</sup> Brown, Michael K. 1999. *Race, Money, and the American Welfare State*. Ithaca: Cornell University Press, 110-111.

<sup>233</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 122.

<sup>234</sup> Greene, Larry A. 1993. “Harlem, the Depression Years: Leadership and Social Conditions.” *Afro-Americans in New York Life and History* 17(2): 3.

Scholar Arthur M. Ross wrote in 1940 that reports from the F.E.R.A., the W.P.A., and state relief agencies all showed that depression was harshest on Black Americans, particularly evident in their high unemployment rates. Ross reasoned that while a certain amount of their unemployment was due to their occupational concentration in low skill jobs, that was not the only reason. Ross argued that “colored workers [were displaced] by whites who appropriated “Negro jobs” which they had formerly considered beneath their dignity. This was accomplished by workers, by unions, by legislation, occasionally by lynching and violence, and in fact, by all the diverse channels of social pressure.”<sup>235</sup> For example, the New York State Commission reported in 1938, that a prominent bus company discharged 93 ‘colored’ “Bus Service Stewards.” They replaced this with the category of “Baggage Checkers,” for which a number of unemployed white drivers were hired.<sup>236</sup> Ross argued that the ““Negro jobs”—unskilled, unorganized and unprotected—were easily taken over by desperate whites,” a practice that affected both Black women and men, but hit men hardest.<sup>237</sup> African American communities responded with a “Don’t Buy Where You Can’t Work” campaign, which started in Chicago in 1931, and took off as pickets in New York City in 1934. Ross argued that “[m]obility upward was at least possible until 1929; since then, it has been checked and reversed.”<sup>238</sup>

These forces—unemployment, the racial displacement of Black jobs, the preferential use of work relief for whites, and the channeling of Blacks into unskilled positions—can be seen in decreased family wages. In 1939, the New York State Temporary Commission reported that “the poorer half of the Negro families earn[ed] an average annual income which [was] less than 50 percent of the average income earned by the poorer half of the white population,” and was insufficient for a “healthful and decent standard of living.”<sup>239</sup> Poor and working class Blacks had an average income of somewhat less than \$837 per year, while the same class of whites had an average income of approximately \$1,814 per year.<sup>240</sup> Lower wages was an effect of, but also exacerbated by, the continual decline in Black men’s employment. Before the depression, a greater proportion of Black men worked in Manhattan than white men. Greene finds that in 1930, 88.6% of Black men in Manhattan were employed compared to 87.1% of white men. But by 1940, only 68.1% of Black men were employed, compared to 81.7%.<sup>241</sup> Indeed, Michael B. Katz et. al find that Black men’s disenfranchisement has been “a structural aspect of the inequality present in American labor markets at least since the 1940s.”<sup>242</sup> The difficulty in finding work, especially in the later years of the Depression, prevented Black men, and by extension women, from the benefits of New Deal labor protections at the same moment that minimum wages and work insurance become key factors in the fight against child dependency.

In 1933, James Hubert, the executive director of the New York Urban League, argued in his National Conference report that “Negro communities [were] entitled to a larger share of the

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<sup>235</sup> Ross, Arthur M. 1940. “The Negro Worker in the Depression.” *Social Forces* 18(4): 551.

<sup>236</sup> New York (State). 1939. *Second Report of the New York State Temporary Commission on the Condition of the Colored Urban Population*. Albany: J. B. Lyon Company, Printers, 18.

<sup>237</sup> Ross, Arthur M. 1940. “The Negro Worker in the Depression.” *Social Forces* 18(4): 552.

<sup>238</sup> Ross, Arthur M. 1940. “The Negro Worker in the Depression.” *Social Forces* 18(4): 554.

<sup>239</sup> New York (State). 1939. *Second Report of the New York State Temporary Commission on the Condition of the Colored Urban Population*. Albany: J. B. Lyon Company, Printers, 156.

<sup>240</sup> Bloch, Herman D. 1959. “The Employment Status of the New York Negro in Retrospect.” *The Phylon Quarterly* 20(4): 339.

<sup>241</sup> Greene, Larry A. 1993. “Harlem, the Depression Years: Leadership and Social Conditions.” *Afro-Americans in New York Life and History* 17(2): 3.

<sup>242</sup> Katz, Michael B., Mark J Stern and Jamie J. Fader. 2005. “The New African American Inequality.” *The Journal of American History* 92(1): 84-5.



social engineer's efforts."<sup>243</sup> In fact, Cybelle Fox shows that Black and Mexican Americans were the least likely to benefit from social insurance programs which provided protection against destitution caused by unemployment, old age, and health decline. "Blacks (38 percent) and Mexicans (39 percent) were least likely to work in covered employment while European immigrants (67 percent), especially southern and eastern Europeans (71 percent), were most likely to be covered. Native-born whites (57 percent) fell somewhere in between." But not only were Black occupational categories excluded from New Deal benefits, Black men in particular struggled to regain access to employment at all.

These economic forces are significant because as child saving turned to family preservation at the national level in the 1930s, with reformers demanding that wage and employment protections be seen as child welfare issues, Black men were increasingly locked out of the breadwinner role and by extension, access to family stability policies. As scholars have argued, reform in the 1930s was critical to the institutionalization of white privilege in America.<sup>244</sup> The New Deal offered protections based on family organization and relationship to the labor market. These policies promoted what George Lipsitz refers to as the "possessive investment in whiteness," and as Hayes argues, "inscribed that investment onto an idealized family structure that included male economic control, traditional gender roles, and female dependence. As a result, "the American family" became a primary site for the social reproduction of white power in the cultural imaginary, economic practices, and social policies of the 1930s."<sup>245</sup>

### **Conclusion: Family Preservation as a Racialized Policy Regime**

This chapter argued that the development of the welfare state and the structure of the economy racialized access to family preservation. National level policies of work relief, wage protections, unemployment insurance, and direct aid enabled a modicum of family stability that had long been thwarted by private charities. Child welfare reformers celebrated these reforms as successful experiments in the reduction of child dependency. However, they failed to acknowledge the racial divergence in family stability.

The fact that the welfare state legislated racial cleavages is a critical part of the foster care history. Welfare scholars acknowledge that short term programs, like FERA and work relief, did establish governmental responsibility for racial minorities, and those who were eligible for Social Security programs did gain a modicum of security.<sup>246</sup> Yet the exclusion of domestic and

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<sup>243</sup> Hubert, James H. 1933. "Urbanization and the Negro." *Proceedings of the National Conference of Social Work*. New York: Columbia University Press, 423.

<sup>244</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company; Quadagno, Jill. 1994. *The Color of Welfare: How Racism Undermined the War on Poverty*. New York: Oxford University Press; Lieberman, Stanley C. 2001. *Shifting the Color-Line: Race and the American Welfare State*. Cambridge: Harvard University Press; Fox, Cybelle. 2012. *Three Worlds of Relief: Race, Immigration, and the American Welfare State from the Progressive Era to the New Deal*. Princeton: Princeton University Press.

<sup>245</sup> Hayes, Joy Elizabeth. 2012. "White Noise: Performing the White, Middle-Class Family on the 1930s Radio." *Cinema Journal* 51(3): 99; Coontz, Stephanie. 1992. *The Way We Never Were: American Families and the Nostalgia Trap*. New York: Basic Books; Rymph, Catherine E. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press.

<sup>246</sup> Brueggemann, John. 2002. "Racial Considerations and Social Policy in the 1930s." *Social Science History* 26: 1.

agricultural workers created important new sources of racial stratification.<sup>247</sup> As Cybelle Fox writes, “the real winners of this social insurance legislation were *foreign-born* whites, especially southern and Eastern Europeans.” But rather than complete exclusion, the New Deal channeled “African Americans ... into the weakest, stingiest, and most politically vulnerable parts of the welfare state.”<sup>248</sup> Family organization began to organize one’s relationship to social protections, and due to the discriminatory nature of labor market relations in the urban north, Black family stability was undermined. “By denying work to African Americans and giving them relief instead,”<sup>249</sup> the reconfigurations of the economy and the developing welfare state deeply shaped citizenship and rights, among which family stability was a critical component.

Scholars have shown that the social policy approach of a state deeply impacts the approach to foster care. Frank Edwards argues that “a key force driving variation in child protection intervention is the structure of a state’s social policy regime. The extent to which a state prefers punitive or redistributive strategies for addressing social problems affects both the frequency of child protection intervention and the character of those interventions.”<sup>250</sup> Extending this argument, this chapter makes the case that the shift from saving children through removal to family preservation *was a shift in the policy regime* of child welfare, but it was a racially divided one. The New Deal represented one of the most important policy regime shifts in American history.<sup>251</sup> The turn to direct relief and labor protections was based on a new policy regime which emphasized the improvement of labor conditions and protections from the turbulence and precarity of the industrial economy. The solutions devised during the Depression represented an understanding of child welfare that encouraged improvement of the family’s ability to weather economic downturns and personal struggles such as the loss of employment, loss of a spouse, and medical accidents.

The fact that the welfare state legislated racial cleavages is a critical part of the foster care history because it stratified access to family stability. The turn to family preservation was racially stratified, but was not defined solely by exclusion—rather “home-based” care took on new meaning for Black child protection. On the eve of the second world war, Black families struggled to gain access to New Deal social engineering; as a result, welfare and out-of-home care began to emerge as more accessible solutions to Black child poverty than wage-earner protections. Meanwhile the economic stability of white families greatly increased as a result of state intervention, and the presence of neglected white children in the out-of-home care system began to show signs of decline. Chapter 6 will show that by the 1940s and 1950s, white children experienced an exodus from out-of-home care. I suggest that the seeds of this exodus began in the 1930s, when family stability diverged for Black and white Americans as the policy regime of family preservation stratified along racial lines. As the government endeavored to uplift white working men as wage-earners through a restructuring of the social economy, foster care began to

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<sup>247</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company; Quadagno, Jill. 1994. *The Color of Welfare: How Racism Undermined the War on Poverty*. New York: Oxford University Press.

<sup>248</sup> Lieberman, Stanley C. 2001. *Shifting the Color-Line: Race and the American Welfare State*. Cambridge: Harvard University Press: 3.

<sup>249</sup> Brown, Michael K. 1999. *Race, Money, and the American Welfare State*. Ithaca: Cornell University Press: 16.

<sup>250</sup> Edwards, Frank. “Saving Children, Controlling Families: Punishment, Redistribution, and Child Protection.” *American Journal of Sociology* 81(3): 576.

<sup>251</sup> Crenson, Matthew A. 1998. *Building the Invisible Orphanage: A Prehistory of the American Welfare System*. Cambridge: Harvard University Press.

take on new meanings for the families who seemingly lingered in poverty despite advancements in economic and social protections.

### Chapter 3: Delinquency as a Pathway of Racialized Inclusion in Child Protection, 1920s-1930s

At the height of the depression, as a “Don’t Buy Where You Can’t Work”<sup>252</sup> campaign developed and unemployment reached nearly 60 percent in Harlem,<sup>253</sup> social unrest boiled over. On March 19, 1935, sixteen year-old Lino Rivera was caught stealing a knife from the counter of a local white-owned store on 125<sup>th</sup> street in Harlem. He was quickly overtaken by a shop assistant and store manager who “took the knife from Rivera’s pocket and threatened him with punishment, [but] the boy in his fright tried to cling to a pillar and bit the hands of his captors.” The manager instructed the arriving patrolman to let the boy go free, but an officer from the Crime Prevention Bureau was sent to the store. According to the Committee on Conditions in Harlem, ordered by Mayor Fiorello LaGuardia and headed by Dr. E. Franklin Frazier, “[t]his relatively unimportant case of juvenile pilfering would never have acquired the significance which it later took on had not a fortuitous combination of subsequent events made it the spark that set aflame the smoldering resentments of the people of Harlem against racial discrimination and poverty in the midst of plenty.”<sup>254</sup>

As suspicion grew that Lino was beaten by store clerks and rumors of his death spread, policemen were called to disperse the “unlawful assemblage” of emergent public meetings. “From 125<sup>th</sup> street the crowds spread ... and the smashing of windows and looting of shops gathered momentum as the evening and the night came on.”<sup>255</sup> Around midnight, two high school brothers, Lloyd and Russell Hobbs, were on their way home from a motion picture house when they became attracted by a nearby crowd. As a patrol car drove up, one officer “alighted with a revolver in his hand, [and] the crowd, including the Hobbs brothers, began to run.” “According to the testimony of several witnesses, the police fired without calling upon the boy to halt and struck him with his first and only shot.” Lloyd Hobbs died several days later in Harlem Hospital. The police tried to justify the killing by “making the boy appear as a burglar escaping with his loot,” and when a lack of evidence of “loot” cast doubt upon the story, they changed the record in their police report. “The shooting of Lloyd Hobbs, a boy having a good record both in school and the community, and being a member of a family of good standing and character, has left the impression upon the community that the life of a Negro is of little value in the eyes of the police.”<sup>256</sup> The report wrote that in the wake, “extra police [were called in to] stand guard on the corners and mounted patrolmen [to] ride through the streets of Harlem. To the citizens of Harlem they symbolize[d] the answer of the city authorities to their protest on March 19<sup>th</sup>.”<sup>257</sup>

The Harlem Riot of 1935, as it was later called, represented the “pent-up feeling of resentment and insecurity” experienced by the Black community of New York City after years of depression, blight, and abandonment, and the events capture the complex racial experience of

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<sup>252</sup> Ross, Arthur M. 1940. “The Negro Worker in the Depression.” *Social Forces* 18(4): 554.

<sup>253</sup> Greene, Larry A. 1993. “Harlem, the Depression Years: Leadership and Social Conditions.” *Afro-Americans in New York Life and History* 17(2): 1-33.

<sup>254</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 7.

<sup>255</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 9.

<sup>256</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 16.

<sup>257</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 122.

Black Americans and Puerto Ricans in an increasingly unequal urban environment. As the last chapter showed, the depression garnered a national level response that upheld job security for wage-earning men as a means of family stability and child welfare; however Black Americans were left out. This chapter examines how local child welfare reformers, philanthropists, and Children's Court judges devised solutions to child welfare in the context of increasing migration and poverty. By the mid-1920s, the New York City Children's Court reported being unable to "deal constructively" with Black youth due to inadequate resources.<sup>258</sup> Probation officers were recorded in court transcripts admitting that there was "no place to put colored children, so [they] ha[d] no plan."<sup>259</sup> Leaders of the African American community reported that Black children were being sent to state delinquency institutions, while white Protestant children were cared for in private institutions.<sup>260</sup> Indeed, the presiding Justice of the Court expressed concern that the state training school for delinquents would become "identified ... as an institution for Negro boys and the harder cases among white children."<sup>261</sup> By the late 1930s, a "wave of Negro child delinquency" had become front and center in the campaign to meet Black foster care needs.<sup>262</sup> This chapter asks why criminal justice solutions were ascribed to the problems of impoverished and neglected Black and Puerto Rican youth.<sup>263</sup>

Building on studies of the delegated welfare state, this chapter argues that equal access to child protection was shaped by conflict between private institutions and the Children's Court over the boundaries of social responsibility. Although Children's Courts were an outgrowth of early twentieth-century bureaucratic state-building, they were more representative of the complex and overlapping arrangements that took hold between private associations and formal political institutions in this era.<sup>264</sup> New York City child protection "borrow[ed]" rather than built state capacity," as childcare responsibilities were delegated to a preexisting network of private institutions.<sup>265</sup> Historically, private institutions demarcated the boundaries of their responsibility by laying claim to certain kinds of children—mainly dependent, neglected, and wayward children—excluding Black children and leaving delinquency as the primary domain of public power. The historical division of public and private responsibility for distinct categories of youth provides leverage for understanding the actions and resources available to judges in the Children's Court. As this chapter will show, delegated governance deeply shaped the possibilities for racial inclusion during the early twentieth century.

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<sup>258</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children's Court, 1925*. New York: The Department of Research of the National Urban League and the Women's City Club of New York, 1.

<sup>259</sup> Polier Manuscripts. 1938. "Cases in the Manhattan Children's Court 7/5/38–7/18/38." July, MC 413/Box 22/Folder 256.

<sup>260</sup> Polier Manuscripts. 1941. "Letter to Polier from Walter White Secretary for the NAACP." April 1, MC 413/Box 19/Folder 219.

<sup>261</sup> New York (State). 1939. *Second Report of the New York State Temporary Commission on the Condition of the Colored Urban Population to the Legislature of the State of New York, February 1939*. Albany: J. B. Lyon Company, 137.

<sup>262</sup> *New York Amsterdam News*. 1939. "Opens Bureau to Curb Juvenile Delinquency." May 20.

<sup>263</sup> Original source for this chapter: Simmons, Michaela C. 2020. "Becoming Wards of the State: Race, Crime, and Childhood in the Struggle for Foster Care Integration, 1920s-1960s." *American Sociological Review* 85(2): 199-222.

<sup>264</sup> Morgan, Kimberly, and Andrea Louise Campbell. 2011. *The Delegated Welfare State: Medicare, Markets, and the Governance of Social Policy*. New York: Oxford University Press.

<sup>265</sup> Clemens, Elisabeth S. 2006. "Lineages of the Rube Goldberg State: Building and Blurring Public Programs, 1900–1940." in *Rethinking Political Institutions: The Art of The State*, edited by I. Shapiro, S. Skowronek, and D. Galvin. New York: New York University Press, 191.

## The Historical Division Between Public and Private Responsibility

To understand the responses of the court and city reformers to migrant children of the 1920s and 1930s, it is critical to first understand the historical division of responsibility between the public and private welfare sphere. This section provides a historical background that traces the divergence between public juvenile reformatories and private institutions for the dependent and neglected in New York City. While the first New York juvenile reformatory began as a private charitable endeavor, unlike private institutions for the care of orphaned and neglected children, it quickly became a fully public program. This arrangement of public and private care shaped the possibilities for racial inclusion in the twentieth century.

Juvenile reform institutions were a 19<sup>th</sup> century response to changing ideas of childhood. Emerging conceptions of children and adolescents as “malleable,” “clay-like souls” meant that parents had a responsibility to raise children as proper American citizens, and where they failed, the “parental state” was encouraged to take their place toward the aim of rehabilitation. For youth in the care of the parental state, it was necessary to separate children from adults in institutional and legal settings, lest they learn bad behavior. Toward this end, the Society for the Prevention of Pauperism, a private organization, developed New York’s first juvenile reformatory, the House of Refuge, in 1824. Within a year, it had acquired a small but reliable source of income from the public treasury that would ensure its position as a state-supported institution. The House of Refuge diverted children from state prison and stressed practical training, discipline, and moral guidance for criminal and vagrant youth under the age of sixteen, and it was the first Refuge to accept Black dependent and delinquent children. By the 1830s, it served as a model for reformatories in other large American cities.<sup>266</sup>

As with dependent and orphaned children, the “saving” of delinquents was a means of Americanizing the children of immigrants.<sup>267</sup> The rise of child saving was deeply shaped by American criminology which diminished ideas of “hereditary criminality” in favor of medical and psychological explanations. Houses of refuge endeavored to restore the unraveling parental authority and moral education of immigrant populations in urban areas. Americanization of wayward immigrant youth took the form of industrial education and moral rehabilitation in countryside locations. By the late 1880s, New York juvenile reformatories adopted a system of industrial education, offering classes in carpentry, hosiery, and printing for boys, and domestic work for girls.<sup>268</sup> “Criminal children” were increasingly seen as capable of rehabilitation through moral and educational guidance.

But early “penologists did not ... believe that black children could be “moulded” with equal facility,” and thus had little to gain from such institutions.<sup>269</sup> Geoff Ward argues that engagement in juvenile justice rehabilitation and citizenship-building was “racially selective.” The dominant view of Black children in early juvenile justice was “as incorrigible, undeserving,

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<sup>266</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>267</sup> Platt, Anthony M. 1969. *The Child Savers: The Invention of Delinquency*. Chicago: The University of Chicago Press.

<sup>268</sup> New York State Archives. 1989. “The Greatest Reform School in the World: A Guide to the Records of the New York House of Refuge.” [http://www.archives.nysed.gov/common/archives/files/res\\_topics\\_ed\\_reform.pdf](http://www.archives.nysed.gov/common/archives/files/res_topics_ed_reform.pdf)

<sup>269</sup> Pisciotto, Alexander W. 1983. “Race, Sex, and Rehabilitation: A Study of Differential Treatment in the Juvenile Reformatory, 1825–1900.” *Crime and Delinquency* 29: 263.

and [an] expendable breed of human clay.”<sup>270</sup> Where white delinquent children were framed as “potential citizens capable of redemption by the parental state,”<sup>271</sup> training for Black youth was aimed at reinforcing a lowly status. As the Philadelphia Colored House of Refuge wrote: “Our object is not to make poets, statesmen, philosophers, or men of letters... but to prepare those placed under our care, by proper education, to discharge faithfully the duties incident to the state in life where it shall please God to place them.”<sup>272</sup> Yet many Black children in the north still struggled to gain access to juvenile reformatories. Where space was limited, many were callously placed in almshouses, workhouses, and prisons alongside adults.<sup>273</sup>

The growth of public juvenile reformatories alongside private institutions for the dependent and neglected dramatically shaped the landscape of child welfare. Both shared a child-saving ethos that advocated separate child-only institutions based in rehabilitation and assimilation, but as Judge Polier later reflected, “[b]ecause private agencies developed and became powerful early in the City’s history, they were able to carve out for themselves whatever areas of social work they regarded as most important or desirable and receive vast sums from the city to carry on such work.”<sup>274</sup> Sutton (1990) finds that, across the country, private institutions expanded much more rapidly than public institutions during the Progressive era (1890-1920). The majority (90%) of private institutions were classified as “benevolent,” and laid claim to “non-criminal” children. Private institutions lobbied in favor of indiscriminate admission policies, which granted them access to a broad range of non-criminal children including the dependent, neglected, and wayward. In effect, “the private sector expanded mainly by confining the very types of problem children for whom leading reformers sought less coercive methods of treatment.”<sup>275</sup> The growth of private institutions stifled public expansion, and as a result, the only public institutions in twentieth century New York were houses of refuge (later referred to as State Training Schools). While private institutions for the dependent and neglected maintained autonomy over admission processes, often excluding children on the basis of religion, race, and gender, the houses of refuge had far less flexibility in admissions.

### **Children’s Courts and the Growth of State Responsibility**

At the turn of the century, cities across the country began to develop separate courts for children. The development of Children’s Courts was heralded as a “moral awakening of [this country’s] duty to the child.”<sup>276</sup> “For the first time, children who violated any law or ordinance were defined as delinquent—to be dealt with not as criminals but as wards of the court.”<sup>277</sup>

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<sup>270</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press, 10.

<sup>271</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press, 33.

<sup>272</sup> Pisciotto, Alexander W. 1983. “Race, Sex, and Rehabilitation: A Study of Differential Treatment in the Juvenile Reformatory, 1825–1900.” *Crime and Delinquency* 29: 261.

<sup>273</sup> Frey, Cecil P. 1981. “The House of Refuge for Colored Children.” *Journal of Negro History* 66(1): 10–25.

<sup>274</sup> Markowitz and Rosner Papers. 1946. “New Needs in the Foster Home Field.” By Justine Polier. May 13, MS 1615/Box 12/Folder 15.

<sup>275</sup> Sutton, John R. 1990. “Bureaucrats and Entrepreneurs: Institutional Responses to Deviant Children in the United States, 1890–1920s.” *American Journal of Sociology* 95(6): 1370.

<sup>276</sup> International Penal and Prison Commission, Barrows, Samuel June. 1904. *Children’s Courts in the United States: Their Origin, Development, and Results*. Washington, DC: Government Printing Office, xi.

<sup>277</sup> Chute, Charles L. 1949. “Juvenile Court at the Half Century Mark: Fifty Years of the Juvenile Court.” *Yearbook* 1: 1-2. See also Feld, Barry. 1999. *Bad Kids: Race and the Transformation of the Juvenile Court*. New York: Oxford University Press.

Children's cases were to be handled in a separate trial room so as "to prevent their contamination with adult criminals."<sup>278</sup> While some argue that the courts were simply a "ceremonial institution" that legitimated the ideology of child saving practices from the late 1800s,<sup>279</sup> this chapter will show that they were critical to the growth of public responsibility. After a long history of exclusion, the courts marked an opportunity for state recognition of Black child welfare; however, their power was stymied by the lack of public resources.

Though a "poor man's court,"<sup>280</sup> they were part of a "modernizing narrative" of northern criminal justice.<sup>281</sup> Judges imagined their work as a more diagnostic and individualized solution to children's needs. The legitimacy courts offered was particularly important as skepticism grew around the use of institutions for children in the late nineteenth century. New York's first children's court was developed in 1900, and over the next few decades, reformers worked to make sure that it did not simply "mimic adult court with bail, and guilty pleadings."<sup>282</sup> Rather, the court was imagined as an institution of social aid "for the purpose of safeguarding character in children and parents, and preserving if possible the homes of those whom it serves."<sup>283</sup> Children were referred by parents, relatives, schools, the Society for the Prevention of Cruelty to Children (S.P.C.C.), and police officers. The Children's Court oversaw cases of neglect and delinquency, and worked in tandem with the Department of Welfare, which oversaw cases of child dependency.<sup>284</sup> Judges decided whether and what kind of institutional placement was beneficial to the development of a child based on witness testimony, as well as clinical evaluations and casework histories. The goal, as John Sutton (1985) argues, was to "protect children from the law, not to bring more law to bear on them."<sup>285</sup> To this end, a critical component of the children's court was the capacity of judges to divert children away from formal criminal justice.

While Americanization was originally a critical component of the Children's Court, with judges imagined as benevolent fathers to wayward, immigrant children, as time went on, concern with European immigrant children diminished leaving "diversion" as the primary goal. Judges were given the "authority to dispense with the legal principle of uniformity," thus enabling them to handle each child's treatment within the context of their unique histories and experiences.<sup>286</sup> But there was often very little budgetary capacity for this aim. Judges were limited in their ability to actually "divert" children away from punitive forms of treatment, and this was

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<sup>278</sup> New York (State). 1940. "For Tomorrow: A Court Defends the Child and Family Today." *Eighth Annual Report of the Domestic Relations Court City of New York*. New York City: ABCO Press, Inc: 20.

<sup>279</sup> Sutton, John R. 1985. "The Juvenile Court and Social Welfare: Dynamics of Progressive Reform." *Law & Society Review* 19(1): 107-146.

<sup>280</sup> Lawrence B. Dunham Papers. 1944. "Socialized Procedure of the Domestic Relations Court of New York City." Written by Dudley F. Sicher. Feb. 16, FA041/Box 3/Folder 14, Rockefeller Archive Center.

<sup>281</sup> Muhammad, Khalil G. 2010. *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*. Cambridge: Harvard University Press.

<sup>282</sup> Polier Manuscripts. 1943. "The Treatment Service of the Clinic of the court of Domestic Relations in New York City." May 26, MC 413/Box 6/ Folder 63.

<sup>283</sup> Utz, Cornelius. 1937. *The Bureau of Adjustment—It's Relation to the Court and Community*. Master's Thesis, Columbia University.

<sup>284</sup> Markowitz and Rosner Papers. 1948. "Long Term Care of Dependent and Neglected Children in New York City." CCC, MS 1615/Box 8/Folder 29.

<sup>285</sup> Sutton, John R. 1985. "The Juvenile Court and Social Welfare: Dynamics of Progressive Reform." *Law and Society Review* 19(1): 115.

<sup>286</sup> Tanenhaus, David S. 2015. "Degrees of Discretion: The First Juvenile Court and the Problem of Difference in the Early Twentieth Century." *Our Children, Their Children: Confronting Racial and Ethnic Differences in American Juvenile Justice*, edited by D. Hawkins and K. Kempf-Leonard. Chicago: University of Chicago Press, 106.



exacerbated by the private institutional system which upheld the color-line. After investigation into a child's case, there were a number of actions open to the Court if a child was determined to be neglected or delinquent: (a) dismissal; (b) probation; (c) discharge to the Department of Public Welfare for placement if the child was adjudged dependent; (d) referral to a private supervisory or rehabilitative program (e.g. Boys and Girls Clubs) (e) commitment to a private institution (for delinquent, neglected, dependent, or therapeutic) or (f) commitment to the State Training School (Warwick or Hudson) if the child was older than 12 years and found to be delinquent. The private resources were primarily limited to white children: "*If the boy [was] white, or Catholic, there [were] additional institutional and supervisory resources.*"<sup>287</sup> The only options for Black delinquent boys under 12 years of age were Parental Schools or the State Training School if the offense constituted a felony. Thus, the ability to "divert" Black youth from punitive treatment was limited. As a result, Black children had relatively low rates of confinement. In 1915, African Americans made up 2% of the New York City population, and 1.7% of juvenile delinquents. By 1920, they made up 2.7 percent of the population, and roughly 3.3 percent of delinquents.<sup>288</sup> In *Black Child Savers*, Geoff Ward attributes the low rates of confinement in the urban north to denial of "access to liberal rehabilitative ideals" of juvenile justice.<sup>289</sup> But as the Great Migration changed the racial dynamics of the city, the relationship between juvenile justice, race, and child protection shifted.

### **Emerging Concerns: Migration, Social Disorganization, and Race Relations**

Migration was deeply formative of the changing racial dynamics of out-of-home care. Between 1918 and 1938, southern migration contributed to a 333% population increase among Black Americans in New York compared to 26% for whites (See Figure 3.1).<sup>290</sup> A different stream of migration began after the US conferred citizenship on Puerto Rico in 1917, and by the 1920s and 1930s, Puerto Ricans were "forming the fastest-growing community of foreign migrants in New York."<sup>291</sup> Meanwhile, WWI brought an abrupt halt in white ethnic immigration. The Immigration Act of 1924 prevented newcomers from Asian countries and reduced the number of immigrants from Eastern Europe. Lorrin Thomas argues that "Native whites, who had reviled New York's poor Russian, Italian, and Eastern European transplants... now readily adapted their old racisms to target the growing communities of dark-skinned newcomers from the south."<sup>292</sup> Nina Bernstein writes in *The Lost Children of Wilder* that as WWI cut off immigration, the "urban poor became less foreign" and "the image of the American child endangered by alien parents receded further from the public imagination."<sup>293</sup>

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<sup>287</sup> Markowitz and Rosner Papers. 1935. "An Inquiry into the Provisions for Care of Negro Boys Under 12 Years of Age Adjudged Delinquent by the Children's Court." By Agnes Sullivan. June, MS 1615/Box 7/Folder 9.

<sup>288</sup> Lovejoy, Owen R. 1932. *The Negro Children of New York*. The Children's Aid Society. New York, 37.

<sup>289</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press, 4.

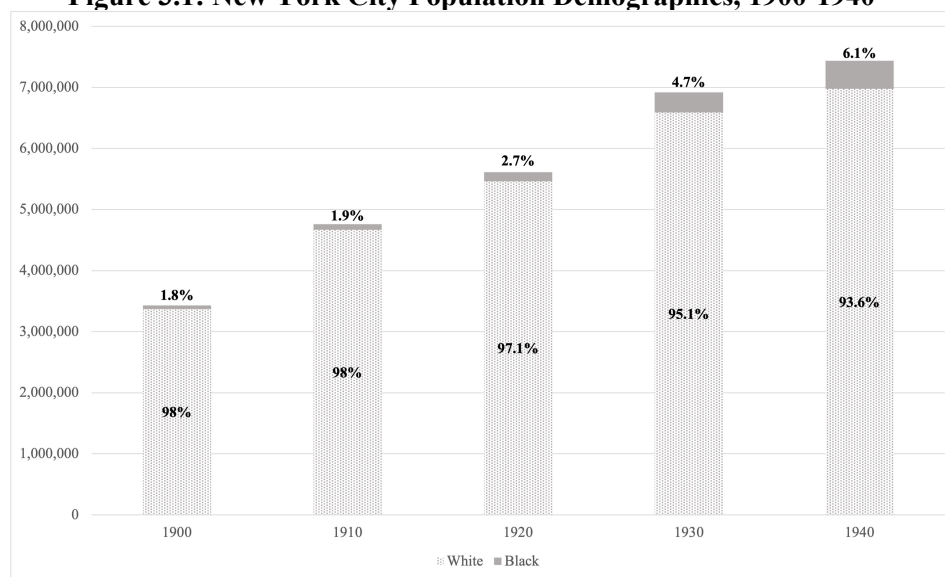
<sup>290</sup> Polier Manuscripts. 1938. "Letter from James Hubert, Ex. Director of the NY Urban League, to Judge Polier." April 13, MC 413/Box 22/Folder 256.

<sup>291</sup> Thomas, Lorrin. 2009. "Resisting the Racial Binary? Puerto Ricans' Encounter with Race in Depression-Era New York City." *Centro Journal* Vol. XXI Num. 1: 7.

<sup>292</sup> Thomas, Lorrin. 2009. "Resisting the Racial Binary? Puerto Ricans' Encounter with Race in Depression-Era New York City." *Centro Journal* Vol. XXI Num. 1: 9.

<sup>293</sup> Bernstein, Nina. 2001. *The Lost Children of Wilder: The Epic Struggle to Change Foster Care*. New York, NY: Random House Inc., 88.

**Figure 3.1: New York City Population Demographics, 1900-1940<sup>294</sup>**



Racial identification and poverty were complicated by the growing black/white binary of race in America. In 1930, the Census dropped the “mulatto” category, leaving only “white” and “Negro.”<sup>295</sup> Within this racial binary, Puerto Ricans were rejected as “not white,” however they also resisted racial identification with blackness that was imposed on them by white society. Likewise, African Americans rejected identification with Puerto Ricans, seeing them as more foreign than Black. Instead, Puerto Ricans clung “diffidently to their island’s own contradictory racial discourses.”<sup>296</sup> Officially, many darker skinned Puerto Ricans were classified as “colored.” “In 1930, Lawrence R. Chenault found that 21 per cent of the Puerto Rican migrants in New York City were colored.”<sup>297</sup> Even as officials and scholarly studies identified darker skinned Puerto Ricans as “colored,” migrants resisted association with African heritage. Sociologist Maxine Gordon reported that while many terms existed to describe various shades of brown, the “Americanized” Negro of Puerto Rican extraction” struggled to find a “desirable place for himself in the multivalued color scheme.”<sup>298</sup> Puerto Ricans “realized the immobility of binary racial discourse and focused their efforts in the 1930s on affirming their place on the powerful side of the binary. This was a strategic denial of a black identity by many migrants, an effort to play by the rules of a powerful racist ideology to fend off disadvantage.”<sup>299</sup>

<sup>294</sup> Gibson, Campbell, and Kay Jung. “Table 33. New York—Race and Hispanic Origin for Selected Large Cities and Other Places: Earliest Census to 1990,” in “Historical Census Statistics on Population Totals by Race, 1790-1990, and by Hispanic Origin, 1790-1990, for Large Cities and Other Urban Places in the United State,” Working Paper No. 76, Population Division, US Census Bureau, February 2005. <https://www2.census.gov/library/working-papers/2005/demo/pop-twps0076/nytab.pdf>

<sup>295</sup> Loveman, Mara and Jeronimo O. Muniz. 2007. “How Puerto Rico Became White: Boundary dynamics and Intercensus Racial Classifications.” *American Sociological Review* 72: 915-939.

<sup>296</sup> Thomas, Lorrin. 2009. “Resisting the Racial Binary? Puerto Ricans’ Encounter with Race in Depression-Era New York City.” *Centro Journal* Vol. XXI Num. 1: 7.

<sup>297</sup> Schepses, Erwin. 1949. “Puerto Rican Delinquent Boys in New York City.” *Social Service Review* March: 53.

<sup>298</sup> Gordon, Maxine W. 1949. “Race Patterns and Prejudice in Puerto Rico.” *American Sociological Review* 14(2): 297.

<sup>299</sup> Thomas, Lorrin. 2009. “Resisting the Racial Binary? Puerto Ricans’ Encounter with Race in Depression-Era New York City.” *Centro Journal* Vol. XXI Num. 1: 27.

The complexity of race, ethnicity, and poverty pervaded the Harlem Riot of 1935. News reports and city investigations never described Lino Rivera as Puerto Rican, only as colored. Likewise, Puerto Ricans remained invisible in the riots and the subsequent political response. As Thomas argues, “[W]hen the Harlem riot exploded right alongside the largest Puerto Rican barrio in the city, it begged a kind of reckoning: Were the Negroes’ problems Puerto Ricans’ problems too? Many Puerto Ricans (and African Americans too) in the thirties tried to find some way to answer “No” to that question.”<sup>300</sup> But by the late 1930s, even as Puerto Ricans resisted association with Black Americans, it became “clear that they would be unable to escape the injustices that confirmed their minority status and excluded them from the category of “free and sovereign citizens of the United States.””<sup>301</sup> As the city reeled to move forward in efforts to right intolerable conditions wrought by the compounding experience of racial discrimination and economic depression, the city focused on the plight of Black poverty, rendering invisible a quarter of Harlem’s residents who were Puerto Rican. Even still, the concern over Puerto Rican delinquency grew alongside and entwined with concerns over Black delinquency.

In 1924, the Presiding Justice of the Children’s Court, Franklin C. Hoyt, observed that juvenile delinquency in the city was no longer increasing, and he commended the successful efforts of child welfare programs in recent years. But much of this celebration was implicitly about the decline of white delinquency. The Joint Committee on Negro Children reported that declines in delinquency obscured “the figures for Negro children [which had] been taking a contrary direction—the number of Negro juvenile delinquents [had] been increasing very rapidly.”<sup>302</sup> In 1925, the Children’s Court reported that migration had caused a “mean weakening of family, neighborhood and religious control” over youth.<sup>303</sup> Officers of the Children’s Court “observed that in the case of various groups of foreign born, waves of delinquency [had] tended to relate themselves to waves of immigration, and that, following the adjustment of the groups to their new environment, the juvenile delinquency record decreased. The same trend might be expected for the Negroes.”<sup>304</sup> Non-white delinquency was thought to stem from the “the effects of migration from a rural to a highly complicated urban area,”<sup>305</sup> and non-white migrant families were particularly prone to the “grave aspects of social disorganization.” It was believed that life in the North was “so fundamentally different” from the South that “disorganization” was inevitable unless social problems were met with more preventative community work.<sup>306</sup> The courts analyzed the lives of the “newcomers” from the South and Puerto Rico who had little

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<sup>300</sup> Thomas, Lorrin. 2009. “Resisting the Racial Binary? Puerto Ricans’ Encounter with Race in Depression-Era New York City.” *Centro Journal* vol. XXI Num. 1: 10.

<sup>301</sup> Thomas, Lorrin. 2009. “Resisting the Racial Binary? Puerto Ricans’ Encounter with Race in Depression-Era New York City.” *Centro Journal* vol. XXI Num. 1: 22.

<sup>302</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children’s Court, 1925*. New York: The Department of Research of the National Urban League and the Women’s City Club of New York, 12-13.

<sup>303</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children’s Court, 1925*. New York: The Department of Research of the National Urban League and the Women’s City Club of New York, 11.

<sup>304</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children’s Court, 1925*. New York: The Department of Research of the National Urban League and the Women’s City Club of New York, 13.

<sup>305</sup> Polier Manuscripts. 1936. “Queens SPCC Shelter Visited by Judge Tulin, Mrs. Waite and Mrs. Rosen.” November 23, MC 413/Box 3/Folder 37.

<sup>306</sup> Polier Manuscripts. 1936. “Queens SPCC Shelter Visited by Judge Tulin, Mrs. Waite and Mrs. Rosen.” November 23, MC 413/Box 3/Folder 37.

education, skills, and had a hard time adjusting to urban life. They argued for a “need for greater understanding of the varying cultural patterns.”<sup>307</sup> As white children moved to the background of cultural saliency in the fight against delinquency, Black and Puerto Rican youth were increasingly seen as a new population of concern whose migration had left a deep imprint on the quality and stability of their childhood.

### **Diverging Trends in Delinquency**

Data from New York City Domestic Relations Courts<sup>308</sup> shows that by the 1940s, delinquency and neglect petitions had reached an all-time low, but what the court failed to note was that much of the decline in petitions had to do with white decline, paralleling trends in neglect discussed in Chapter 2. In the mid-1920s, delinquency rates shot up for both Black and white children. The rise in delinquency began in the mid-1920s, when acts previously considered neglect were reclassified as delinquency. The line between delinquency and neglect was historically a blurred one.<sup>309</sup> Both were dealt with by the Court and were often handled by the same private voluntary agencies. But in 1924, behavior previously classified as neglect, including truancy, waywardness, disorderly conduct, and desertion of home, were reclassified as delinquency.<sup>310</sup> This substantially transformed delinquency rates through the 1930s for both Black and white children. However, by the late 1930s, white delinquency cases declined while Black cases continued to climb.

The changes to legal definitions of delinquency in 1924 had a profound effect on the pathways by which Black and white children were included in out-of-home placement. White delinquency cases increased from 4,191 in 1924 to 6,424 in 1925. Meanwhile, Black delinquency cases increased from 174 in 1924 to 546 in 1925. Prior to the legal reclassification, Black children made up roughly 4 percent of delinquency petitions and white children made up 96 percent. One year after the reclassification (1925), they made up 7.8 percent of delinquency petitions, whereas white petitions dropped to 92 percent.<sup>311</sup> While both Black and white delinquency rose after this reclassification, studies reveal that a disproportionate number of Black delinquency petitions after 1924 were caused by the reclassification.

According to legal scholars of the time, what distinguished delinquency from neglect was “the seriousness of the problems [the child] present[ed].”<sup>312</sup> However, according to the Joint Committee on Negro Children, in the year after reclassification, few delinquency cases among Black children were considered serious. In fact, the largest number of delinquent Black children came before the court on the recently reclassified delinquency charge of “disorderly conduct,” in contrast to the more serious charge of stealing for white children. The second most prevalent offense for Black youth was another reclassification—desertion of the home; for white youth, it

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<sup>307</sup> Markowitz & Rosner Papers. 1957. “CCC Minutes: Foster Care Section Memorandum.” June, MS 1615/Box 7/Folder 9.

<sup>308</sup> The Children’s Court, which first separated juvenile and criminal courts in the early 1900s, was consolidated into the Domestic Relations Court in 1933. Source: New York (State). 1933. *Annual Report of the Domestic Relations Court of the City of New York*. New York: The Beacon Press Inc.

<sup>309</sup> Maller, Julius. 1932. “Juvenile Delinquency among the Jews in New York.” *Social Forces* 10(4): 542-549. See also: Sutton, John R. 1988. *Stubborn Children: Controlling Delinquency in the United States, 1640-1981*. Berkeley: University of California Press.

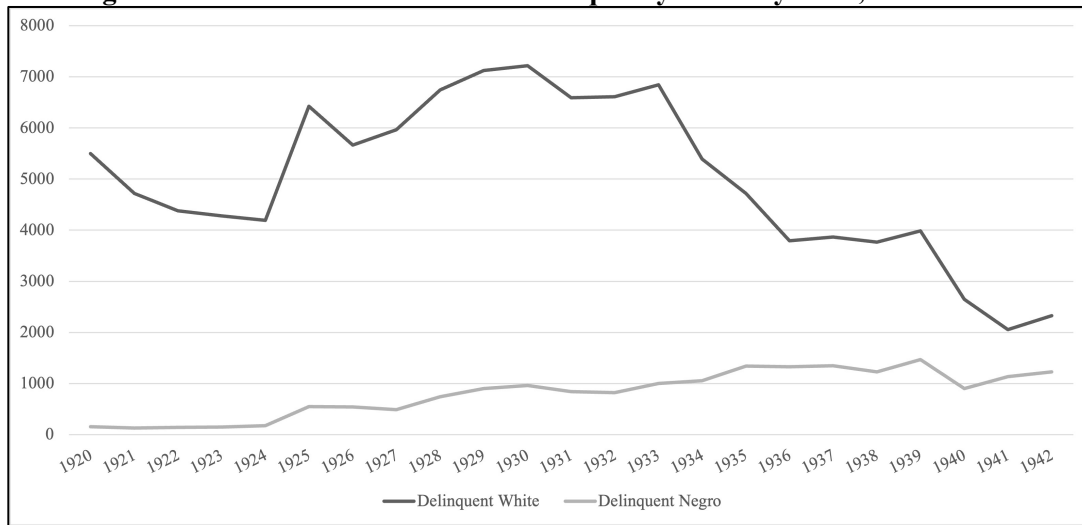
<sup>310</sup> New York (N.Y.). 1925. *Annual Report of the Children’s Court of the City of New York, 1925*. New York, NY: Hubner & Co.

<sup>311</sup> Polier Manuscripts. 1939. “Domestic Relations Court—Children’s Division: Comparison of Negro and White Petitions, 1920–1939.” Undated, MC 413/Box 22/Folder 257.

<sup>312</sup> Maller, Julius. 1932. “Juvenile Delinquency among the Jews in New York.” *Social Forces* 10(4): 544.

was burglary. The report concludes that the “Negro cases obviously are less frequently those which should require the attention of the police, but in a surprisingly large number of instances these children were actually brought into the courts by the police.”<sup>313</sup> This pattern of police activity was highest for Black youth who lived in predominantly white areas of the city.<sup>314</sup> The limited number of “diversion” services, alongside the expanding definition of delinquency, led to an increase in Black delinquency.

**Figure 3.2: NYC Children’s Court Delinquency Cases by Race, 1920-1942<sup>315</sup>**



In a tremendous turn-around, delinquency and neglect cases declined greatly in the mid-1930s, reaching record lows, but primarily for white youth. The Court reported that between 1933 and 1940, cases of neglect decreased by 42.5 percent and cases of delinquency declined by 44.2 percent.<sup>316</sup> The Court processed 7,845 petitions of alleged delinquency in 1933; by 1940, that number was only 4,379. The Annual Report of 1940 proudly stated that their statistics represented “the smallest number of such children appearing before the Court *in more than twenty-five years.*”<sup>317</sup> They reported that it was “interesting to note that as in the case of allegedly

<sup>313</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children’s Court, 1925*. New York: The Department of Research of the National Urban League and the Women’s City Club of New York, 21.

<sup>314</sup> Maller, Julius B. 1937. “Juvenile Delinquency in New York City: A Summary of a Comprehensive Report.” *Journal of Psychology* 3(1): 1–25.

<sup>315</sup> Source 1920-1939: Polier Manuscripts. “Domestic Relations Court—Children’s Division: Comparison of Negro and White Petitions, 1920-1939.” Undated. MC 413/Box 22/Folder 257.

Source 1940: New York (State). 1940. “For Tomorrow: A Court Defends the Child and Family Today.” *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 90. Excludes 6 children of “other race.”

Source 1941-1942: Polier Manuscripts. “Table IV A: Different Delinquent Children handled by Children’s Court During 1941 and 1942 by Health District and Color.” Undated. MC 413/Box 3/Folder 34.

<sup>316</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 15.

<sup>317</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 16. Emphasis added.

delinquent children, the number of allegedly neglected children was smallest since 1915.”<sup>318</sup> Yet it was primarily white children’s delinquency cases that decreased during the depression decade. What the Annual Report failed to note was that between these same years, white delinquency decline 42 percent, while Black delinquency petitions increased by roughly 47 percent (See Figure 3.2).<sup>319</sup> While white delinquency petitions reached a high in 1930, they declined precipitously after 1933, paralleling declines in white neglect in New York City Court cases.

The Court attributed the decline in (white) delinquency rates in their 1940 Annual Report to two changes: expanded relief resources and diversion programs. First, the Report noted that a number of “changes in the community at large” lessened the flow of applicants to the court. Of particular importance was that the depression decade saw more public programs for the “relief of the destitute.”<sup>320</sup> The placement needs of neglected children, in particular, were increasingly met directly by the Department of Welfare (DPW) “without court action.” Likewise, whereas cases of destitution “uncomplicated by elements of wilful neglect” would have previously been dealt with through out-of-home care, now such cases were handled by the DPW.<sup>321</sup> Additionally, the report noted that funds made available through public works programs had expanded the recreational resources of the city, including the creation of public swimming pools, playgrounds, parkways, as well as the funding of “personnel for teaching and developing avocational pursuits.”<sup>322</sup>

The Court also attributed declining (white) delinquency rates to expanded diversion programs. The Bureau of Adjustment was established in 1936 to divert children away from the official court proceedings. Certain kinds of cases, including neglect and destitution cases, first-time delinquents, non-felony charges, and truancy were referred to the Bureau so that children (and families) might have an opportunity to receive care without court proceedings.<sup>323</sup> Not all cases were referred to the Bureau, but for those there were, it meant the difference between appearing before a judge or being referred to a non-judicial agency.<sup>324</sup> The program introduced “a greater degree of flexibility into the treatment of cases coming to the Children’s Court Division.”<sup>325</sup> Increasingly, private services let go of their hold on charity-based relief efforts, instead “re-direct[ing] their efforts ... to that of treatment of personality and behavior problems”

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<sup>318</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 16.

<sup>319</sup> Between 1933 and 1939, white delinquency petitions decreased from 6,842 to 3988. Meanwhile, Black delinquency petitions increased from 1003 to 1470. Source: Polier Manuscripts. “Domestic Relations Court—Children’s Division: Comparison of Negro and White Petitions, 1920-1939.” Undated. MC 413/Box 22/Folder 257.

<sup>320</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 15.

<sup>321</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 35.

<sup>322</sup> Cormier, Francis. 1939. “Some New York City Parks and Parkways: Recreational Developments Made Since 1934.” *Landscape Architecture Magazine* 29(3): 124-136. See also: New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 15.

<sup>323</sup> New York (State). 1936. *Annual Report of the Domestic Relations Court of the City of New York 1936*. New York, 22-23.

<sup>324</sup> Wolf, Jane. 1937. *A Study of the Problems Involved in the Treatment of Cases Referred By the Domestic Relations Court of Queens to The Family Welfare Society of Queens: Based on An Analysis of Selected Cases*. Master’s Thesis. Columbia University.

<sup>325</sup> New York (State). 1936. *Annual Report of the Domestic Relations Court of the City of New York 1936*. New York, 24.

through casework and more individualized focus.<sup>326</sup> Statistics showed that in the course of a month, 16% of cases were referred to private social agencies, such as Catholic Charities or the Jewish Board of Guardians, and 23% of cases were referred to public agencies, such as the Juvenile Aid Bureau, the Bureau of Attendance, or the Department of Welfare. On average 21% were adjusted by the Bureau without referral, while 29% had to be brought to the court for a formal hearing.<sup>327</sup> By 1939, the Bureau of Adjustment rendered a variety of services in 6,470 of the 9,353 new cases before the court; 77.2% were serviced in a manner which obviated the filing of formal court petitions.<sup>328</sup>

As relief and diversion programs expanded, institutionalization rates decreased. The Court noted that their foremost efforts were “directed towards the treatment of the child in his own home or environment.”<sup>329</sup> Only in cases of “personality deviations” or “deleterious environmental influences” did the court opt for out-of-home care. As a result, by the late 1930s, substitute care cases were declining for delinquent and neglected (white) children. “During 1940 a total of 1,847 delinquent and neglected children were committed by the Court, a 13.7 per cent decrease under the number of commitments in 1930.”<sup>330</sup> However, out-of-home care commitments for neglected children declined 24.1 percent over the depression decade, while delinquency commitments *increased* 1.4 percent. As we shall see, while treatment of white delinquency declined, Black delinquency petitions and commitments were on the rise, especially in public training schools. This helps account for the rise in delinquency commitments despite the overall decline in delinquency during the depression decade.

### **Unable to Cope with Minority Need: Probation, Shelters, and Public Training Schools**

This chapter argues that one of the reasons Black and Puerto Rican delinquency increased was because of a lack of access to private resources and institutions for more “mild” delinquency cases, as well as for neglect and destitution cases. As the Court noted, there were many “for whom the authoritative approach [was] unnecessary.” For these cases, “the privately maintained and operated social service agencies extend[ed] helping hands.”<sup>331</sup> Children’s Courts relied on a pre-existing network of private institutions to care for “non-criminal” children, but many of these agencies practiced racial discrimination. As minority children began to represent a new public responsibility, the fragmentation between state child welfare and voluntary associations created conflict over how to classify and confer public status upon them. The practice of racial discrimination in the private sector shaped how judges understood and treated non-white children’s need for protection.

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<sup>326</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 15.

<sup>327</sup> New York (State). 1936. *Annual Report of the Domestic Relations Court of the City of New York 1936*. New York, 24.

<sup>328</sup> New York (State). 1939. *Conservation: The Child and Family in Court, Seventh Annual Report of the Domestic Relations Court of the City of New York*. New York, 14.

<sup>329</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 34.

<sup>330</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 35.

<sup>331</sup> New York (State). 1940. For Tomorrow: A Court Defends the Child and Family Today. *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 45.

By the mid-1920s, the Court reported they were unable to cope with the increasing number of Black children in need of custodial care.<sup>332</sup> When children were adjudged as minor delinquents or neglected and in need of out-of-home care, they were sent to a private agency that aligned with their family's religious faith—Protestant, Catholic, or Jewish. Probation officers and social workers “shopped around” for vacancies on behalf of children, “often with weeks or even months between calls” before an agency would consent to look at the child's records.<sup>333</sup> During this process, children waited in temporary shelters run by the S.P.C.C. until they were admitted and transferred to a long-term facility. If their cases were not accepted by any agency, they continued to wait in shelter care until a vacancy arose.

On the other end of the process, case workers at voluntary agencies evaluated the prospective child's case and could reject admission if there was no vacancy or if a child did not “fit” the program. Institutions based their criteria for admission on religion, age, gender, and race, as well as shifting psychological, intelligence, and behavioral criteria. Given the predominance of the Protestant faith among African American families, their children were largely relegated to Protestant institutions. But by the late 1930s, only 5 of 26 Protestant institutions accepted Black children.<sup>334</sup> Given limited space in out-of-home care for non-white children, many who straddled the line between delinquency and neglect were simply returned home through dismissal or probation. When no institution would accept a child, Clinic reports often “recommended that [a child] be given probation to tide him over until he [was] old enough to be committed to Warwick.”<sup>335</sup>

However, probation services were limited by the color-line. The city hired Black probation officers to serve as “arbiters” to their communities” and matched children along racial lines.<sup>336</sup> While the race-matching policy was dropped in the mid-1940s as a “demoralizing”<sup>337</sup> and “undemocratic”<sup>338</sup> feature of the Court, until then, it limited the number of officers available to the African American and Jewish communities, given their lower numbers in the Court compared to Protestant and Catholic Irish and Italian children. With a limited number of probation officers, supervision was an infrequent experience. On average thirty boys would report to one officer, for usually 4 minutes, either bi-weekly or monthly. The probation officer was also to visit the family once a month to check in, but this was rarely possible. The Committee on Younger Delinquents indicated that a few boys were referred to the Psycho-Educational Clinic, as well as recreational agencies. However, they concluded that it was “only

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<sup>332</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children's Court, 1925*. New York: The Department of Research of the National Urban League and the Women's City Club of New York, 1.

<sup>333</sup> Markowitz and Rosner Papers 1964. “CCC: Children Need Care: The Need for Reorganizing New York City Child Care Services.” February 4, MS 1615/Box 11/Folder 13.

<sup>334</sup> Polier Manuscripts. 1939. “Protestant and Non-Sectarian Institutions (Other than State Institutions) for Neglected and Delinquent children.” Undated, MC 413/Box 22/Folder 257.

<sup>335</sup> Markowitz and Rosner Papers. 1935. “An Inquiry into the Provisions for Care of Negro Boys Under 12 Years of Age Adjudged Delinquent by the Children's Court.” By Agnes Sullivan. June, MS 1615/Box 7/Folder 9.

<sup>336</sup> Katz, Elizabeth D. 2020. “‘Racial and Religious Democracy’: Identity and Equality at Mid-Century.” *Stanford Law Review* 72: 1467-1579; Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>337</sup> *New York Amsterdam News*. 1946. “Judge Bolin Hits Court's Jim Crowism.” February 16.

<sup>338</sup> *New York Amsterdam News*. 1946. “City Probes Kid Court Jim Crow.” February 9.



fair to state that the officers are handicapped by the lack of recreational facilities for Negro boys.”<sup>339</sup>

For children who were unable to return home, either because of parental abandonment or neglect, or because of the severity of their behavior, probation was not an option. When there were few vacancies or long waiting lists, children were cared for in temporary shelters run by the S.P.C.C. until long-term commitment was arranged. But these facilities lacked educational resources, recreation, and even adequate supervision, as children were meant to be housed there for no more than a few days until their transfer was formalized.<sup>340</sup> Sectarian agencies generally removed their children within 24 hours, but because Black children faced long waiting lists for admission to private institutions, they were housed in shelters months longer, on average, than white children.<sup>341</sup>

Wary of long stays in temporary shelters and cognizant of the lack of available resources, judges began to utilize a different resource in their power—public institutions for the delinquent. Within the “the artificial barriers between the categories of neglect and delinquency,”<sup>342</sup> judges exploited the developing behavior problems that all neglected children exhibited. Judge Polier stated that the Court’s experience is that “a large portion of children who have suffered neglect over a period of years present behavior problems. It is equally clear that such children should not be classified as delinquent children or be sent to correctional institutions. . . . [However] in view of the fact that a large proportion of White, Catholic, Protestant, and Jewish children are provided for through private institutions, the absence of any private institutions for delinquent colored boys and girls of the Protestant faith has forced the Court to send all such children to State Training Schools . . . [at rates] entirely at variance with their percentage in the general community.”<sup>343</sup> Where there was little opportunity for out-of-home placement for neglected Black children, the delinquency label opened doors. Unlike voluntary agencies, public delinquency institutions were required to “accept all children committed by the Court, who [were] not mentally defective or psychotic.”<sup>344</sup> The next section examines how delinquency became a pathway of inclusion for neglected Black and Puerto Rican children in the context of exclusion from private agencies.<sup>345</sup>

### **Racialized Delinquency as a Pathway to Protection**

Parents attempted to use the court to shore up their parental authority, but for Black families, this method often resulted in the loss of legal authority and the potential for family separation.<sup>346</sup> The Court reported that “[o]n the whole, there was evidence of considerable affection [from parents] but lack of ability to cope with the problem without help or direction.

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<sup>339</sup> Markowitz and Rosner Papers. 1935. “An Inquiry into the Provisions for Care of Negro Boys Under 12 Years of Age Adjudged Delinquent by the Children’s Court.” By Agnes Sullivan. June, MS 1615/Box 7/Folder 9.

<sup>340</sup> Polier Manuscripts. 1943. *New York Post*: “Brooklyn’s Child Shelter Overcrowded: Below Health Standard, but SPCC Carries on Valiantly.” February 12, MC 413/Box 5/Folder 53.

<sup>341</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children’s Court, 1925*. New York: The Department of Research of the National Urban League and the Women’s City Club of New York.

<sup>342</sup> Polier Manuscripts. 1941. “Letter to Justice Dunham from Polier.” December, MC 413/Box 19/Folder 219.

<sup>343</sup> Polier Manuscripts. 1936–38. “Gaps in Treatment Facilities.” Undated, MC 413/Box 22/Folder 256.

<sup>344</sup> Polier Manuscripts. 1938. “Documents and Statements.” Undated, MC 413/Box 22/Folder 256.

<sup>345</sup> Murakawa, Naomi. 2014. *The First Civil Right: How Liberals Built Prison America*. New York: Oxford Press, 8.

<sup>346</sup> See also: Hicks, Cheryl. 2003. ““In Danger of Becoming Morally Depraved”: Single Black Women, Working-Class Black Families, and New York State’s Wayward Minor Laws, 1917-1928.” *University of Pennsylvania Law Review*, 151(6): 2077-2121.

Some of the parents who petitioned the Court were not seeking to be rid of their burden but were simply turning for help, as they might have to a family agency, had they realized the full scope of its service.”<sup>347</sup> But judges themselves also lacked nurturing resources and services for Black youth, given the predominance of racial discrimination in private child welfare. Instead, the court was often forced to respond by exploiting the primary tool of state capacity—public delinquency institutions.

By the 1930s, Black delinquent youth continued to be brought into the court on charges previously categorized as neglect. A survey conducted by the Committee on Younger Delinquents sampled African American case records for delinquents ages 7 to 11 who had been referred to the Probation Department by the Manhattan Children’s Court in 1933. They found that almost half (21 of 45) of the cases were brought in on charges of “incurability and desertion of home.” They reported that the proportion of Black boys arraigned in court was approximately three times that for white boys. However, Black rates were higher in part because the Court was “the only agency to which Negro delinquents [were] referred, whereas other agencies deflect[ed] some of the white delinquents.”<sup>348</sup> Not only did non-white children “get into the courts more readily,”<sup>349</sup> racially discriminatory admission policies in private institutions reduced space for neglected and borderline Black youth and narrowed their treatment options.

Louis was one such case that captured the interrelationship between neglect and delinquency, and the interplay between probation, shelters, and state training schools. His case was analyzed by the Committee on Younger Delinquents which found that after being charged for setting fire to a desk at 9 years-old, he was placed in an S.P.C.C. shelter for 6 days, then remanded to probation for six months. He reported 9 times to the probation officer and received 3 home visits. He was asked to join the Harlem Big Brothers club, but did not regularly attend. Seven months after he was discharged from probation, his grandmother filed a petition with the court for desertion of the home. He was later picked up and sent to the S.P.C.C. Clinical case work revealed he felt rejected by his mother, who drank and gambled. “The clinic recommended foster home placement, with Warwick [State Training School] as a second choice if a foster home were not available. Following this examination, he was adjudged delinquent by the Court and committed to Warwick. There [was] no evidence in the record that any attempt was made to find a foster home.”<sup>350</sup> Louis’ case captures the response of a court with few protective or nurturing agencies to support Black youth; many times, the court treated cases of neglect or mild delinquency through commitment to a state training school.

Scholars have shown that historically, white children were not immune to judges’ tendency to apply the delinquency label when there was no space for them at institutions for the dependent and neglected.<sup>351</sup> However, sectarian agencies often reserved vacancies for white

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<sup>347</sup> Markowitz and Rosner Papers. 1935. “An Inquiry into the Provisions for Care of Negro Boys Under 12 Years of Age Adjudged Delinquent by the Children’s Court.” By Agnes Sullivan. June, MS 1615/Box 7/Folder 9.

<sup>348</sup> Markowitz and Rosner Papers. 1935. “An Inquiry into the Provisions for Care of Negro Boys Under 12 Years of Age Adjudged Delinquent by the Children’s Court.” By Agnes Sullivan. June, MS 1615/Box 7/Folder 9.

<sup>349</sup> Joint Committee on Negro Child Study in New York City. 1927. *A Study of Delinquent and Neglected Negro Children before the New York City Children’s Court, 1925*. New York: The Department of Research of the National Urban League and the Women’s City Club of New York, 20.

<sup>350</sup> Markowitz and Rosner Papers. 1935. “An Inquiry into the Provisions for Care of Negro Boys Under 12 Years of Age Adjudged Delinquent by the Children’s Court.” By Agnes Sullivan. June, MS 1615/Box 7/Folder 9.

<sup>351</sup> Trost, Jennifer. 2005. *Gateway to Justice: The Juvenile Court and Progressive Child Welfare in a Southern City*. Athens: The University of Georgia Press.

children.<sup>352</sup> Cognizant of the superior quality of care in private institutions, judges avoided the delinquency label, and specifically a delinquency commitment, for all but the most severe cases of white delinquency. In fact, the court grew concerned over the inclusion of Black children in public training schools alongside the “large proportion of seriously delinquent white children, who failed to adjust in, or were rejected by sectarian and private institutions.” They reasoned that “although the State Schools [were] exceptionally good, it [did] not seem fair to place children, whose problems and wrongdoings [were] far less serious, in such a group, solely because they are colored.”<sup>353</sup>

By contrast, few vacancies existed for neglected and delinquent Black children in private agencies. Between 1931 and 1935, the Court adjudged 3,232 Black children to be neglected; however, the six Protestant agencies that accepted non-white children only made room for roughly 1,500.<sup>354</sup> By 1938, the Court claimed “there [were] literally no places to which the[y] . . . [could] send Negro children who [were] in need of immediate removal from their homes.”<sup>355</sup> Judges were critical of this inequity, arguing that the lack of access for Black youth “indicates a complete bankruptcy of [the] public welfare system as regards this [colored] group.”<sup>356</sup>

The lack of access to private institutions shaped judges’ decisions regarding Black children’s classification as protected or criminal. In 1939, the Temporary Commission on the Condition of the Colored Urban Population reported “there [were] more facilities for placement of delinquent than neglected Negro children in New York City,” which they argued “explains in part the larger proportion of Negro children adjudged delinquent.”<sup>357</sup> Such was the case for two Black Protestant brothers, age 10 and 11, who had been committed as neglected to Five Points House in 1942. After being found “to be uncontrollable in a foster home,” the judge was unable to find another placement for the boys. Instead, “arrangements were made with Berkshire Industrial Farm to accept the 10-year-old . . . on the condition that he first be adjudicated delinquent,” because their charter did not permit neglected youth.<sup>358</sup> This happened so frequently that a report from the Exploratory Committee on Negro Welfare States found that the number of neglected Black children in the system did not “represent the actual total of Negro children who should be so adjudicated. Because of the notorious lack of facilities for foster home care, judges are said to be reluctant to declare these children neglected. Frequently they either dismiss the charges, leaving the Negro child in his unfavorable home situation, or they accept an alternative charge of delinquency and commit the child to a correctional institution.”<sup>359</sup>

Similarly, a “mild” strain of delinquent behavior landed more Puerto Rican children in training schools as well. In a study of admissions records by Erwin Schepes in 1949, it was

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<sup>352</sup> Polier Manuscripts. 1940. “Scope of the Problem.” December, MC 413/Box 22/Folder 257.

<sup>353</sup> Polier Manuscripts. 1938. “Documents and Statements.” Undated, MC 413/Box 22/Folder 256.

<sup>354</sup> Polier Manuscripts. 1940. “Memorandum: Care of Destitute, Dependent, Neglected and Delinquent Children in the City of New York.” January 11, MC 413/Box 22/Folder 257.

<sup>355</sup> Polier Manuscripts. 1938. “Memorandum to the Mayor: New York Facilities for Colored Children.” July 19, MC 413/Box 22/Folder 256.

<sup>356</sup> Polier Manuscripts. 1938. “Domestic Relations Court of the City of New York Children’s Court Division: Court Transcript.” July 7, MC 413/Box 22/Folder 256.

<sup>357</sup> New York (State). 1939. *Second Report of the New York State Temporary Commission on the Condition of the Colored Urban Population to the Legislature of the State of New York, February 1939*. Albany: J. B. Lyon Company, 134-35.

<sup>358</sup> Polier Manuscripts. 1946. “Letter from Judge Dudley F. Sicher to Community Service Society Commissioner.” June 8, MC 413/Box 4/Folder 43.

<sup>359</sup> Polier Manuscripts. 1940. “Memorandum: Care of Destitute, Dependent, Neglected and Delinquent Children in the City of New York.” January 11, MC 413/Box 22/Folder 257.

found that Puerto Rican delinquency was of “a milder type.” Most prevalent were classifications of ungovernability, home desertions, truancy, and maladjustment. He also found that “the number of neglect cases which c[a]me to the attention of the courts [via delinquency petitions] was much higher with the Puerto Rican group than with families of other national origin.”<sup>360</sup> In a sample of Black, White, and Puerto Rican delinquency petitions, 18.4% of Puerto Rican cases were revised as neglect petitions or had findings of neglect (compared to 7.1% for all others).<sup>361</sup> The health of Puerto Rican youth in the State Training School, including higher malnutrition and TB rates, indicated high poverty conditions as an underlying factor in children’s behaviors and underscored the punitive treatment of their economic needs.

Scholars have argued that white court officials of the Progressive era were “disinclined to consider the nuances of Black juvenile neglect and delinquency cases,”<sup>362</sup> but in the court system of New York, judges were mindful. Court transcripts reveal that judges were vocal in their critiques of “the often unrealistic distinctions between a ‘neglected child’ and a ‘delinquent child.’”<sup>363</sup> But institutional exclusion constrained judges and ultimately led to the same outcomes. Such was the case for Jean, a 14-year-old Black girl who came before the court in 1937 on delinquency charges. In a summary of her case, her misconduct was described as “not of a very serious nature. She was found by the teachers in school to have in her possession obscene pictures which she showed to other girls. . . . Upon investigation it was found that the girl was in an unfortunate situation at home.” She was born out of wedlock and spent most of her early life in institutions and foster homes. When her mother married, she was taken back into the home. After frequent beatings by her stepfather, she fled to an S.P.C.C. shelter, asking to be “sent away.” Originally adjudged delinquent, the court later found her to be neglected. “Every effort was made to find a foster home for this girl. . . . Four Protestant agencies were contacted but none had a home to which they could send an adolescent colored girl and it was finally necessary to commit her to the New York State Training School for [delinquent] Girls.”<sup>364</sup> Jean was brought in on a charge less serious than most white children, and the judge was not blind to the nuances of her case; but criminal justice solutions were nonetheless utilized to render protection.

By contrast, Court judges avoided delinquency institutions for white children, in part because such children could be handled through private, white-ethnic associations. The salience of these associations can be seen in the handling of two similar delinquency cases. In the first case, Mateo, a 13-year-old Puerto Rican boy, was found guilty of stealing 10 dollars from his aunt. Judge Polier argued in the court case transcript that “additional evidence caused that finding to be modified to delinquent and neglected.” She argued that the “boy has no real home,” as his mother lives in Puerto Rico and his father is incarcerated at Rikers Island. She continued, saying that the “record indicates, of course, that a great delinquency has stemmed from neglect here, if this is delinquency.” But she was “completely blocked . . . as regards placement.” Judge Polier attempted to commit him to Sparkhill, a Catholic agency; however, they only accepted “light colored children,” and “with this Puerto Rican or colored child we have no place to treat

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<sup>360</sup> Schepses, Erwin. 1949. “Puerto Rican Delinquent Boys in New York City.” *Social Service Review* March: 61.

<sup>361</sup> Schepses, Erwin. 1949. “Puerto Rican Delinquent Boys in New York City.” *Social Service Review* March: 55.

<sup>362</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press, 96.

<sup>363</sup> Polier Manuscripts. 1946. “Letter from Judge Dudley F. Sicher to Community Service Society Commissioner.” June 8, MC 413/Box 4/Folder 43.

<sup>364</sup> Polier Manuscripts. 1937. “Summary of [Child’s Name] Case for Justice Polier.” April, MC 413/Box 22/Folder 256.

him as a neglected child.”<sup>365</sup> Because no agency would take him, the representative from the New York Catholic Charities requested he be placed at Wiltwyck, a predominantly Black reform school.

In contrast, Roy, a 12-year-old white Protestant boy, was found to be delinquent after breaking a glass panel at a local store with the admitted intention of stealing. The year prior, he was also arrested for stealing from a local store. Like Mateo, Roy “ha[d] [a] poor home environment because of poverty and little or no parental influence.”<sup>366</sup> He was placed on probation and referred to immediately begin work with the Big Brothers Program. Unlike Mateo, Roy benefited from the day-center programs on offer through white ethnic associations like Big Brothers, which did “not accept Negro children through referral by the Court.”<sup>367</sup>

According to Judge Polier, “the first recourse of a colored child [was] the juvenile court. A white child may have been brought to the attention of a non-legalistic agency long before he reached the juvenile court stage. He has had a chance to be adjusted before his offense was really serious.”<sup>368</sup> The Temporary Commission on the Condition of the Colored Urban Population reported “that there is a tendency to adjudge more border cases among the Negro youth as delinquents, because not many of this group received the aid of cooperating public and private social agencies before actual arraignment in court.”<sup>369</sup> White-ethnic associations, including the Big Brother movement, as well as the Italian Board of Guardians and Catholic Charities, served as alternative treatment. The Jewish Board of Guardians, for example, offered psychiatric case work, psychological services, group therapy, and institutional placement only as a last resort.<sup>370</sup> Likewise, welfare agencies cooperated with schools to send disruptive white children to seaside camps and recreational programs, but they did not make “the same provisions for . . . Negro children.”<sup>371</sup> Private agencies enabled many white children to avoid institutionalization, in favor of resources that supported them within the context of their family.

### Transforming Training Schools

Unlike private child caring institutions, the Children’s Court had “exclusive jurisdiction in the commitment of children as delinquent to the state schools at Industry [for boys],<sup>372</sup> Hudson [for girls] and Warwick [for boys].”<sup>373</sup> Training schools were originally developed not as places of punishment, but as spaces for “re-education.” Reeducation was more than academic

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<sup>365</sup> Polier Manuscripts. 1938. “Domestic Relations Court of the City of New York Children’s Court Division: Court Transcript.” July 12, MC 413/Box 22/Folder 256.

<sup>366</sup> Polier Manuscripts. 1943. “Delinquency Petition.” Sept 27, MC 413/Box 8/Folder 87.

<sup>367</sup> Polier Manuscripts. 1944. “Letter to the Executive Director of the American Prison Association and Society for the Prevention of Crime.” December 18, MC 413/Box 22/Folder 258.

<sup>368</sup> Carter, Michael. 1943. “The Truth about Crime in New York’s Harlem: Mugging Stories Phoney.” *Afro-American*. May 8.

<sup>369</sup> New York (State). 1939. *Second Report of the New York State Temporary Commission on the Condition of the Colored Urban Population to the Legislature of the State of New York, February 1939*. Albany: J. B. Lyon Company, 135.

<sup>370</sup> Slavson, Samuel R. 1943. *An Introduction to Group Therapy*. New York: Commonwealth Fund.

<sup>371</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia’s Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 84.

<sup>372</sup> Industry primarily served the western part of New York and remained predominantly white as a result. Source: Bowler, Alida C. and Ruth S. Bloodgood. 1935. “Chapter V: State Agricultural and Industrial School, Industry, NY,” in *Institutional Treatment of Delinquent Boys: Part I Treatment Programs of Five State Institutions*. Bureau Publication No. 228. United States Government Printing Office Washington.

<sup>373</sup> New York (State). 1935. *Sixty-Eighth Annual Report of the State Board of Social Welfare for the Year Ending June 30, 1934*. Albany, J. B. Lyon Company Printers, 17.

instruction or vocational training, but rather a “reshaping of [a child’s] behavior patterns,” including personality difficulties and emotional development. The aim was to “build... up a personality capable of ... self-direction” and “readjustment to social living.”<sup>374</sup> However, in the 1930s, the racial demographics of juvenile justice began to change, and as they did, the purpose and aims of these institutions dramatically shifted.

In the early 1930s, Warwick State Training School replaced the House of Refuge which catered mainly to children from New York City. In 1929, the Department of Social Welfare took over operations at a rehabilitation center for alcohol and drug dependent men in Chester, New York and rebranded the facility as the State Training School for Boys. For the first couple of year, boys were transferred from the House of Refuge to Warwick, and finally in 1933 they accepted commitments from the court.<sup>375</sup> Sixteen cottages were constructed for boys to live in individual rooms under the supervision of the house mother and father, alongside dorms which had a capacity of 450 children.<sup>376</sup> A whole community was built around the cottages, including a school, shops, and chapel. Inmates could take vocational courses and receive treatment by psychiatrists and physicians. Twentieth century judges found these schools to be a vital source of support and training for young boys.

But within a few years of opening, Warwick quickly became an institution for non-white children and the children of immigrant parents. In 1935, the State Board of Social Welfare reported that slightly more (77) Black boys were admitted than White boys (72). Of the white children, the majority were native-born, but a significant proportion had foreign-born parents. “Thus the admissions were predominately negro and second generation foreign white stock, as might be expected from the population of New York City from which most of them c[a]me.”<sup>377</sup> A few years later in 1937, nearly 60% of the population at Warwick was Black, with the majority under 13 years of age.<sup>378</sup> In the final years of the depression decades, fewer and fewer white children were admitted to Warwick each year (See Figure 3.3). The NAACP wrote that most Black New Yorkers were Protestant, “but Negro children [were] barred from much Protestant agencies as Children’s Village, Berkshire Farms and other such institutions. Thus many white Protestants are taken care of in private institutions while Negro children, having no other place to go, are sent to Hudson and Warwick.”<sup>379</sup> The number of Puerto Rican children in Warwick also increased. Between 1938 and 1946, the total number of Puerto Rican boys admitted each year to the State Training School increased from 1.7% to 12.2%.<sup>380</sup> The State Board of Social Welfare reported that many of these children committed to Warwick were ones “whose needs could be better met by boarding care than by prolonged institutional treatment. Many of them come from

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<sup>374</sup> New York (State). 1935. *Sixty-Eighth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1934*. Albany: J. B. Lyon Company, Printers, 191.

<sup>375</sup> New York (State). 1937. *Seventieth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1936*. Albany: J. B. Lyon Company, Printers, 3.

<sup>376</sup> Polier Manuscripts. Undated. “The New York State Training School for Boys: A Summary.” MC 413/Box 3/ Folder 37.

<sup>377</sup> New York (State). 1936. *Sixty-Ninth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1935*. Albany: J. B. Lyon Company, Printers, 208.

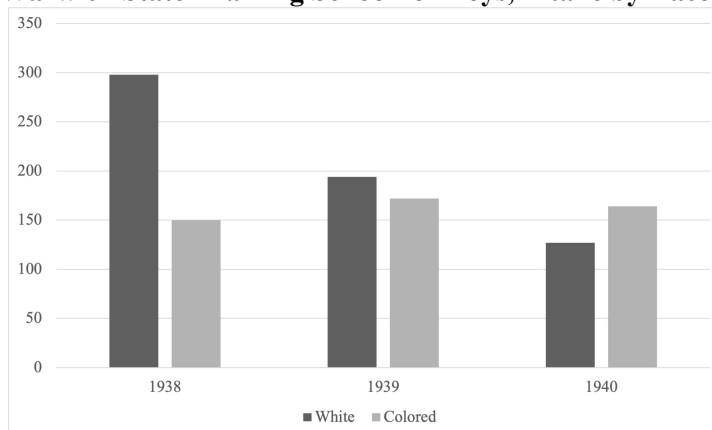
<sup>378</sup> Markowitz and Rosner Papers. 1937. “Memorandum Suggested for Presentation to Foundations Requesting Funds for a Placement and Study Bureau for Negro Children and Youth in New York City.” March, MS 1615/Box 7/Folder 9.

<sup>379</sup> Polier Manuscripts. 1941. “Letter to Polier from the NAACP.” April, MC 413/Box 19/Folder 219.

<sup>380</sup> Schepses, Erwin. 1949. “Puerto Rican Delinquent Boys in New York City.” *Social Service Review* March: 55.

homes that have suffered greatly during the depression not only from loss of economic status but in deterioration of moral and family stability.”<sup>381</sup>

**Figure 3.3: Warwick State Training School for Boys, Intake by Race, 1938-1940<sup>382</sup>**



The Welfare Council of New York City reported that of the roughly 2,800 delinquent children in institutional care in the mid-1930s, 1,119 delinquent children were cared for in private institutions.<sup>383</sup> The City bore 100% of the cost for delinquent children committed to a private agency; by contrast, the state covered the cost of children sent to Warwick or Hudson.<sup>384</sup> White children with high IQs were sent to places like Berkshire Farm, a private, white-only farm and trade school for delinquent boys. They offered training programs in “auto mechanics, electricity, printing, plumbing, carpentry, house painting, sheet metal work, laundry work, and barbering, as well as in agriculture.”<sup>385</sup> Young men even earned wages which were theirs to keep after release. Private institutions were sometimes devoted solely to delinquent children, but many accepted both delinquent, neglected, and dependent children. Hawthorne-Cedar Knolls School, which were run by the Jewish Board of Guardians, accepted boys and girls ages 12-16 who were delinquent, neglected, or dependent, particularly children with behavior problems who needed a controlled environment and psychiatric treatment.<sup>386</sup> However, in the 1930s, the number of children cared for private institutions decreased, especially as white delinquency petitions declined.<sup>387</sup>

Increasingly, state training schools were spaces for the care of Black and Puerto Rican children for whom there were no other services, but training was in accordance with non-white children’s “limited potential” in the social order. In a 1936 report on the conditions at Warwick, investigators found that “in general the attempt is made to instruct the Negro boys in those trades

<sup>381</sup> New York (State). 1937. *Seventieth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1936*. Albany: J. B. Lyon Company, Printers, 193.

<sup>382</sup> Polier Manuscripts. 1941. “Letter from Superintendent of Warwick to Mr. Leeds.” January 4, MC 413/Box 22/Folder 258.

<sup>383</sup> Polier Manuscripts. 1939. “Care of New York City Children Away From Their Own Homes.” March 17, MC 413/Box 19/Folder 218.

<sup>384</sup> Polier Manuscripts. 1946. “Children’s Court.” MC 413/Box 3/Folder 29.

<sup>385</sup> Speer, George. 1938. “Social Value of Agricultural Training for Delinquent Boys.” *Social Service Review* 12(4): 641.

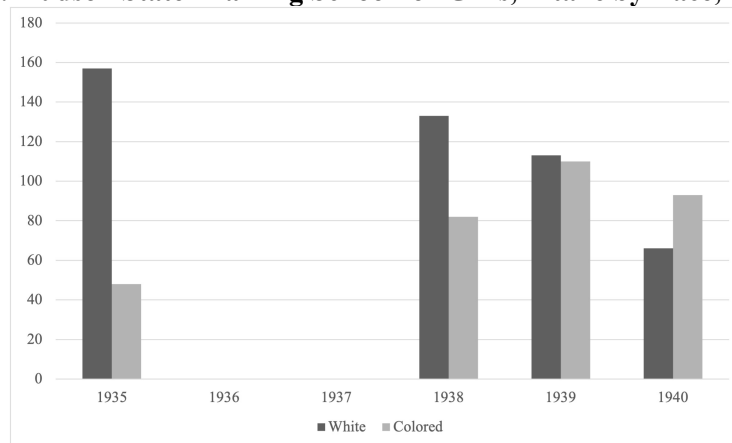
<sup>386</sup> Polier Manuscripts. 1939. “Committee on Institutions: List of facilities, describes intake procedure, type of child accepted, etc.” July, MC 413/Box 3/Folder 37.

<sup>387</sup> New York (State). 1936. *Sixty-Ninth Annual Report of the State Board of Social Welfare for the Year Ended June 30, 1935*. Albany: J. B. Lyon Company, Printers, 23.

from which they will not later be barred by the color line. Therefore among these boys many are learning cooking and serving for possible future placement as Pullman employees and in restaurants.”<sup>388</sup> Black children responded to unequal treatment in what administrators called “race riots.” In one instance, a fight broke out over racially disparate wages. A work gang charged with shoveling coal, snow, cutting trees, and working the farm was paid along racial lines. The white boys were paid 30 cents a crate for apple picking while the Black boys paid 25 cents a crate. The “Negro boys turned on the white boys and beat them up.”<sup>389</sup> The white children ran away, and when they returned, the “white boys were punished and the Negro boys were not punished.” Staff were advised that it was “nothing to be alarmed” about and “to forget the incident.” A report noted that those in charge at Warwick “seem[ed] afraid of the large Negro boys who regard them as Southerners.”<sup>390</sup>

Meanwhile, Hudson State Training School for girls developed as a primarily white institution, but over the 1930s, also experienced a drastic shift in the racial population. In 1935, 205 girls were admitted to Hudson, of these 157 were white and 48 were Black (See Figure 3.4). In the late 1930s, they began receiving an influx of Black girls while the number of white girls admitted each year declined. By 1940, Black girls were disproportionately admitted to Hudson, a fact which concerned staff members. In a 1937 report on the State Training School for Girls, staff members were cited as saying that they “believe... that the present preponderance and type of negro girl in the school is a threat to the life that the majority of girls at Hudson now enjoy.”<sup>391</sup>

**Figure 3.4: Hudson State Training School for Girls, Intake by Race, 1935-1940<sup>392</sup>**



<sup>388</sup> Polier Manuscripts. 1936. “Memo of Interview at Warwick Training School.” December, MC 413/Box 4/Folder 39.

<sup>389</sup> Polier Manuscripts. Undated (1940s). “Memorandum Re: Conference November 1st.” MC 413/ Box 4/Folder 40.

<sup>390</sup> Polier Manuscripts. 1945. “Memorandum with Psychiatrist at the New York State Training School.” MC 413/Box 4/Folder 40.

<sup>391</sup> Polier Manuscripts. 1937. “Visit to New York State Training School for Girls.” December 3, MC 413/Box 4/Folder 41.

<sup>392</sup> 1935 source: New York (State). 1937. *Seventieth Annual Report of the State Board of Social Welfare, 1936*. Albany: J. B. Lyon Company, Printers.

1938-40 source: Polier Manuscripts. 1941. “Letter from Superintendent of Warwick to Mr. Leeds.” January 4, MC 413/Box 22/Folder 258.



Black girls faced similar barriers in state training schools around ideals of rehabilitation. In a 1936 visit to the State Training School at Hudson, the investigator found that the staff's perspective of Black girls as lazy resulted in a lack of access to vocational training programs. In one instance, the investigator inquired about the "Community Store" run by the school, which was intended to give girls training in bookkeeping, business management, and customer experience. "We felt free to ask... whether any colored girls were given training in the store. [The store manager's] answer was that they applied in very few numbers, were generally irresponsible and often dishonest. Her opinion was like all others expressed to us by staff members of the School—that the Negro girls were "different," that they had just the one aim when they came in and that was to get out as soon as possible, and that they cared for only the types of work to which they were assigned (steam laundry work and household tasks)... [There was a] feeling of restriction of opportunity and a *low expectancy of capacity and responsibility* on the part of those giving them their training." They concluded that "as far as the white girls are concerned, they are in general intelligently handled, fairly well prepared for returning to community life and humanely treated." Meanwhile, though "the colored girls [were] not discriminated against in the matter of clothing or food, they [were] definitely limited in their vocational opportunities."<sup>393</sup>

Overtime, despite the idealist origins, the state training schools became "locked and barred"<sup>394</sup> institutions which judges avoided for all but serious cases of delinquency. As Judge Polier argued, "Although the State provide[d] facilities for the delinquent children at Warwick and Hudson, these [were] utterly inadequate and unsuited to meet the needs of all New York City's delinquent children requiring commitment."<sup>395</sup> As the racial demography of the training schools changed with increasing inclusion of minorities, reports surfaced that Warwick lacked programs or "direction for free time." The boys "s[a]t in their cottage doing nothing, or playing cards." "One could not help but ask why the State was seeking more security places when their present program had become a locked and barred institution in which no one was trusted."<sup>396</sup>

### **The Boiling Point: Liberalism and Racial Solutions to Delinquency**

The landscape of child welfare changed during the 1930s, as efforts to uphold racial and religious diversity in public appointments in New York City expanded. As "the composition of city staff changed ... from predominantly Irish Catholic to more Jews, Italians, and African Americans" under Mayor Fiorello LaGuardia, a number of minority judges were hired. Justine Polier, of Jewish heritage, was appointed in 1935, alongside Jane Bolin, the first African American female judge who joined in 1939, and Hubert Delany one of the first African American judges appointed in 1942. Together, they worked to abolish racial exclusion in the juvenile justice and foster care systems. Judge Polier was inspired by "an activist judicial philosophy," and she alongside other progressive judges worked to reform the Court.<sup>397</sup> The efforts of these judges represented the best Black youth could have hoped for—an interracial

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<sup>393</sup> Polier Manuscripts. 1937. "Visit to New York State Training School for Girls." December 3, MC 413/Box 4/Folder 41.

<sup>394</sup> Polier Manuscripts. 1945. "Report To the Board of Justices from the Committee on Institutions, regarding the visit to the State Training School Warwick." May, MC 413/Box 4/Folder 40.

<sup>395</sup> Polier Manuscripts. 1946. "Children's Court." MC 413/Box 3/Folder 29.

<sup>396</sup> Polier Manuscripts. 1945. "Report To the Board of Justices from the Committee on Institutions, regarding the visit to the State Training School Warwick." May, MC 413/Box 4/Folder 40.

<sup>397</sup> *Papers of Justine Wise Polier, 1892-2015: A Finding Aid*. Arthur and Elizabeth Schlesinger Library on the History of Women in America, Radcliffe Institute for Advanced Study, Harvard University.

court with an activist reform mindset that recognized and struggled to secure civil rights for racial and religious minorities. During these years, a few positive new programs of inclusion were developed for Black youth, even if they were rooted in concerns over Black delinquency.

Delinquency underscored many of the concerns and projects of liberal public reformers. Various white philanthropic organizations attempted to organize private delinquency services for Black youth. In one such case, the Women's Service League in Brooklyn attempted to organize a home for "Negro problem girls" based on a survey that found that Black girls from Brooklyn were sent to State Reformatory school at Hudson and Women's House of Detention more frequently than other parts of New York City. The NAACP responded by saying that it was "the duty of the state to handle such cases." Rather than duplicate services rendered by the state, they argued that such offers should engage the needs of Black families—from the lack of recreation facilities to the economic "disabilities" which required both parents to work away from the home. "I believe that the Women's Service League can more profitably use its fine energies and such funds as is able to raise in devising some means of befriending these children *before they are sent to institutions*, in working for more play grounds and recreational centers, and in trying to remove the causes of so-called juvenile delinquency before the children are adjudged delinquent."<sup>398</sup>

While the Women's Service League delinquency program was rejected, two other philanthropic agencies were created for Black youth. The first was the development of Wiltwyck, opened in 1937 through the efforts of Judge Polier, Judge Bolin, and Mayor LaGuardia, for pre-adolescent, primarily non-white delinquent boys who were too young for Warwick State Training School. At the Mayor's request, the program was founded by the private New York Protestant Episcopal Mission Society, and in 1937 they accepted 80 Negro boys age 8-12 years-old who were delinquent or neglected. The second program, discussed further in Chapter 4, was the Negro Service Bureau, developed in the late 1930s, which epitomized the interracial approach to the "negro problem." Developed by white welfare officials to address Black delinquency through increased access to foster care, the Bureau was staffed by Black social welfare professionals who worked to raise their own funds and used their connections in Black neighborhoods to find foster families. The program was described in newspapers as an experimental "project designed to stem the wave of Negro child delinquency resulting from the acute shortage of foster home and institutional facilities."<sup>399</sup> According to Markowitz, these programs represented the tension within interracial relationships between the white philanthropic community and the Black community over "who should decide what was best for black children."<sup>400</sup> With the funds to create the programming, many resources for Black child welfare intermingled delinquency and foster care, even as larger concerns in child welfare focused on wage-earner social protections.

By the early 1940s, media and city reformers grew concerned over the "juvenile crime wave" in Harlem. But according to the *Afro American* newspaper, the crime wave of youthful delinquents against white victims was "cooked-up." Judge Polier corrected the "crime wave" statistics, citing that "It is only partially true that there has been an increase in juvenile delinquency in Harlem." She noted that the "crime-wave" spike of 1941 and 1942, was actually greater for white children than for Black youth (see Figure 3.2). Bruce Cobb released data

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<sup>398</sup> Polier Manuscripts. 1941. "Letter to Polier." April, MC 413/Box 19/Folder 219.

<sup>399</sup> *New York Amsterdam News*. 1939. "Opens Bureau to Curb Juvenile Delinquency." May 20.

<sup>400</sup> Markowitz, Gerald and David Rosner. 1996. *Children, Race, and Power: Kenneth and Mamie Clark's Northside Center*. Charlottesville: University of Virginia Press, 55.

showing a 10.8% increase in the number of cases of child delinquency and 11.6% increase in the number of neglected children for 1942 over 1941. But as for a Black delinquency crime wave, “the figures did not bear this out.” There were fewer negro delinquency cases in 1942.<sup>401</sup> Yet “the News continued to plug colored miscreants and splurged the word “mugger” until it became a synonym for a “colored person who treacherously assaults a white person.”<sup>402</sup> Judge Polier told the paper that “actually we have a higher increase in the delinquency rate of white children.” She went on to say that there were limited resources for Black children in either foster care, institutions, or recreational programs. “The picture is distorted by the constant harping on the word ‘colored’ in connection with crime. By continuous repetition the public identifies crime with colored people.”

Despite the intensification of poverty among African American families in the north, the Court was unable to rouse the benevolent sentiments of private child welfare except through the lens of delinquency. For Black children the court was the primary recourse and delinquency commitments emerged as pragmatic solutions to the gross inadequacy of placement provisions—one that utilized public carceral structures as a substitute for equal access to social protection. But the stopgap efforts had real consequences for perceptions of impoverished and neglected Black children at a crucial time when the solution for the care of “dependent Negro children . . . [was] still in its first stages as compared with the progress made in caring for the White child.”<sup>403</sup> As the solutions to their needs became entwined in official court processes and delinquency institutions, understandings of impoverished and neglected Black children’s needs began to solidify around criminal justice solutions. In the words of a prominent, progressive New York City public official: “With Negro children the causal chain from poverty to neglect to delinquency is so apparent that it needs no statistical proof.”<sup>404</sup> The historical division of responsibilities between the public and private sector provides leverage for understanding how and why the court treated Black children’s needs with criminal justice solutions. The push-and-pull process between private voluntary associations and the Children’s Court assigned Black children “attributes that ma[d]e them attractive and eligible for new kinds of interventions” in the emerging child protection system.<sup>405</sup>

## Conclusion

This chapter examined how well-intentioned child welfare reformers devised viable responses to inequality and racism in foster care within the context of a powerful private sectarian child welfare system. Naomi Murakawa has argued that much is lost when research only examines racial power through the lens of “white resentment.” She argues that “[r]ecognizing racial power requires eschewing the search for animus or calculation.”<sup>406</sup> Building on this work that shifts the focus of racial power away from intention, this chapter has examined how liberal actors negotiated the public-private divide. Although delegated governance is often

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<sup>401</sup> *New York Times*. 1943. “Delinquency Rise in City Put at 10.8%.” Jan. 9.

<sup>402</sup> *Afro-American*. 1943. “The Truth About Crime in New York’s Harlem.” May. 8.

<sup>403</sup> Martin, Alvan Jones. 1935. “Problems in Child Care as Seen in a Family Agency with Special Reference to the Problems of Negro Children.” Master’s thesis. Columbia University, New York, NY, 3.

<sup>404</sup> Blanshard, Paul. 1942. “Negro Delinquency in New York.” *Journal of Educational Sociology* 16(2): 119.

<sup>405</sup> Lara-Millán, Armando. 2017. “States as a Series of People Exchanges.” Pp. 81–102 in *The Many Hands of the State: Theorizing Political Authority and Social Control*, edited by K. Morgan and A. Shola Orloff. New York: Cambridge University, 98.

<sup>406</sup> Murakawa, Naomi. 2014. *The First Civil Right: How Liberals Built Prison America*. New York: Oxford Press, 8.

associated with more conservative forces, this case highlights the difficult and often limited role of progressive actors within the delegated welfare state.

Delegation is an important way of satisfying many conflicting interests and catering to opponents who have the power to back change. Often it enables policymakers to navigate political divides by deferring decision-making about how a program will be run to private authorities. By examining how court judges imagined their actions to be pragmatic solutions to deficiencies in the private system, including overcrowding, underperformance, and discrimination, the findings suggest the delegation of authority may mitigate responsibility over decision-making strategies used to extend social protections. By examining the efforts of the most well-intentioned Children’s Court judges to manage the uncertainty and complexity of racial inclusion in the delegated child welfare state, this chapter identified a key set of historical actors whose actions and decisions unintentionally connected child protection with criminal justice.

Poverty governance literature draws attention to the way street-level bureaucrats “make policy” through administrative strategies and responses to the demands of authority from above and clients from below, as well as lateral relationships with other city agencies. The use of delinquency institutions for the care of neglected Black youth could be viewed as the administrative strategies of frontline officials to cast-off responsibility through burden shifting or simply “making do” given the lack of facilities.<sup>407</sup> But, as this chapter showed, court actors’ decisions are better explained by the historical division of labor concerning child welfare in the delegated welfare state, wherein the private sector gained increasing control over noncriminal children and the public sector assumed responsibility for delinquents. The conflict between the state and private sector over the terms of accountability deeply racialized the nature of child welfare access. The ways in which state agencies and private child welfare associations look to “jettison or to obtain responsibility” for groups of children is a critical mechanism by which delegated governance contributes to racial inequality.<sup>408</sup>

By tracing the conflict between the public and private sector over accountability, this chapter offers a different perspective of racialization in the foster care system. With 1 in 9 Black youth at risk of entering the system before the age of 18,<sup>409</sup> many scholars seek to explain the causes of racial disparity in the system, focusing on the social control features of a carceral and welfare system that disproportionately regulates motherhood for poor women, particularly Black mothers.<sup>410</sup> But the racial politics of childhood are a necessary counterpart to accounts of Black women’s punitive regulation by the state. Scholars have found that Black children are often

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<sup>407</sup> Herring, Chris. 2019. “Complaint-Oriented Policing: Regulating Homelessness in Public Space.” *American Sociological Review* 84(5): 769–800; Lara-Millán, Armando. 2014. “Public Emergency Room Overcrowding in the Era of Mass Imprisonment.” *American Sociological Review* 75(5): 866–87; Lipsky, Michael. 1980. *Street-Level Bureaucracy: Dilemmas of the Individual in Public Service*. New York: Russell Sage Foundation; Seim, Josh. 2017. “The Ambulance: Toward a Labor Theory of Poverty Governance.” *American Sociological Review* 82(3): 451–75.

<sup>408</sup> Lara-Millán, Armando. 2017. “States as a Series of People Exchanges,” in *The Many Hands of the State: Theorizing Political Authority and Social Control*, edited by K. Morgan and A. Shola Orloff. New York: Cambridge University, 98.

<sup>409</sup> Wildeman, Christopher, and Natalia Emanuel. 2014. “Cumulative Risks of Foster Care Placement by Age 18 for U.S. Children, 2000–2011.” *PLOS ONE* 9(3): 1–7.

<sup>410</sup> Edwards, Frank. 2016. “Saving Children, Controlling Families: Punishment, Redistribution, and Child Protection.” *American Sociological Review* 81(3): 575–95; Lee, Tina. 2016. *Catching a Case: Inequality and Fear in New York City’s Child Welfare System*. New Brunswick, NJ: Rutgers University Press; Roberts, Dorothy E. 2002. *Shattered Bonds: The Color of Child Welfare*. New York: Basic Civitas Books; Roberts, Dorothy E. 2011. “Prison, Foster Care, and the Systemic Punishment of Black Mothers.” *UCLA Law Review* 59(6): 1474–500.

“denied the “developmental reality” of childhood that undergirds protective policy and institutions.”<sup>411</sup> The same behavior that is overlooked or characterized as innocent in white children often provokes punishment for Black children.<sup>412</sup> By examining how the delegated welfare state shaped the parameters for incorporation in the child protection system, this chapter illuminated a key structural mechanism that historically contributed to the exclusion of Black children from the “full essence of childhood and its definitional protections.”<sup>413</sup>

The records from the early court system suggest that the association between color, crime, and childhood were built into the very institutional structures meant to protect and nurture children. At a time when “the notion of the innocent, developmental child emerged [and] white children began to enjoy greater protections,” efforts to afford Black children the same protections from abuse, neglect, and poverty became increasingly carceral.<sup>414</sup> In fact, the public services that developed in response to their needs in future years were not simply “inferior and rotten,” they were deeply connected to the system of criminal justice.<sup>415</sup> The racialization of public foster care shaped ideas about child welfare as a social problem and the need for investment in the subsidized care of “other people’s” children. By tracing the conflict between public and private child welfare over race and responsibility in early child protection, this chapter contributes to our knowledge of the institutional origins of Black childhood—one in which notions of nurturance and protection revolve around criminal justice solutions.

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<sup>411</sup> Ocen, Priscilla A. 2015. “(E)racing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors.” *UCLA Law Review* 62(6): 1604.

<sup>412</sup> Ferguson, Ann A. 2001. *Bad Boys: Public Schools in the Making of Black Masculinity*. Ann Arbor: University of Michigan Press; Hirschfield, Paul J. 2008. “Preparing for Prison? The Criminalization of School Discipline in the USA.” *Theoretical Criminology* 12(1): 79–10; Rios, Victor M. 2006. “The Hyper-Criminalization of Black and Latino Male Youth in the Era of Mass Incarceration.” *Souls* 8(2): 40–54; Rios, Victor M. 2011. *Punished: Policing the Lives of Black and Latino Boys*. New York: University Press.

<sup>413</sup> Goff, Phillip A., Matthew C. Jackson, Brooke A. L. Di Leone, Carmen M. Culotta, and Natalie A. DiTomaso. 2014. “The Essence of Innocence: Consequences of Dehumanizing Black Children.” *Journal of Personality and Social Psychology* 106(4): 539.

<sup>414</sup> Ocen, Priscilla A. 2015. “(E)racing Childhood: Examining the Racialized Construction of Childhood and Innocence in the Treatment of Sexually Exploited Minors.” *UCLA Law Review* 62(6): 1606.

<sup>415</sup> Polier Manuscripts. 1975. “Foster Care in New York: Church and State and the Kids.” January 6, MC 413/Box 22/Folder 255.

## Chapter 4: The Paradox of Racial Inclusion in New York City Foster Care, 1930s-1940s

As Black youth continued to face exclusion from private religious institutions and judges reluctantly turned to public delinquency institutions as a space of last resort, a report by the Department of Welfare celebrated the efforts of boarding homes agencies. Amidst flagrant discrimination in private child caring institutions, foster (boarding) home agencies had quietly and without much conflict or prodding, integrated their services by the late 1930s. The shift to foster home care began in the early 20<sup>th</sup> century, as institutions fell out of favor. The 1909 White House Conference summarized what had long been changing opinion: that families should be preserved, and that where child removal was necessary, the “carefully selected foster home [was]... the best substitute for the natural home...”<sup>416</sup> Though this statement signaled a shift away from institutional care toward the preservation of family and home life, racial disparity soon emerged in placement patterns as white children lingered in institutional care and Black children primarily entered foster home care. Why, at the height of Jim Crow segregation and racial exclusion in child welfare, were Black youth disproportionately incorporated into what was perceived as the best method of care?

Historians argue that the shift from institutional care to foster care in the early twentieth century was caused by changing ideas about the social development of children. As mentioned in Chapter 2, institutions had been the main form of care for orphaned, homeless, and neglected children in the 1800s. In these settings, many children were cared for under the same roof; they ate, learned, and slept communally. But as the pressures of urbanization and industrialism threatened family life in the Progressive era, reformers looked to the state to “mend broken homes and protect the welfare of children.”<sup>417</sup> Pediatricians also raised alarm over the high mortality rates of infants in institutional settings and reformers denounced the unnecessary removal of children for profit.<sup>418</sup> Finally, as Timothy Hacsí (1997) argues, by the 1930s the introduction of Aid to Dependent Children led “to the rapid, and relatively uniform, decline of institutions for dependent children.”<sup>419</sup>

Alongside changing ideas about the social development needs of children, reformers also realized that foster home care was much more cost-effectiveness compared to the expenses associated with managing and maintaining institutions.<sup>420</sup> As child welfare standards rose, institutions were required to employ social workers and psychologists, to provide a variety of recreational facilities, and to offer balanced meals, among other requirements. Professional standards caused the cost of care to rise above that of foster family care. These expenses, in addition to the economic decline wrought by the Depression, caused many institutions to either shutter or to “reorient themselves to new concepts and trends,” such as residential treatment

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<sup>416</sup> Children’s Bureau. 1967. *The Story of the White House Conferences on Children and Youth*. DHEW, Washington, D.C., 4.

<sup>417</sup> Tanenhaus, David S. 2001. “Growing up dependent: family preservation in early 20th century Chicago.” *Law and History Review* 19(3): 554.

<sup>418</sup> English, Peter. 1984. “Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920.” *Pediatrics* 73(5): 699-711.

<sup>419</sup> Hacsí, Timothy. 1997. *Second Home: Orphan Asylums and Poor Families in America*. Cambridge: Harvard University Press, 40.

<sup>420</sup> Jones, Marshall B. 1993. “Decline of the American Orphanage, 1941-1980.” *Social Service Review* 67(3): 459-480; Morton, Marian J. 2000. “Surviving the Great Depression: Orphanages and Orphans in Cleveland.” *Journal of Urban History* 26(4): 438-455; Rymph, Catherine. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press.

centers.<sup>421</sup> Brad Bryant argues that this was an “adaptive” strategy that helped institutions remain relevant through separate services geared toward children unfit for foster home care.<sup>422</sup> For example, residential treatment centers served emotionally disturbed children who struggled to adapt to foster families, particularly adolescents. As an alternative to mental hospitals or correctional institutions, these in-patient services straddled the line between child welfare and mental health, addressing the treatment needs of children through custodial care, education, recreation, and psychiatry.<sup>423</sup>

The implicit assumption is that as non-white youth began to enter the system of out-of-home care in the twentieth century, they simply became part of a pre-existing system of foster care that had already come to overshadow institutional care. But this chapter shows that foster home care came to predominate as a solution to Black children’s needs while white children lingered in institutional care. As David Tanenhaus (2001) has suggested, early efforts to promote family preservation were not based on the “ascendancy of the home-based model over the institutional but rather from a mixture of old and new approaches.”<sup>424</sup> Furthermore, he finds that the method of care used to protect children often differed according to the race and gender of the parents. By the 1930s, children could be cared for in their own home or in substitute care—either foster care or institutional care—with the hopes of future reunification. This chapter shows that foster care became a primary method of care for Black children, while white children were more likely to be cared for in their own home or in institutions, despite anti-institutional rhetoric. Race-matched foster care did indeed offer increased access to substitute care for Black youth and helped preserve children’s relationship to Black family life and culture. But in a climate of segregation, race-matched foster care proved to be a solution that both discriminatory institutions and interracial liberal reformers alike could agree on. Though this could be seen as an exceptionally progressive moment of racial inclusion, this chapter shows that the terms of inclusion were more driven by concerns over race-mixing in the intimate realm of child rearing. In effect, foster care allowed Black and white children to coexist within the same child welfare system without significantly disrupting the color-line.

By examining how race-matched foster care was organized as an “experimental” solution to segregation, this chapter speaks to how racial divisions shape the political landscape and structure of child welfare. Foster home care came to acquire a racialized character through a negotiation between racist private institutions and liberal government officials. After a long history of exclusion from institutions, concern over Black children’s care was spurred by what many saw as “waves of delinquency” in Harlem after the Depression. Within an increasingly interracial approach to social organizing, civil rights organizations and child welfare committees

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<sup>421</sup> Bryant, Brad. 1981. “Special Foster Care: A History and Rationale.” *Journal of Clinical Child & Adolescent Psychology* 10(1): 12. See also: Courtney, Mark and Darcy Hughes-Heuring. 2009. “Residential Care in the United States of America: Past, Present, and Future.” Pp. 173-190 in *Residential Care of Children: Comparative Perspectives*, Edited by M. Courtney and D. Iwaniec. New York: Oxford University Press; Jones, Marshall B. 1993. “Decline of the American Orphanage, 1941-1980.” *Social Service Review* 67(3): 459-480; Rosner, David and Gerald Markowitz. 1997. “Race, Foster Care, and the Politics of Abandonment in New York City.” *American Journal of Public Health* 87(11): 1844-1849.

<sup>422</sup> Bryant, Brad. 1981. “Special Foster Care: A History and Rationale.” *Journal of Clinical Child & Adolescent Psychology* 10(1): 12.

<sup>423</sup> Dula, John E. 1952. “Future Directions in Foster Care For Children.” *Proceedings of the National Conference of Social Work*; Simon, Abraham J. 1956. “Residential Treatment of Children I: Unanswered Questions.” *Proceedings of the Conference on Research in the Children’s Field*. Chicago: 260-267.

<sup>424</sup> Tanenhaus, David S. 2001. “Growing up dependent: family preservation in early 20th century Chicago.” *Law and History Review* 19(3): 550.

resolved to ensure racial access to out-of-home care which they saw as essential to curbing delinquency. As northern cities struggled to resolve the tension between segregation and increasing racial need, progressive social welfare professionals and city officials began to see foster care as consistent with the need for interracial accommodation. By examining how concerns over race mixing shaped the terms of inclusion in early substitute care, this chapter speaks to how racial divisions shape the structure of child welfare.

### **Family Preservation and Early Shifts Away From Institutions, 1910s-1930s**

City-wide political forces led to a shift away from institutional care in New York City in the first few decades of the twentieth century, but as I will show in the following sections, this shift disproportionately affected Black youth. The original impetus that drove the city to move away from institutions began in the mid-1910s, when New York City started to ramp up state regulation of institutions.

In the early twentieth century, New York City public officials denounced institutions in favor of caring for children in the natural or foster home. The City showed commitment to family-centered care by passing Mothers' pensions in 1915, which enabled many children to be cared for in their own homes (see Chapter 2). But reformers also grew concerned about regulating private institutions which received reimbursement from the public treasury on a per capita basis; many worried that this incentivized the unnecessary removal of children from their homes.<sup>425</sup> In order to receive public funds, private institutions were required to be in compliance with the rules and regulations issued by the State Board of Charities, but the board had been accepting self-evaluations in lieu of inspection. A 1916 state investigation, ordered by the Governor, found institutions to be unfit for child development; sleeping areas were overrun with vermin, methods of punishment were antiquated, and children were given little education outside of religious instruction. By then, almost 40% of children in out-of-home care were housed in institutions with populations that ranged from 101-400 and another third were in settings with 401-1,000.<sup>426</sup> To manage such large populations, institutions routinized daily life and required conformity in clothing, haircuts, and speech.<sup>427</sup> This ran counter to emerging ideas about child development which emphasized the need for meaningful social development and social settings which minimized the spread of infectious childhood diseases.

As a result, the relationship between state and private institutions became hostile. By 1917, there were 25,000 children in institutions in New York City.<sup>428</sup> As a result of the investigations, the Commission recommended that the City establish its own placing bureau for dependent children that would select children out of institutions and place them in foster homes of matching religion.<sup>429</sup> John Kingsbury, the Commissioner of Public Charities in New York City, reasoned that the care "for unwanted children had surpassed the capabilities of private

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<sup>425</sup> Lane, Winthrop D. 1915. "Children and The City's Purse Strings." *The Survey* January 2: 378; Folks, Homer. 1900. "The Care of Destitute, Neglected, and Delinquent Children." *The Charities Review*: 122.

<sup>426</sup> New York (State). 1918. *51<sup>st</sup> Annual Report of the State Board of Charities for the Year 1917*. Albany: J. B. Lyon Company; Poston, Ted. "Orphans Barred from New Rochelle Schools." *The Pittsburgh Courier*. Jan 27, 1940.

<sup>427</sup> Bonapart, Joseph. 1934. "Sociology and the Care of Dependent Children." *Social Forces* 12(4): 515-522.

<sup>428</sup> English, Peter. 1984. "Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920." *Pediatrics* 73(5): 699-711.

<sup>429</sup> New York (State). 1918. *51<sup>st</sup> Annual Report of the State Board of Charities for the Year 1917*. Albany: J. B. Lyon Company. See also: Markowitz and Rosner Papers. 1948. "CCC: Long Term Care of Dependent and Neglected Children in New York City." MS 1615/Box 8/Folder 29.



charities, even with public support.”<sup>430</sup> In 1917, the Children’s Home Bureau was established by the Department of Public Charities with voluntary funds to place and supervise dependent children in foster (boarding) homes. The campaign to remove children from private institutions may have served political ends, but publicly, it was undertaken on the pretext of approaching child welfare from a more scientific rather than charity-based approach. But these initiatives were quickly reversed under the subsequent administration, and in 1918 the Bureau was discontinued.<sup>431</sup> A few years later, the ex-commissioner of the Board of Charities expressed “great sorrow” that the City “had not grasped its great opportunity to get behind the kind of work being at boarding agencies.”<sup>432</sup>

Even as policy preference shifted to foster care, institutions continued to predominate across the country. The 1923 Census of Children Under Institutional Care found that only 10.2% of children in substitute care for dependency, neglect, and delinquency were cared for in boarding family homes, while 23.4% were in free family homes. The majority (64.2%) were cared for in institutions. This same census found that in New York, roughly 10.4% (3,905) of children were cared for in boarding homes and 19.9% (7,482) in free foster homes. By contrast, roughly 69.1% (25,962) were cared for in institutions. According to child welfare scholars, the “stigma” of payment for child care needed to be removed, as paid service carried “a sense of responsibility which [was] often lacking in volunteer service.” Indeed, boarding home care was quickly becoming “recognized as a highly effective form of treatment, founded on the essential unit of social organization—the family.”<sup>433</sup>

The importance of the family in substitute care continued to build through the 1920s, with many institutions developing supplemental foster care services. By the 1920s, C. C. Carstens wrote that the rivalry between foster home care and institutional care was “not as serious as it used to be.” Instead, it was recognized that both foster care and institutional care were necessary. Increasingly these programs worked together, and institutions were doing their best to further mimic the family. Children’s institutions were becoming smaller and divided up into cottages that mimicked family life with a house mother and father. “Certain institutions have all the brothers and sisters above the baby age in the same cottage and inculcate a family solidarity and instill a family responsibility in the older members of the family. The words orphan asylum, homes for the friendless, refuge, and similar terms that are misnomers ... are beginning to disappear.”<sup>434</sup> Even still, preference for foster family care remained high. As H. E. Chamberlain wrote, “[f]rom a strictly physical standpoint, to have changed an institution from an overcrowded dormitory mess hall plan to an individually cared for cottage scheme has not lifted the bans from institutions.”<sup>435</sup>

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<sup>430</sup> English, Peter. 1984. Pediatrics and the Unwanted Child in History: Foundling Homes, Disease, and the Origins of Foster Care in New York City, 1860-1920. *Pediatrics* 73(5): 709.

<sup>431</sup> Markowitz and Rosner Papers. 1948. “CCC: Long Term Care of Dependent and Neglected Children in New York City.” MS 1615/Box 8/Folder 29.

<sup>432</sup> 1920. “Society Report: The New York Academy of Medicine, Section of Pediatrics.” *Archives of Pediatrics* Vol. 37: 568.

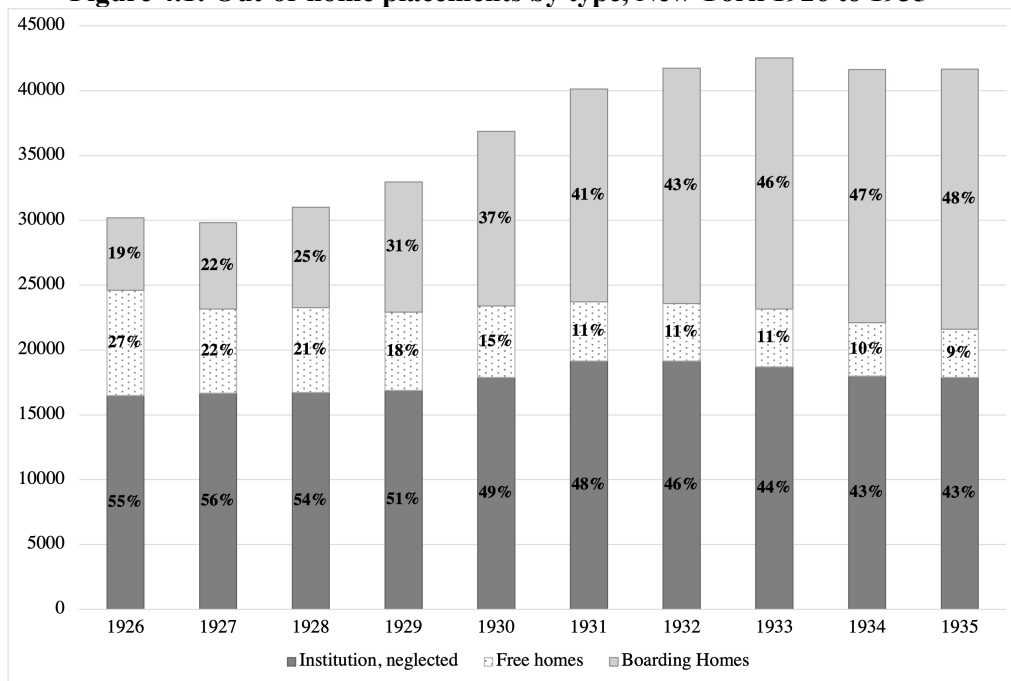
<sup>433</sup> Healy, William, Augusta F. Bronner, Edith M. H. Baylor, J. Prentice Murphy. 1929. *Reconstructing Behavior in Youth: A Study of Problem Children in Foster Families*. New York: A. A. Knopf, 11.

<sup>434</sup> Carstens, C. C. 1927. “Child Welfare Work Since the White House Conference.” *Proceedings of the National Conference of Social Work*, 125.

<sup>435</sup> Chamberlain, H. E. 1928. “When Should the Institution be Prescribed for the Problem Child?” *Proceedings of the National Conference of Social Work*, 383.

By the 1930s, there was extraordinary agreement by child welfare officials and scholars that children were best cared for in the home—whether that be within their biological home or in a foster home. The Department of Social Welfare in New York declared that the state had made a “marked shift away from institutional care and towards the use of foster homes.” Between 1911 and 1935, the “number of children in institutional homes decreased roughly 27 percent, from 32,475 to 23,667.”<sup>436</sup> All types of children in institutional care decreased, including the dependent and neglected who made up the majority of those in out-of-home care, as well as the delinquent, deaf, and blind. By the mid-1920s, institutional care for the dependent and neglected did not change dramatically; instead, it was foster care that grew.

**Figure 4.1: Out-of-home placements by type, New York 1926 to 1935<sup>437</sup>**



As Figure 4.1 shows, remunerated boarding home care grew greatly, particularly during the depression, while free foster home care declined. Free home care was usually reserved for apprenticing older children, but as aversion to child labor deepened, many felt that the “older dependent children [were] often expected to contribute too much to the household to give him a

<sup>436</sup> New York (State). 1937. *Legislative Documents: One Hundred and Sixtieth Session, Vol V-No. 22 to 24 INCL*. Albany: J.B. Lyon Company, Printers, 47.

<sup>437</sup> Source: New York (State). 1937. *Legislative Documents: One Hundred and Sixtieth Session, Vol V-No. 22 to 24 INCL*. Albany: J.B. Lyon Company, Printers, 49.

Description: Institutional figures only include children committed for destitution or improper guardianship (by the Children’s Court or the Department of Welfare) including children supported wholly or in part by public funds. Excluded are children in institutions for deaf, blind, delinquent or “non-committed.” This excludes a large number of children committed as delinquents, which was generally included in counts of substitute care during this era, owing to belief that the distinction between delinquency, dependency, and neglect was minimal. However, given that this chapter focuses on the distinction between institutional and boarding home care, I only focus on dependent and neglected children since most delinquent children were cared for in institutional settings. Free homes refers to children in homes for which no payments were made for the child’s care, while boarding homes were situations in which a family was paid for the care of the child and supervised by a child caring agency.

free place in it. This form of foster home care [was] most subject to the danger of child exploitation.”<sup>438</sup> Meanwhile, remunerated foster (boarding) home care increased by nearly 436%, from a population of 3,783 in 1911 to 20,286 in 1935. By 1935, nearly 48% of children in out-of-home care were in foster homes, while 43% were in institutional care for the dependent and neglected (Figure 4.1). The dramatic increase in foster family care was not caused by the development of competing foster agencies; in fact, by the late 1930s, only a handful had been established in New York.<sup>439</sup> Rather, a single foster care agency was able to handle thousands of cases—more than any one institution every could or should.

As the presumed need for out-of-home care declined at the tail end of the depression (see Chapter 2), ideas about the relative merits of institutional and foster care began to change. Helen Tyson, a high ranking official in the Children’s Bureau and a social welfare scholar, predicted that the provision of Aid to Dependent Children, as well as survivors’ benefits under the Social Security Act would enable thousands of dependent children to be cared for within their own home. As a result, the types of children needing care would change: “Because of these provisions and other factors, such as the falling birth rate and the check on immigration, the children received for care away from home will not increase in number but will probably be older and in greater need of individual study and treatment.”<sup>440</sup> With many “normal” children maintained in the home with the aid of welfare, the predicted future cohort of older and more problematic children required a different kind of care that could not necessarily be found in the average foster home. As such, she and many other child welfare professionals advocated for a dual system of care: “in a rounded program a community must offer both institutional and foster home care for children.”<sup>441</sup> Foster care would be used to care for the “normal child” and for infants and small children, while institutions would be used as temporary centers for therapeutic rehabilitation.

As preference clearly shifted to foster care, institutions began to carve out a distinct area of specialty. Institutions were encouraged by the New York State Board of Social Welfare, as well as national standard-setting organizations like the Child Welfare League of America, to employ more social workers, psychiatrists and psychologists, and to offer smaller, more targeted programs for children with different needs. Already by the mid-1930s, child organizations reported that “[i]nstitutions for children, in increasing numbers, develop[ed] foster home service as an adjunct to their care or as a substitute for it.”<sup>442</sup> Social welfare scholars extolled the virtues of a dual program: foster care and institutions were complementary and could be used at different times “*for the same child*.”<sup>443</sup> Institutions could be used to serve children who had trouble adjusting to foster home care.<sup>444</sup> They were not to be used as a last resort or a “plan of despair,” but instead as a “therapeutic living experience” where psychiatric treatments could be

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<sup>438</sup> Carstens, C. C. 1927. “Child Welfare Work Since the White House Conference.” *Proceedings of the National Conference of Social Work*, 123.

<sup>439</sup> Polier Manuscripts. 1939. “Committee on Institutions: Survey of institutional facilities available to the court for treatment of neglected and delinquent children.” July, MC 413/Box 3/Folder 37.

<sup>440</sup> Tyson, Helen Glenn. 1940. “Care of Dependent Children.” *The Annals of the American Academy of Political and Social Science* Vol. 212: 177.

<sup>441</sup> Tyson, Helen Glenn. 1940. “Care of Dependent Children.” *The Annals of the American Academy of Political and Social Science* Vol. 212: 176.

<sup>442</sup> Breese, Gertrude E. 1936. *Finding Foster Homes*. Ed. Charlotte Isabel Claflin. Buffalo: The Children’s Aid Society, 3.

<sup>443</sup> Selig, Marth Keiser. 1942. “Temporary Use of An Institution for Children in Foster Care.” *American Journal of Orthopsychiatry* 12(3): 466. *Italic in Original*

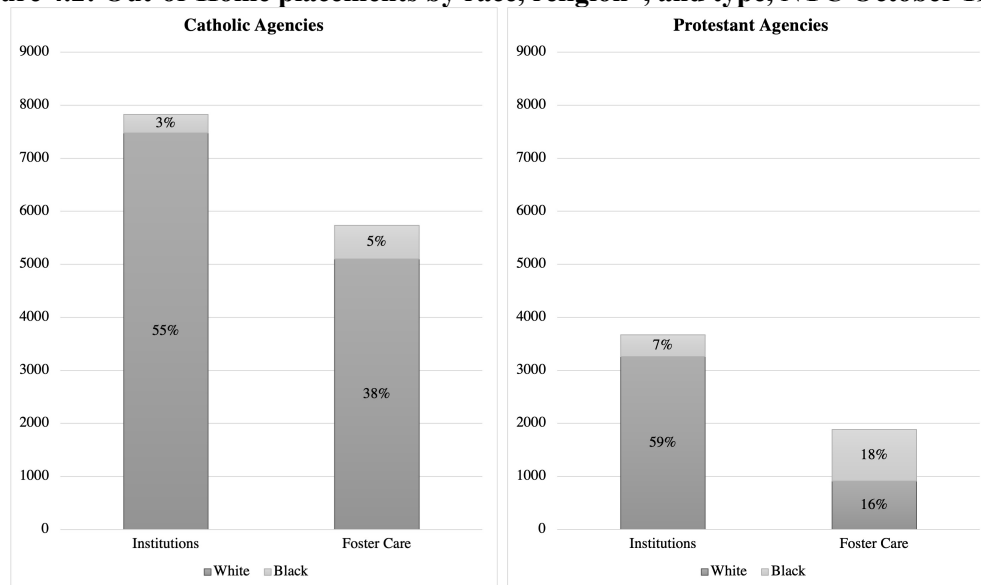
<sup>444</sup> Naughton, Francis X. 1957. “Foster Home Placement as an Adjunct to Residential Treatment.” *Social Case Work* 38: 288-295.

woven into the living experience of a troubled child.<sup>445</sup> Social welfare scholars argued that though institutions were not adequate substitutes for the home, they held potential as spaces for “observation, treatment, and socialization.”<sup>446</sup> By centering therapeutic services, institutions avoided becoming redundant. But as this dual system of service arose, racial disparity began to emerge in the types of placements children received.

### The Quiet Accommodation of Racial Diversity through Foster Care, 1930s

As preference shifted to foster home care, the rate of child institutionalization declined. However, a racial breakdown of the shift reveals a paradox: despite a preference for foster home care, white children were more likely to be cared for in institutions, while Black youth were most likely to be cared for in foster care. As mentioned in Chapter 3, the Children’s Court reported that there was a “tremendous rise in the number of Negro children brought before the Court as neglected and delinquent, but not in the facilities made available for their care.”<sup>447</sup> Few institutions had been developed for them since the start of the Great Migration, and so officials found it hard to place the children referred by struggling parents, police officers, or agents of the Society for the Prevention of Cruelty to Children (S.P.C.C.). This section shows that reformers, quietly and without much resistance, organized race-matched foster care as an “experimental” solution to segregation and child welfare exclusion.

**Figure 4.2: Out-of-Home placements by race, religion\*, and type, NYC October 1936<sup>448</sup>**



\*Note: Does not include Jewish agencies, which did not have any non-white cases

Though foster care was upheld as the next best thing to being cared for in one’s own home, a close look at the shift from institutions to foster care reveals that placement patterns

<sup>445</sup> Selig, Marth Keiser. 1942. “Temporary Use of An Institution for Children in Foster Care.” *American Journal of Orthopsychiatry* 12(3): 473.

<sup>446</sup> Tyson, Helen Glenn. 1940. “Care of Dependent Children.” *The Annals of the American Academy of Political and Social Science* Vol. 212: 175-6.

<sup>447</sup> Polier Manuscripts. 1940. “Scope of the Problem.” December, MC 413/Box 22/Folder 257.

<sup>448</sup> Polier Manuscripts. 1939. “Memorandum by the Welfare Council of New York City: Care of New York City Children Away From Their Own Homes.” March 17, MC 413/Box 19/Folder 218.

differed greatly by race. By 1936, only 32% of African American children in out-of-home care in New York City were cared for in institutions, while 68% were cared for in foster homes. Inversely, more white children were cared for in institutions (60%) compared to foster homes (40%). The disparity was greatest in Protestant agencies where Black youth made up roughly a quarter of children in care. Of this, roughly 7% were cared for in institutions, while 18% were cared for in foster homes (See Figure 4.2).<sup>449</sup> Nor was the racial disparity in the arrangements of care unique to New York—this pattern paralleled national trends. Census data from 1933 revealed that the “most significant difference in the type of care provided for children of different races was the predominant use of boarding homes for Negro children and of institutions for children of other races.”<sup>450</sup> At a moment in history when Black youth faced an “unyielding bloc of public disinterest and opposition” to social service programs, they were disproportionately incorporated into the most advanced child care setting.<sup>451</sup> While it stands to reason that foster care agencies could manage the care of thousands of children, which helps explain their ability to absorb the increasing dependent Black child population at this time, they also managed to care for both Black and white children without crossing racial boundaries.

In New York City, children were placed in institutions that aligned with their family’s religious faith; because most African Americans were Protestant, the responsibility fell mainly to Protestant institutions. Religious matching formally began in 1875 under the Children’s Act, which required that dependent and neglected children be placed in institutions or homes of the same religious affiliation as their parents. Religious matching laws were welcomed by immigrant communities, particularly Catholics, who feared proselytism by dominant Protestant agencies. The matching of religion continued into the twentieth century, and translated into de facto segregation. Because private religious groups maintained autonomy in admission processes, religious and racial segregation were permitted. Private institutions worried about mixing children of different races under the same roof—especially where meals, classrooms, and even beds were shared. They rationalized the exclusion of African American children by arguing that every group takes care of their own; “why should not the Negro group itself assume some responsibility for handling this problem?”<sup>452</sup>

However, migration meant that Black churches were not as well-developed in the North, and services developed by the African American community often lacked funding. Nonetheless, African American women’s clubs and church groups provided services to Black children, “essentially establish[ing] a separate child welfare system for their race.”<sup>453</sup> They created a variety of social programs, including kindergartens, day nurseries, homes for working girls, and institutions for the dependent and neglected.<sup>454</sup> But few Black-operated institutions existed in New York City, and one of the primary ones closed in 1917 due to a lack of funding.<sup>455</sup>

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<sup>449</sup> Polier Manuscripts. 1939. “Memorandum by the Welfare Council of New York City: Care of New York City Children Away From Their Own Homes.” March 17, MC 413/Box 19/Folder 218.

<sup>450</sup> Hanna, Agnes K. 1936. “Dependent Children Under Care of Children’s Agencies: A Review of the Census Findings.” *Social Service Review* 10(2): 249.

<sup>451</sup> Jones, Eugene K. 1921. “Problems of the Colored Child.” *ANNALS of the American Academy of Political and Social Science* 98(1): 145.

<sup>452</sup> Polier Manuscripts. 1937. “Memo to Justice Polier: Supporting Data 1931-2.” May 4, MC 413/Box 22/Folder 256

<sup>453</sup> Roberts, Dorothy E. 2005. “Black Club Women and Child Welfare: Lessons for Modern Reform.” *Florida State University Law Review* 32(3): 959.

<sup>454</sup> Billingsley, Andrew and Jeanne Giovanni. 1972. *Children of the Storm: Black Children and American Child Welfare*. New York: Harcourt, Brace, Jovanovich.

<sup>455</sup> Mabee, Carleton. 1974. “City in Travail: Two Orphan Asylums for Blacks.” *New York History* 55(1): 55-77.

Meanwhile, philanthropists were wary of investing in institutions for Black children, even those run by white professionals, as one representative of a major fund warned: “the whole situation in Harlem is a very black one. It seems the Catholics and Hebrews take very good care of their colored youth but the Protestants have been very lax.” The representative was disinclined to recommend a donation because of the “hopelessness of the situation.”<sup>456</sup>

When child placement was deemed necessary by the Court or Department of Welfare, social workers and probation officers “shopped around” for vacancies at private sectarian agencies while the child waited in a temporary shelter, usually run by the Society for the Prevention of Cruelty to Children (S.P.C.C.). Case workers did not purposefully channel dependent and neglected Black children into foster agencies rather than institutions. In fact, the placement process was a negotiation between social workers, probation officers, private institutions, and foster care agencies. Institutions were quite autonomous and could reject children who did not “fit” their program because of their religion, age, gender, or race. If a child’s case was not accepted by any agency, they continued to wait in shelter care. Black youth were reported to wait 40% longer in temporary shelters than white youth,<sup>457</sup> and because few institutions accepted them, judges were known to dismiss cases in which it was assumed no agency would accept their placement.

As racial tension boiled over in the City in the 1930s, a different solution to Black children’s welfare quietly came to the fore—foster home care. Practices of kinship care were long-standing in the African American community, and though social workers claimed to have “not expected third cousins and aunts-in-law to have any feeling of responsibility toward children in their families needing care,” they worked to formalize these “homespun” arrangements.<sup>458</sup> While staff at institutions frequently complained about “race riots” and the “threats” integration caused to their way of life,<sup>459</sup> race-matched foster care proved less disruptive to racial boundaries. Compared to institutions, foster care agencies usually had much more flexible intake policies since children could be matched with a race appropriate family, rather than requiring a child to fit the program. As Mrs. Edith Baylor of the Children’s Aid Association wrote, “Homes are available in infinite variety, supplying families differing in personnel, temperament, relationships, and opportunities. In other words, there is possible great flexibility and plasticity.”<sup>460</sup> And importantly, foster agencies could supervise considerable caseloads—upwards of thousands of children. As long as families could be found, foster care could expand or contract as necessary.

Race-matched foster family care enabled a semblance of community control. As Billingsley and Giovanni (1972) argue: “The shift to homes meant more direct involvement of African American communities in child welfare services. Most orphanages that took in black children were white-run. In the developing foster boarding home system, however, even though agency staff members were white, racial matching policies ensured that black adults at least had

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<sup>456</sup> Riverdale Children’s Association Records. 1942–46. “Memorandum For Mrs. Rockefeller from Elizabeth Phillips.” Undated. FM2/Record Group 1112P/Box 33/Folder 355.

<sup>457</sup> New York (City). 1933. *Annual Report of the Domestic Relations Court of the City of New York 1933*. New York: The Beacon Press, Inc., 46.

<sup>458</sup> Stevens, Myra. 1945. “Meeting the Needs of Dependent Negro Children.” *The Family* July, 178.

<sup>459</sup> Polier Manuscripts. 1937. “Visit to New York State Training School for Girls.” MC 413/Box 4/Folder 41.

<sup>460</sup> Baylor, Mrs. Edith M. H. 1928. “Problems of Institutions and Foster homes: When Should the Foster Home be Prescribed for the Problem Child?” *Proceedings of the National Conference of Social Work*, 378.

key roles to play in providing care.”<sup>461</sup> Race-matched foster care also fit into a broad shift in the hiring practices of city administration which showed increased commitment to diversity in social welfare. Increasingly, racial and religious minorities were hired as judges, social workers, and probation officers where they served as “arbiters” to their communities.<sup>462</sup> Social welfare professionals praised race-matching practices because they felt it reduced prejudice. It was “gratifying,” one African American social worker wrote, to “be able to provide for the colored children ... the same opportunity for development, that the white worker can.”<sup>463</sup>

In the 1930s, a number of foster care agencies opened their doors to non-white youth. The Negro Service Bureau was started in the late 1930s, and epitomized an interracial approach to the “negro problem.” Developed by white welfare officials to address Black delinquency through increased access to foster care, the Bureau was staffed by Black social welfare professionals who worked to raise their own funds, used their connections in African American neighborhoods to find foster families, and worked to prove that they were “competent,” per the aims of the directors. Meanwhile, other foster home agencies integrated Black youth into their predominantly white programs without much fanfare, hiring Black social workers to build networks of foster families. Black social workers placed children with matching foster families, emphasizing physical features, religion, and culture in their home finding practices. As Edward Dalton wrote in the *Survey Mid-Monthly* (1942), “It is an accepted fact that cultural and racial characteristics of child and foster parents must be taken into account before making placement.” “The prospective foster parents usually come to the agency asking for a child who will fit into their family group. In Negro families color is an important factor, and has greater psychological importance than is usually reputed to it.”<sup>464</sup> While the segregated case-load policy was considered “demoralizing”<sup>465</sup> and “undemocratic”<sup>466</sup> by prominent Black judges in the Children’s Courts, race-matching in foster care was largely unquestioned.

By the mid-1930s, institutions remained segregated, while many foster (boarding) care agencies quietly and willingly integrated their programs. Only a handful of Black children were in integrated institutions; by contrast, more than one-third (496) of all Protestant African American children in substitute care were placed in foster families by “mixed-race agencies” (See Figure 4.3).<sup>467</sup> One such agency, the New York City Foster Home Service (NYCFHS) maintained a 50/50 ratio of Black and white infants throughout the late 1930s, years before integration was legally required.<sup>468</sup> The Court was cognizant of the accessibility foster care provided Black youth. In 1940, the clinic for the Children’s Court evaluated 109 white children’s cases and 107 Black children’s cases. In almost one-quarter of white cases, the Clinic recommended protective institutional care; only 12% of Black cases were recommended for

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<sup>461</sup> Billingsley, Andrew and Jeanne Giovanni. 1972. *Children of the Storm: Black Children and American Child Welfare*. New York: Harcourt, Brace, Jovanovich, 77-79.

<sup>462</sup> Katz, Elizabeth D. 2020. “‘Racial and Religious Democracy’: Identity and Equality at Mid-Century.” *Stanford Law Review*. Vol. 72: 1467-1579; Ward, Geoff. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>463</sup> Palmer, Anne. 1932. “Dependent Colored Children of Detroit.” *Opportunity: Journal of Negro Life*. October, 317.

<sup>464</sup> Dalton, Edward. 1942. “Color—and Negro Child Placing.” *Survey Mid-Monthly*. October, 270.

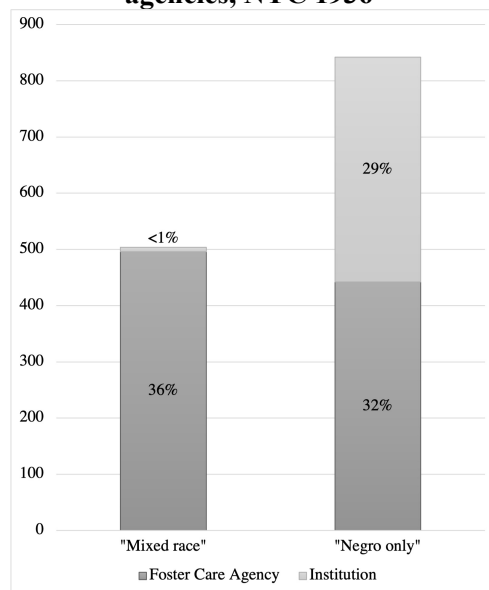
<sup>465</sup> *New York Amsterdam News*. 1946. “Judge Bolin Hits Court’s Jim Crowism.” February 16.

<sup>466</sup> *New York Amsterdam News*. 1946. “City Probes Kid Court Jim Crow.” February 9.

<sup>467</sup> Polier Manuscripts. 1939. “Memorandum by the Welfare Council of New York City: Care of New York City Children Away From Their Own Homes.” March 17, MC 413/Box 19/Folder 218.

<sup>468</sup> Sheltering Arms Children’s Service Records. “Annual Report 1938.” MC 1385/Box 138.

**Figure 4.3: Protestant African American children placed by integrated and non-integrated agencies, NYC 1936**



institutional care. By contrast, they recommended foster care in 21% of white cases and 43% of Black cases.<sup>469</sup> In many ways, the rise of race-matched foster family care represented a push toward equality and egalitarianism in a climate of segregation, especially at a time when judges often felt their only recourse was to return a child home or send them to a State Training School. But while race-matched foster care enabled more direct involvement of the Black community, it also decreased philanthropic investment and commitment to resource allocation often provided through institutions—recreation, educational resources, housing standards, and psychiatric services. It was a strategy of inclusion that called upon the disenfranchised African American community to “take care of their own” needy children without ensuring access to the economic and social resources necessary to do so.

### **Privatized Care in a Blighted Community, 1930s**

In an atmosphere of racial responsibility, many agencies questioned whether Black foster families could be found. For many years, agencies explained that they were unable to provide care for Black children since they felt adequate foster families could not be found. In this section, I show that after the Depression, the state of Black family stability ran counter to the reformer emphasis on foster family care. As the “city” became more and more associated with blight and deprivation, reformers sought to place Black youth in less segregated suburbs outside the city. As a strategy of racial inclusion that accommodated the color-line, the use of foster care for Black youth illuminates an assumption in child welfare that configurations of foster placement can be used to lessen segregation and its consequences.

Boarding homes were licensed by the State Department of Social Welfare, but in most cases, local child placing agencies assumed responsibility for making placements and setting

<sup>469</sup> New York (State). 1940. “For Tomorrow: A Court Defends the Child and Family Today.” *Eighth Annual Report of the Domestic Relations Court City of New York*. New York: ABCO Press, Inc., 116.



standards.<sup>470</sup> In looking for prospective foster families, home-finders upheld families with stay-at-home mothers and working fathers, who lived in bright, spacious, clean homes in neighborhoods with low transiency and crime rates. Ideal parents were “unselfish and disinterested,” because in essence, “the foster parents in the boarding home [were] really agency workers.”<sup>471</sup> This perspective helped rationalize the board payments they received, which were “no more mercenary in nature than [...] that of the salaried social worker.” While foster care rates covered the cost of children’s clothing, room and board, and medical care, foster parents were often expected to have the resources to invest more in the child beyond the bare minimum. As Mrs. Edith Baylor of the Children’s Aid Association mentioned at a conference, the “sum received for board barely covers the actual expense involved.”<sup>472</sup> Guidelines for home finding focused primarily on economic self-sufficiency; specifically, “New York law forb[ade] the placement of foster children in a family receiving public relief.”<sup>473</sup>

But the Depression had decimated Black families and particularly the Black middle class. In Harlem, where African Americans represented over 90% of the population, nearly half of families were on relief (43.2%) by 1933.<sup>474</sup> Black activists urged recognition of the socioeconomic barriers to fostering. The NAACP highlighted the “economic disabilities of the Negro which require[d] both parents to be away from home and thus unable to give proper supervision and training of their children.”<sup>475</sup> African American women already worked at greater rates than white women, but the depression had forced over three-quarters of Black women into the work force (77.6%), especially domestic labor which required them to work outside the home.<sup>476</sup> Scholars have found that African American foster care agencies accepted more families with “complex relational and broken marital histories,” as well as working mothers, reflecting “a greater acceptance of alternative family forms in the African American community.”<sup>477</sup> However, in New York City, most foster care agencies were run by white professionals, and while women’s employment and marital history was flexible, the structural conditions of Black family life during the Depression still generated a crisis among foster agencies.

Perhaps the most persistent social condition cited by child welfare reformers was housing. The absence of fair housing laws enabled landlords to take advantage of the artificially restricted housing market, charging higher rental rates in high density Black areas. Many families paid over fifty percent of their income for rentals or began sharing their home with boarders or extended family members in houses that were considered “unsanitary and

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<sup>470</sup> Breese, Gertrude E. 1936. “Finding Foster Homes.” Ed. Charlotte Isabel Claflin. Buffalo: The Children’s Aid Society.

<sup>471</sup> Baylor, Mrs. Edith M. H. 1928. “Problems of Institutions and Foster homes: When Should the Foster Home be Prescribed for the Problem Child?” *Proceedings of the National Conference of Social Work*, 377.

<sup>472</sup> Baylor, Mrs. Edith M. H. 1928. “Problems of Institutions and Foster homes: When Should the Foster Home be Prescribed for the Problem Child?” *Proceedings of the National Conference of Social Work*, 378.

<sup>473</sup> Breese, Gertrude E. 1936. “Finding Foster Homes.” Ed. Charlotte Isabel Claflin. Buffalo: The Children’s Aid Society.

<sup>474</sup> Greene, Larry A. 1993. “Harlem, the Depression Years: Leadership and Social Conditions.” *Afro-Americans in New York Life and History* 17(2): 3.

<sup>475</sup> Polier Manuscripts. 1941. “Letter to Judge Polier from Walter White.” April 1, MC 413/Box 19/Folder 219.

<sup>476</sup> Greene, Larry A. 1993. “Harlem, the Depression Years: Leadership and Social Conditions.” *Afro-Americans in New York Life and History* 17(2): 3.

<sup>477</sup> Curran, Laura. 2006. “Feminine Women, Hard Workers: Foster Motherhood in Midcentury America, 1946-1963.” *Journal of Family History* 31(4): 392.

dilapidated, and some[times] totally unfit for human habitation.”<sup>478</sup> In addition, the NAACP argued that segregated areas lacked basic resources for children: there was a “lack of recreational and play spaces in Harlem, the Bedford-Stuyvesant area in Brooklyn and other congested areas in which Negroes [were] forced to live.” They requested that “energies” and “funds” be directed toward the development of “more play grounds and recreational centers” for the healthy development of Black youth.<sup>479</sup>

As quickly and quietly as foster care became a pathway of racial inclusion, the system crumbled under increasing demand and the limited resources of African Americans. All boarding home agencies stopped accepting Black children for foster care at various points during 1938.<sup>480</sup> Many integrated agencies, like the NYCFHS, reported closing intake to Black youth because of insufficient funds and the inability “to find colored foster homes in excess of [their] needs.”<sup>481</sup> A 1937 memorandum requesting funding for a placement bureau for Black children argued that statistics on the labor and wages of African Americans “brings out all too clearly the impossibility of any financial reserves within the Negro group itself on which to call for the provision of privately financed social services.”

Given the blighted conditions of Black communities in the city, some agencies saw foster placement as an opportunity to de-concentrate segregation and distribute children in areas with more resources. Reformers reasoned that there needed to be “fuller exploitation of the boarding out field.” The Children’s Aid Society argued that “the smaller communities in metropolitan New York offer[ed] possibilities along this line. Practically every one of them [had] some Negro families. They [were] likely to be more self-sustaining than the families concentrated in Harlem, Jamaica, Long Island.” They reasoned that “[b]y scattering these children in small communities over a wider territory the resistance on the part of the public schools, etc., etc., [would be] lessened” and a greater sense of integration would be accomplished.<sup>482</sup> While most Black families could not choose where to live, agencies had the power to move Black children to other areas of the city—to socially engineer access to resources and safer communities.

However, suburban communities resisted these plans, and actively worked to conserve essential resources for white children. By the late 1930s, a number of agencies in the city placed youth in Black foster homes in New Rochelle. But residents had become concerned by the rapid growth of the African American population there. The placement of Black foster children in New Rochelle disrupted school segregation patterns and, as a result, the Board of Education erected a “sweeping ban” that ruled that all non-resident children were barred from free education in the elementary and secondary schools. A newspaper reported that the “ruling was directed at all neglected children brought here from New York City, but the blow fell hardest on the destitute Negro youngsters,” particularly the “score of destitute and neglected Harlem children.” Black children were removed from the school, “along with a negligible number of Jewish and white children,” and could not be re-admitted until tuition was paid. The deputy welfare commissioner declared that if the ruling stood, the state would remove the children and “place them in

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<sup>478</sup> New York (N.Y.). 1969. *The Complete Report of Mayor LaGuardia's Commission on the Harlem Riot of March 19, 1935*. New York: Arno Press, 122.

<sup>479</sup> Polier Manuscripts. 1941. “Letter to Judge Polier from Walter White.” April 1, MC 413/Box 19/Folder 219.

<sup>480</sup> Polier Manuscripts. 1938. “Memorandum to the Mayor: New York Facilities for Colored Children.” July 19, MC 413/Box 22/Folder 256.

<sup>481</sup> Polier Manuscripts. 1939. “Memorandum by the Welfare Council of New York City: Care of New York City Children Away From Their Own Homes.” March 17, MC 413/Box 19/Folder 218.

<sup>482</sup> Children’s Aid Society Records. 1938. “Letter to the Deputy Commissioner of the Dept. of Welfare.” April 21, MS111/Box 973/Folder 9.

institutions,” and the “destitute and neglected Harlem children [would] be returned to the slums instead of receiving home care and education in suburban communities.”<sup>483</sup>

While strategies of integration were thwarted by the intransigence of white suburban residents, the majority of Black children were placed in homes in socially and economically disenfranchised areas of New York City rather than the suburbs. In a draft report on racial discrimination, Judge Polier of the Children’s Court noted that there was limited use of the “residential Negro districts.” Instead, over 400 Black youth had been placed in a “small area near Jamaica.”<sup>484</sup> This area was “one of the poorer sections of New York City” and was approximately 85% African American. “Most of the homes [were] small, poor, two-family houses,” crime was high, and “there [were] no parks, and ... no appropriate play space for the children.”<sup>485</sup> As Polier’s report noted, the placement of so many youth in one small district “cast grave doubt as to the earnestness or good judgement used in seeking such homes.”<sup>486</sup> Black children were fostered into a few segregated neighborhoods with little resources—indeed lacking the same resources that child welfare officials claimed caused neglect and dependency in the first place.

### **Avoiding Institutional Integration through Foster Care, 1940s**

By the late 1930s, New York City Welfare Commissioner William Hodson described the shortage of foster home and institutional facilities for Black children as “the No. 1 child welfare problem of the city.”<sup>487</sup> While many foster care agencies willingly practiced integration in the 1930s, interracial activists recognized the need for racial inclusion in long-term institutional care and by the early 1940s they pushed for city-wide integration of child care facilities. As racial integration became legally required, institutions began to exclude Black youth on new terms other than race. In this section, I show how institutions resisted integration, and how the network of child welfare agencies upheld foster family care as a means for racial accommodation.

The City-Wide Citizens’ Committee was critical to foster care integration in New York City. Developed in 1941 as a response to the lack of momentum after the Harlem Riot, they were an interracial organization of activists that sought to develop solutions to the crumbling social and economic conditions of Harlem, particularly the perceived rise in delinquency. The group was headed by Agernon Black, a Jewish leader of the New York Ethical Culture Society, and Rev. Adam Clayton Powell Sr., pastor of the Abyssinian Baptist Church. As an interracial and interfaith civil rights organization, they worked to “arouse public sentiment” around discrimination and to lobby public officials for improvements. They had “powerful political connections in both the White and African American communities” and “won civil rights victories in the fight against housing and employment discrimination over a decade before similar battles would be fought in the South.”<sup>488</sup>

In 1942, they helped pass the Race Discrimination Amendment, the first integration legislation in New York City child welfare. The act decreed that only agencies that accepted a “reasonable proportion” of children from all races could receive public funds. Institutions

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<sup>483</sup> Poston, Ted. 1940. “Orphans Barred from New Rochelle Schools.” *The Pittsburgh Courier*. January 27.

<sup>484</sup> Polier Manuscripts. 1938. “Documents and Statements.” Undated, MC 413/Box 22/Folder 256.

<sup>485</sup> Levenson, Samuel M. 1936. “The South Jamaica Community League.” *The Journal of Educational Sociology* 9(6): 360.

<sup>486</sup> Polier Manuscripts. 1938. “Documents and Statements.” Undated, MC 413/Box 22/Folder 256.

<sup>487</sup> *New York Amsterdam News*. 1939. “Opens Bureau to Curb Juvenile Delinquency.” May 20.

<sup>488</sup> Johnson, Lauri. 2017. ““Educating for Democratic Living”: The City-Wide Citizens’ Committee on Harlem (CWCCH), 1941-1947.” *Social and Education History*, 6(3): 264.

protested the act, claiming that “boarding-home agencies were practicing discrimination if Negro children were placed only in Negro boarding (foster) homes.”<sup>489</sup> But the Department of Child Welfare lauded the “valuable service performed” by foster agencies even if such services practiced race-matching.<sup>490</sup> Because of the strong opposition to the care of Black and white children in the same institutions, five institutions refused to comply. A newspaper reported that “[s]pokesmen from the five institutions involved asserted it was not practical nor a wise policy to have Negro and white children in the same home and that it was “too difficult” to try and solve the problem.”<sup>491</sup>

Other institutions yielded to the legal mandate in exchange for continued access to public funds, but increasingly distinguished between “normal” children and “emotionally disturbed” *city* children. This distinction mirrored national social welfare rhetoric. Professional social welfare literature argued that the provision of welfare in the 1930s enabled “normal” impoverished children to be cared for in their own home, leaving only older, problematic children needing care.<sup>492</sup> At the Jennie Clarkson Home, a private institution in New York, social workers likewise claimed that after the passage of the Social Security Law, there was “a very important change in population and in the type of problems of children” in their program. Prior to the law, the Home “catered to poor children,” but after the Amendment, they were forced to accept a significant number of city children who came from broken homes. They felt that “[t]he city children with all their problems of emotional disturbances together with the natural outcome of newly established interracial relationships cause[d] a lot of anxiety to those who had known children only from average normal homes.”<sup>493</sup>

As the predicted future cohort of needy children changed, child welfare reformers at the national level advocated for a *dual system of care*, one that “offer[ed] both institutional and foster home care for children.”<sup>494</sup> Already by the mid-1930s, child welfare organizations reported that “[i]nstitutions for children, in increasing numbers, develop[ed] foster home service as an adjunct to their care.”<sup>495</sup> Social welfare scholars extolled the virtues of a dual program, arguing that institutions held potential as spaces for “observation, treatment, and socialization.”<sup>496</sup> As a “therapeutic living” space, institutions could prepare troubled children for the transition to foster care.<sup>497</sup> But in an inverse of this logic, institutions claimed “city children,” primarily Black

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<sup>489</sup> Markowitz and Rosner Papers. 1946. “The Institutional Care of Negro Children in New York City.” Crystal M. Potter, Second Deputy Commissioner NYC Dept. of Welfare. May, MS 1615/Box 8/Folder 29.

<sup>490</sup> Polier Manuscripts. 1942. “Report on the Enforcement of the Race Discrimination Amendment by Division of Child Welfare, Dept. of Welfare.” Undated, MC 413/Box 22/Folder 258.

<sup>491</sup> *New Amsterdam Star-News*. 1942. “Withdraw City Aid to Jim Crow Orphanage.” November 7.

<sup>492</sup> Tyson, Helen Glenn. 1940. “Care of Dependent Children.” *The Annals of the American Academy of Political and Social Science* Vol. 212: 176.

<sup>493</sup> Vakharia, Parin. 1948. “A Study of The Development of Institutional Care for Children in U.S.A. with Special Reference to the Jennie Clarkson Home for Children Valhalla, N.Y.” *M.S. New York School of Social Work*, 43.

<sup>494</sup> Tyson, Helen Glenn. 1940. “Care of Dependent Children.” *The Annals of the American Academy of Political and Social Science* Vol. 212: 176.

<sup>495</sup> Breese, Gertrude E. 1936. “Finding Foster Homes.” Ed. Charlotte Isabel Claflin. Buffalo: The Children’s Aid Society, 3.

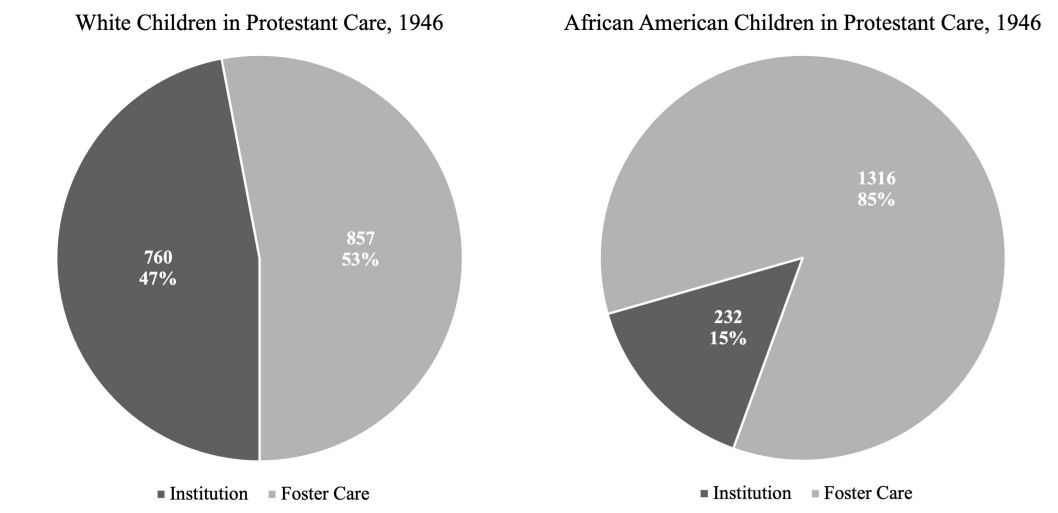
<sup>496</sup> Tyson, Helen Glenn. 1940. “Care of Dependent Children.” *The Annals of the American Academy of Political and Social Science* Vol. 212: 175-76.

<sup>497</sup> Naughton, Francis X. 1957. “Foster Home Placement as an Adjunct to Residential Treatment.” *Social Case Work* 38: 288-295; Selig, Marth Keiser. 1942. “Temporary Use of An Institution for Children in Foster Care.” *American Journal of Orthopsychiatry* 12(3): 473.

youth, possessed emotional and behavioral problems which made them unsuitable for institutions, and dual programs continued to reserve the institution for white youth.

Such was the case for the Five Points House in New York, a private “dual care” program. A 1953 investigation into the “ethnic ratios” of their agency raised the question of whether recent admissions “represented a real change in attitude on the[ir] part.”<sup>498</sup> The agency denied accusations of racial discrimination, claiming that the problem was a lack of facilities for the care of the “emotionally disturbed child.” Case supervisors felt “court children presented too many problems,” and that “the City... often ... failed to recognize the adverse effect of such children being placed with other children who do not fall into that category.” At the time of the report, it was revealed that of the recent admissions, social workers placed nine white children in the institution and only one white child in a foster home. By contrast, no Black children were placed in the institution, while eight were placed in foster homes. This disparity suggests that the agency utilized parts of its program—foster care—in order to circumvent institutional integration. Despite the social welfare scholarship’s framing of institutions as therapeutic adjuncts to foster care, in practice, institutions were more often utilized for “normal” white children.<sup>499</sup>

**Figure 4.4: Out-of-Home placements by race and type for Protestant Children, NYC 1946<sup>500</sup>**



Though the Race Discrimination Act legalized racial access to institutional settings, Black children’s presence in institutions dropped by 43% between 1936 and 1946.<sup>501</sup> The Department of Welfare reported that by 1946 there was “a striking difference in the percentage of white children compared to the Negro children in institutions,” particularly among the

<sup>498</sup> Polier Manuscripts. 1955. “New York City Commission for the Foster Care of Children.” February 16, MC 413/Box 22/Folder 259.

<sup>499</sup> Markowitz and Rosner Papers. 1964. “Background Material for Perspective in Preparation of the 20<sup>th</sup> Anniversary Report: Child Care Section.” MS 1615/Box 11/Folder 13.

<sup>500</sup> Markowitz and Rosner Papers. 1946. “The Institutional Care of Negro Children in New York City.” Crystal M. Potter, Second Deputy Commissioner NYC Dept. of Welfare. May, MS 1615/Box 8/Folder 29.

<sup>501</sup> 1936 source: Polier Manuscripts. 1939. “Memorandum by the Welfare Council of New York City: Care of New York City Children Away From Their Own Homes.” March 17, MC 413/Box 19/Folder 218.

1946 source: Markowitz and Rosner Papers. 1946. “The Institutional Care of Negro Children in New York City.” Crystal M. Potter, Second Deputy Commissioner NYC Dept. of Welfare. May, MS 1615/Box 8/Folder 29.

Protestant faith.<sup>502</sup> The Citizens' Committee for Children (CCC), an inter-racial children's advocacy organization founded by Judge Polier and other community leaders, argued that this racial disparity in placement patterns made "apparent that some institutions continue[d] to give only token compliance with the Anti-Discrimination Amendment."<sup>503</sup>

By the mid-1940s, foster care became the de facto system of care for Black youth. A little more than half (53%) of white Protestant youth received care in foster homes, while 47% received care in institutions (See Figure 4.4).<sup>504</sup> By contrast, 85% of Black Protestant children received care in foster homes, while only 15% were in institutions. A report by the Department of Welfare asked whether this meant that "[the] Negro children [were] receiving more adequate care than [the] white children," given the ideological favoritism of foster care, but they concluded: "No, not entirely. It means, rather, that many Negro children who need group care are not receiving it."<sup>505</sup> But an unaccounted group of Black youth were receiving group care, just not in traditional, long-term institutions.

### **The False Promise of A Cost Effective Foster Care System**

Throughout the 1940s and 1950s, child welfare leaders continued to emphasize foster care as a solution to the "black child welfare crisis," even though it had become clear that without vast structural investment in African American communities, there would not be enough foster families. By the mid-1940s, Black youth, and an increasing number of Puerto Rican migrant children, were among the "unallocated" youth awaiting placement.<sup>506</sup> In this section, I show that though the city and private interests were aware of the lack of available foster homes for Black and Puerto Rican youth, they continued to propose foster home care to meet their needs, a strategy which enabled them to circumvent structural integration of long-term institutions with more therapeutic and educational resources. In the end, the overflow of "hard-to-place" minority youth were cared for in temporary shelter institutions that cost more than either foster care or long-term institutional care because of an unwillingness to invest resources in the structural needs of minority communities.

Early in this crisis, Mayor O'Dwyer announced the formation of a Committee on Child Care (1946) consisting of representatives of the three faiths and the Department of Welfare to plan for the care of "hard-to-place" youth—primarily Black and Puerto Rican. Representatives of the three faiths—Jewish, Catholic, Protestant—were asked to weigh in on the best solution, and they proposed "foster homes for temporary care" rather than increased institutional space. "However, after several months only few such homes had been found." Though the city and private interests had long been aware of the lack of available foster homes in minority communities, reformers' obstinacy on this issue belied concerns over race-mixing in institutions. Without an increase in foster homes, the religious federations were instead asked to "provide

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<sup>502</sup> Markowitz and Rosner Papers. 1946. "The Institutional Care of Negro Children in New York City." Crystal M. Potter, Second Deputy Commissioner NYC Dept. of Welfare. May, MS 1615/Box 8/Folder 29.

<sup>503</sup> Markowitz and Rosner Papers. 1957. "CCC Memorandum: Hillcrest Center Population." Feb. 26, MS 1615/Box 11/Folder 13.

<sup>504</sup> Markowitz and Rosner Papers. 1946. "The Institutional Care of Negro Children in New York City." Crystal M. Potter, Second Deputy Commissioner NYC Dept. of Welfare. May, MS 1615/Box 8/Folder 29.

<sup>505</sup> Markowitz and Rosner Papers. 1946. "The Institutional Care of Negro Children in New York City." Crystal M. Potter, Second Deputy Commissioner NYC Dept. of Welfare. May, MS 1615/Box 8/Folder 29.

<sup>506</sup> Polier Manuscripts. 1946. "Summary Report on Needs and Facilities for Foster Care of Children in New York City." A Study by Katherine Blake and Bernice Quimby for the Mayor's Committee on Child Care. MC 413/Box 35/Folder 434

additional temporary shelter space.”<sup>507</sup> In contrast to long-term institutions, temporary shelter institutions were only meant to house children for a few weeks or months, and as such, they lacked important resources for child development, including education, recreation, and even adequate supervision.<sup>508</sup> Media sources described temporary institutions as “jails [that were] miscalled shelters.”<sup>509</sup>

While many non-white youth awaited long-term care in temporary shelters, private institutions “continued to refine their services, cutting down on the number of children cared for in order to provide a more individualized program in small group living settings [and] offering more specialized services.”<sup>510</sup> During this time, many institutions closed, resulting in a “marked loss of facilities” according to the Department of Welfare.<sup>511</sup> While some shuttered, others reorganized their programs to serve children who had trouble adjusting to foster home care for behavioral or emotional reasons.<sup>512</sup> Between 1940 and 1949, 18.4 percent fewer children lived in institutions in New York.<sup>513</sup> Capacity in some institutions was “cut in half in order to provide better care for the children served.”<sup>514</sup> The shift to therapeutic services helped distinguish them from foster care and the increasingly racialized nature of substitute care. By the 1940s, race had become “synonymous with poor blacks,” and institutions struggled to distance themselves from the association with “racialized poverty.”<sup>515</sup> In the 1950s, the Welfare and Health Council reported that the clientele of institutions had “changed markedly.”<sup>516</sup> Once “composed exclusively of the indigent,” many institutions began to cater to middle class families. Instead of receiving children referred by the Court or Department of Welfare, many voluntary agencies began to charge for services, and over the years more middle and upper income families began “placing children in some of the specialized children’s institutions, such as residential treatment centers.”<sup>517</sup>

Long-term Black institutions for the dependent and neglected also began to close in favor of foster care, even as the crisis in boarding homes grew worse. Long before foster care became

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<sup>507</sup> Markowitz and Rosner Papers. 1948. “Facts Concerning Temporary Care of Dependent, Neglected, and Delinquent Children.” May, MS 1615/Box 8/Folder 29.

<sup>508</sup> Polier Manuscripts. 1943. “Brooklyn’s Child Shelter Overcrowded: Below Health Standard, but SPCC Carries on Valiantly.” *New York Post*. February 12, MC 413/Box 5/Folder 53.

<sup>509</sup> Polier Manuscripts. 1945. “Hope for Shelter ‘Prisoners’... Two Investigations Under Way: Three Domestic Court Justices and Investigation Dept. Look Into Treatment of Kids Under SPCC Care.” *PM Daily*. October 1, MC 413/Box 5/Folder 53.

<sup>510</sup> Markowitz and Rosner Papers. 1964. “Background Material for Perspective in Preparation of the 20<sup>th</sup> Anniversary Report: Child Care Section.” MS 1615/Box 11/Folder 13.

<sup>511</sup> Polier Manuscripts. 1946-49. “Summary Report on Needs and Facilities for Foster Care of Children in New York City.” Undated, MC 413/Box 35/Folder 434.

<sup>512</sup> Naughton, Francis X. 1957. “Foster Home Placement as an Adjunct to Residential Treatment.” *Social Case Work* 38: 288-295.

<sup>513</sup> New York (State). 1951. *Child Welfare in New York State*. New York Citizens’ Committee of One Hundred For Children and Youth Child Care Section. October. Albany, New York, 41.

<sup>514</sup> Markowitz and Rosner Papers. 1957. “CCC: Minutes of the Foster Care Section.” November 6, MS 1615/Box 11/Folder 16.

<sup>515</sup> Guinier, Lani. 2004. “From Racial Liberalism to Racial Literacy: *Brown v. Board of Education* and the Interest-Divergence Dilemma.” *The Journal of American History* 91(1): 112.

<sup>516</sup> Welfare and Health Council of the City of New York. 1957. *Fee Charging or Payment Policies for Adoption, Child Placement, and Maternity Shelter Care in New York City: A Survey of Current Policies and Practices*. Bureau of Special Studies Research Department, Community Council of Greater New York, Inc., ii.

<sup>517</sup> Welfare and Health Council of the City of New York. 1957. *Fee Charging or Payment Policies for Adoption, Child Placement, and Maternity Shelter Care in New York City: A Survey of Current Policies and Practices*. Bureau of Special Studies Research Department, Community Council of Greater New York, Inc., i.

the norm, it was clear that boarding children in private homes was cheaper than caring for them in institutions, and this remained an overtone in decisions around best methods of care. Institutions were comparatively more expensive because of the overhead costs for mortgage and annual building repairs, and an increasing emphasis on standards for nutrition, recreation, and medical and mental health care, among other costly requisites. Riverdale, though run by white professionals, was one of the few remaining long-term institutions for Black youth in New York City; however, they struggled to justify their program. Formerly the Colored Orphan Asylum, they operated an institution alongside foster home placement starting in 1917. From their perspective, foster home care was unquestionably the best method of care, but the institutional setting had value as well. For years they struggled to keep the institutional program in place.<sup>518</sup> They reasoned that “As long as some groups of Negro children, because of the lack of the simplest resources, with no care at all, are obliged to remain months on end in temporary shelters” they felt obligated to keep their institutional services open.<sup>519</sup> The program took a hard hit during the Depression when, because of acute need, they opened their doors to an unmanageable number of children. By the 1940s, they had recovered somewhat, but felt tremendous financial and social pressure to shut down their institutional setting.

Their inability to rise to professional standards came to a head in 1945 when an African American employee accused the white director of neglect—the “physical condition of the institution [was] deplorable” and there were not enough staff for supervision, leaving the children “undisciplined to the point of delinquency.”<sup>520</sup> The unrest this elicited among the African American community led to an investigation in 1945 by the State Board of Social Welfare. The temporary Commissioner of Public Welfare and the State Board of Social Welfare both felt that Riverdale “ought to revamp their whole set-up and conduct a foster home care program.” The institution was “just hopeless to continue the present job.”<sup>521</sup> They transitioned to foster home care and group home care, an emerging form of foster care for groups of less than six adolescents, reasoning that these arrangements were more flexible and would allow them to expand or contract their caseloads as needed.<sup>522</sup> However, financial deficits were one of, if not the main reason for this shift in care. The Foster Home Department cost roughly \$1.73 per diem per capita to maintain, while the institution cost \$2.27.<sup>523</sup> “For a heterogeneous group of boys and girls of varying ages and mental ability, the Riverdale Institution [was] difficult to operate and expensive to administer.”<sup>524</sup> Likewise, “being “the” agency for colored children in New

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<sup>518</sup> Riverdale Children’s Association Records. 1941. “Letter to Mr. Creel.” March 26, FM2/Record Group 1112P/Box 33/Folder 354.

<sup>519</sup> Riverdale Children’s Association Records. 1941. “Letter to Mr. Creel.” March 26, FM2/Record Group 1112P/Box 33/Folder 354.

<sup>520</sup> Riverdale Children’s Association Records. 1945. “Correspondence: Summary of Current Controversy.” October 26, FM2/Record Group 1112P/Box 33/Folder 355.

<sup>521</sup> Riverdale Children’s Association Records. 1945. “Memorandum from Arthur W. Packard.” December 12, FM2/Record Group 1112P/Box 33/Folder 355.

<sup>522</sup> Riverdale Children’s Association Records. 1947. “Memorandum from Arthur Jones.” October 30, FM2/Record Group 1112P/Box 33/Folder 356.

For info on group homes see: Dula, John E. 1952. “Future Directions in Foster Care For Children.” *Proceedings of the National Conference of Social Work*, 134.

<sup>523</sup> Riverdale Children’s Association Records. 1944. “Annual Report of the Executive.” Dec. 11, FM2/Record Group 1112P/Box 33/Folder 355.

<sup>524</sup> Riverdale Children’s Association Records. 1940. “Statement of Background Aims and Purposes.” Summer, FM2/Record Group 1112P/Box 33/Folder 354.



York City” made their efforts costly.<sup>525</sup> In the end they were not able to pay for the vast and costly renovations required by the state, and in 1946 they shut down their institutional setting. In contrast to the “bleak provision” offered by the institution, they reasoned that foster care would provide “community contact for older children,” which they considered “almost as vital to life development as the mother-person relationship for younger children, i.e., a location near schools, museums, playgrounds, etc., permitting participation in activities merging into the life fabric outside the agency.”<sup>526</sup> However, such integration into the social fabric first required recruitment of Black foster families, and second, required communities with access to such resources.

As institutions declined overall, and especially access for Black youth, foster home care still held promise as a way to decrease segregation. Recommendations for foster care placement continued to center around “consideration ... [of] community integration in non-segregated areas in the City.”<sup>527</sup> But as institutional programs transformed their services or became foster home programs, the promise of foster family care as an ideal of both child welfare integration and community desegregation failed to materialize. Boarding agencies struggled to find Black foster families in the face of increased housing inequality. After WWII, “boarding homes [were] lost faster than they could be found.”<sup>528</sup> By the late 1940s, the Assistant Chief Probation Officer sent a letter to all Case Supervisors in the Children’s Court saying that “[t]here [was] a dearth of negro homes ... [so] it [would] be futile to refer negro children to the Foster Home Program.”<sup>529</sup> Even in the suburbs, social welfare agencies reported difficulty finding families: the Department of Welfare in Westchester reported that “For every one white child placed ... for adoption or foster care... there are 10 white families ready to take the child. But for every Negro family willing and able to adopt, there are 10 Negro children.”<sup>530</sup> The County’s Home Finding Unit cited low earning power and inadequate housing among Black families as a primary reason for this disparity.

A report by the Citizens Committee for Children (CCC) suggested that the Black foster care crisis could indicate “that the foster care program ha[d] reached the saturation point.”<sup>531</sup> The CCC argued that “the inadequate housing provided for minority groups” was the biggest problem in securing foster homes.<sup>532</sup> “At every point in attempting to solve the foster care problem, we find discrimination against the Negro and Puerto Rican groups central... Until discrimination—particularly in the housing field—is ended, it is very questionable how far child welfare can go in meeting the very critical situation we are in today.”<sup>533</sup> In response, the City developed the Home Finding Campaign for Black and Puerto Rican children in the late 1950s which narrowed home-

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<sup>525</sup> Riverdale Children’s Association Records. 1941. “Letter to Winthrop.” January 13, FM2/Record Group 1112P/Box 33/Folder 354.

<sup>526</sup> Riverdale Children’s Association Records. 1947. “Memorandum from Arthur Jones.” October 30, FM2/Record Group 1112P/Box 33/Folder 356.

<sup>527</sup> Markowitz and Rosner Papers. 1958. “Resources Required to Meet Current Foster Care Needs.” March 20, MS 1615/Box 11/Folder 13.

<sup>528</sup> Polier Manuscripts. 1948. “Letter to Mayor O’Dwyer from Raymond Hilliard, Commissioner of Welfare.” August 6, MC 413/Box 35/Folder 434.

<sup>529</sup> Polier Manuscripts. 1949. “Letter from Assistant Chief Probation Officer to all Case Supervisors in the Children’s Court.” June 10, MC 413/Box 35/Folder 434.

<sup>530</sup> Tynes, Harcourt Jr. 1962. “Foster Homes Sought for Negro Babies.” *New Amsterdam News*. January 27.

<sup>531</sup> Markowitz and Rosner Papers. 1955. “CCC: New York City’s Foster Care Program and the 1954 Forecast on Population Trends.” MS 1615/Box 11/Folder 12.

<sup>532</sup> Markowitz and Rosner Papers. 1956. “CCC: Infants Needing Foster Care.” April 20, MS 1615/Box 11/Folder 12.

<sup>533</sup> Markowitz and Rosner Papers. 1957. “CCC Minutes: Foster Care Section Memorandum.” June, MS 1615/Box 11/Folder 13.

finding to New York City's housing projects.<sup>534</sup> But of the 259 homes interested in fostering, only 8.5% were selected for the intake process. The problem was that the majority (67.7%) did not meet the "basic requirements" of the agencies, mainly because of "inadequate sleeping space, unfavorable family situations, and families receiving public assistance." With little access to institutions or foster family care, more and more Black and Puerto Rican youth made their way into other forms of congregate care—temporary shelters.

By the mid-1950s, the CCC reported that "while the number of placements of Protestant Negro children ha[d] increased in the last five years, this increase [was] largely in foster home care rather than in institutional care." As institutions that historically cared for Black youth declined, Black children were incorporated into traditionally white institutions as token representation. The CCC argued that the racial disparity in placement patterns made "apparent that some institutions continue[d] to give only token compliance with the Anti-Discrimination Amendment ... Over  $\frac{3}{4}$  of the Negro Protestant children in placement [were] in foster homes, whereas approximately half of the white children [were] in institutional placement."<sup>535</sup> But indeed, an unaccounted group of Black youth were receiving group care, just not in traditional, long-term institutions.

An increasing number of Black infants and children were among the "unallocated" youth awaiting placement, but with no designated place to go. The city increasingly turned to temporary institutional shelters for their care, resurrecting archaic forms of institutional care. In the 1940s, well-baby wards in hospitals were eliminated at the behest of the child welfare and medical community because of the high mortality risk associated with congregate care of infants. In fact, the City's Division of Foster Home Care was established in 1949 for precisely that purpose: to "provide homes for the large number of babies awaiting placement, most of whom were sheltered on hospital well-baby wards." But by the 1950s, the City planned to re-open them because of the difficulty of finding foster homes. In 1956, 333 babies awaited foster home placement, 58% Negro, 27% white, and 15% Puerto Rican.<sup>536</sup> The CCC argued that "segregated patterns in housing made available to Negroes in this city have added to the difficulties in finding a sufficient number of foster homes for this group."<sup>537</sup> The Department of Welfare argued that "since all possible ways [had] already been tried and failed, that as an interim solution well-baby wards for 100 babies should be opened." The CCC, expressed horror at the expansion of congregate care for infants, especially after their hard work to eliminate them a decade earlier.<sup>538</sup> Eventually, the CCC was able to convince the mayor of the need to increase foster care rates by 60 cents a day for the care of infants.

As foster home care became prioritized for younger children, older children faced long waits in temporary shelter institutions (discussed further in Chapter 5). The number of "unallocated" youth, with no place to go, increased from 560 in 1945 to 1,172 in 1956,<sup>539</sup> and the department of welfare contended that all possible approaches had been exhausted. The "problem

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<sup>534</sup> Polier Manuscripts. 1960. "Report of Joint Home Finding Campaign in Public Housing Projects, May 1959-April 1960." MC 413/Box 22/Folder 259.

<sup>535</sup> Markowitz and Rosner Papers. 1956. "CCC: Memorandum: Hillcrest Center Population." February 26, MS 1615/Box 11/Folder 13.

<sup>536</sup> Markowitz and Rosner Papers. 1956. "Expert from Draft of Executive Committee Minutes." October 3, MS 1615/Box 11/Folder 12.

<sup>537</sup> Markowitz and Rosner Papers. 1956. "Expert from Draft of Executive Committee Minutes." October 3, MS 1615/Box 11/Folder 12.

<sup>538</sup> Markowitz and Rosner Papers. 1956-1957 "CCC: Untitled Report." MS 1615/Box 11/Folder 13.

<sup>539</sup> Markowitz and Rosner Papers. 1956. "CCC: Proposal for a Survey of Placement Programs for Babies." November 8, MS 1615/Box 11/Folder 12.

[was] most crucial for minority children, who [were] always the ones who wait the longest.”<sup>540</sup> In the 1950s, the City expanded their development of temporary shelters for the many older Black and Puerto Rican youth who had little chance of being fostered. Though institutions continued to close for monetary purposes, shelter care was even more expensive. The Welfare and Health Council reported in a 1956 survey that temporary shelters were the most expensive form of care besides residential treatment facilities.<sup>541</sup> City rates for boarding home care ranged from \$3.42 to \$3.60 per day. Congregate institutional care was expensive for young children, at roughly \$4.33 for youth under 2 years of age, but cheaper for older children ranging from \$2.86 to \$2.96. Care was most expensive for shelter institutions (roughly \$5 per day) and residential treatment centers (between \$10-11 per day). Preference for foster care for Black youth had more to do with exclusion from institutional settings, than the comparative cost-effectiveness of foster care.

As foster homes failed to materialize, the method of caring for Black and Puerto Rican youth grew further and further from the ideals of family centered solutions, and shifted, instead, closer to the antiquated institutions of prior eras. As the racial demographics of substitute care changed, institutions declined in favor of therapeutic arrangements for white youth. Though foster care opened the door to racial inclusion, city officials recognized that housing segregation, low wages, and unequal access to breadwinner policies created substantial racial barriers both to family preservation and access to foster family care. But they were equally unwilling to help Black, and later Puerto Rican, families achieve a level of stability that would accommodate family preservation or the possibility of foster family care. Ultimately, the city invested in expensive temporary public shelters for the care of unallocated children, thus ensuring a lack of stable, long-term care, and most importantly, family-based care for the increasingly racialized foster care population.

## Conclusion

In the early 20<sup>th</sup> century, American child welfare underwent an important and enduring transformation—the shift from institutions to foster family care. But the racial nature of this shift has largely been overlooked. Though the African American community has a long history of care for dependent children through extended family and community resources, the disproportionate use of race-matched foster families for Black children did not come from an impetus to continue this tradition. Rather, the shift to foster care—whether driven by changing ideas about child development, benevolence, or economic incentives—enabled child placement agencies to accommodate racial diversity without crossing racial boundaries. Agencies simply had to oversee a network of race-matched families. The method did little to change the structural conditions which caused many children to need placement away from the home in the first place. As more and more Black youth entered the system, foster care failed to attend to the disparate resources of families in segregated areas of the city, leading to a lack of available foster homes. Instead, many minority youth were warehoused in temporary congregate shelters, despite their resemblance to the Dickensian conditions of the institutional era.

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<sup>540</sup> Markowitz and Rosner Papers. 1956. “CCC: Proposal for a Survey of Placement Programs for Babies.” November 8, MS 1615/Box 11/Folder 12.

<sup>541</sup> Welfare and Health Council of the City of New York. January 1957. *Fee Charging or Payment Policies for Adoption, Child Placement, and Maternity Shelter Care in New York City: A Survey of Current Policies and Practices*. Bureau of Special Studies Research Department, Community Council of Greater New York, Inc., 49.

The disproportionate use of foster home care for Black youth was not a progressive moment of racial access, but rather a compromise between racially exclusive private institutions and interracial city reformers. By overlooking race, child welfare historians have misrepresented the shift to family-centered solutions at the turn of the century. It was not simply a shift from institutional care to foster care, but a larger and more complex reorganization of the terms of inclusion in child protection and family preservation. Matthew Crenson (1998) argues that the move to home-based care was accompanied by an effort to bring the asylum “outside.”<sup>542</sup> If institutions had previously served the function of separating children from bad social environments by creating spaces of discipline, high moral standards, and child development resources, then a shift to home-based care necessitated improvements to the community social environment. Viviana Zelizer (1985) finds that there was “a dramatic reorganization of child space and child time,” and resources which enabled healthy child development in the early 20<sup>th</sup> century.<sup>543</sup> But Black youth and families were excluded from many of these critical investments. While foster care agencies provided medical, dental, and some psychological resources, in most cases, education, recreation, and housing remained private resources. If Black foster families lived in areas without playgrounds, recreation, or resource-rich schools, then their foster children could not access them. At a time when white children enjoyed the benefits of federal initiatives of “family preservation” and a shift toward psychiatric and therapeutic resources in the new institutional era, the rise of race-matched foster family care called for a retraction of public responsibility and a shift toward a reliance on private individuals for the care of neglected and impoverished children.

The disproportionate use of foster care for Black youth also highlights an assumption in child welfare that the placement of minority youth in foster families can be used to lessen segregation and its consequences. Child welfare workers imagined that by “scattering” Black youth across the city, outside of segregated areas, they could ensure access to important neighborhood resources—recreation, good schools, livable housing—without reallocating resources in ways that improved the conditions of African American communities. But in practice, not only did white communities resist this plan, most Black children never made it to these communities. “Socially engineering” integration to achieve racial justice has often “enshrined proximity to White people as the goal and prize of integration” and, in doing so, stigmatized Black spaces.<sup>544</sup> Already by the 1960s, many child welfare reformers began to suggest white foster families for Black youth under the presumption that more white families had access to the economic and social resources that Black youth desperately needed. One newspaper mentioned Harold L. Wood, “the sole Negro member of the County Board of Supervisors,” who suggested removing the relations bars to adoption and foster placements, and also “suggested that more white people be urged to adopt or provide foster care for Negro children.” “We must think about this possibility,” said Mr. Wood, “everyone does not open their homes to foster children out of the milk of human kindness.”<sup>545</sup> The lack of attendance to the structural aspects of the color-line—employment, recreation, child care, and housing discrimination—set the stage for what was framed as a failure of Black families to take responsibility, giving rise to interracial

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<sup>542</sup> Crenson, Matthew A. 1998. *Building the Invisible Orphanage: A Prehistory of the American Welfare System*. Harvard University Press, 20.

<sup>543</sup> Zelizer, Viviana A. 1985. *Pricing the Priceless Child: The Changing Social Value of Children*. New York: Basic Books, Inc., 50.

<sup>544</sup> Stanley, Sharon. 2015. “The Enduring Challenge of Racial Integration in the United States.” *Du Bois Review* 12(1): 11.

<sup>545</sup> Tynes, Harcourt Jr. “Foster Homes Sought for Negro Babies.” *New Amsterdam News*. Jan. 27, 1962.

approaches to foster care, and setting the stage for a century of debates over interracial fostering and adoptive care.

The chapter does not suggest a return to institutions, but acknowledges that this history is important to contemporary child welfare discussions. Ethnic and religious groups have long struggled for control over child welfare—as a strategy of assimilation or, conversely, as cultural preservation. The NYC case illuminates the roots of race-matched foster family care—not as a cultural preservation strategy—but as a racial accommodation strategy that actually set the stage for arguments about need for interracial fostering. The character of policy formulated and implemented by city reformers made the accommodation of all races in child welfare possible “without significant resource redistribution.”<sup>546</sup> Yet structural disadvantage and racial discrimination in housing, labor, and neighborhood resources clashed with this privatized form of care and exacerbated inequality in child protection. Foster family care failed to materialize as a solution for Black child care precisely because it was not rooted in family preservation as a policy of systemic economic and social relief.

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<sup>546</sup>Guinier, Lani. 2004. “From Racial Liberalism to Racial Literacy: *Brown v. Board of Education* and the Interest-Divergence Dilemma.” *The Journal of American History* 91(1): 99.

## Chapter 5: Developing Public Foster Care in the Shadow of Private Child Welfare, 1940s-1960s

In 1951, as foster homes failed to materialize for Black youth, a meeting was called after a Domestic Relations Court justice “called attention to the fact that eight different Protestant agencies had rejected placement of a family of four Negro Protestant children fifteen times since 1949.” The Federation of Protestant agencies, in response, called for the Department of Welfare to develop “a real child care program of its own.” “Even if the kind of city program they envisioned should become “a totally Protestant and Negro program,” they said, “it would be better for the community than holding out for an inter-racial program and not getting anything.”<sup>547</sup> After decades of resistance to government interference in the private child welfare domain, sectarian agencies recognized that a public foster care program would spare them the task of integrating.

As mentioned in Chapter 4, the City tied public funding of private institutions to the intake of a “reasonable proportion” of all races in 1942. But Black and Puerto Rican youth were increasingly rejected on the basis of coded intellectual and psychological criteria. To ensure inclusion and ward against a future of maladjusted adults, the City pushed for the creation of a public foster care system. But instead of insisting on the more difficult and costly task of dismantling the delegated authority of private child welfare, they opted to construct a “derivative” public foster care system—one built as a supplement to the voluntary sector. This compromise over responsibility racialized the developing public foster care system of New York City. This chapter traces the development of New York City’s first public foster care programs, and shows that the iterative and conflict-laden relationship between private child welfare and the emerging public system had significant consequences for racial frameworks of public responsibility.

Much of this chapter focuses on the work of the Citizens’ Committee for Children, which was organized in 1945. A non-profit organization, they saw themselves as regulators of government initiatives, and were a big part of the push for public foster care services. They worked to “produce research, publish reports and bulletins, establish guidelines, and make policy and program recommendations,” particularly around issues of substitute care.<sup>548</sup> Members included director Miss Charlotte Carr, the former Hull House Director and director of the Emergency Relief Bureau in New York during the depression, Adele Levy, a philanthropist and prominent member of the Jewish community, as well as Judge Polier. The integrated committee also included Dr. Kenneth and Mamie Clark, infamous African American psychologists known for their doll experiments which were used as evidence in *Brown v. Board of Education* (1954). Also among the founders were Eleanor Roosevelt and Trude Lash who served as Program Director, and later as Executive Director. Their efforts lend insight into the difficulties of establishing a public program in the context of a powerful private welfare system.

This chapter extends previous discussions of public and private responsibility by examining how the delivery of social programs through private, nongovernmental organizations shaped the possibilities for racial inclusion and the contours of public responsibility in New York City child protection. Despite recognition of the ways delegated governance weakens political accountability and program efficacy, Chloe Thurston has noted that scholarship has tended to

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<sup>547</sup> *New York Times*. 1951. “City Asked to Plan ‘Real’ Child Care.” April 8.

<sup>548</sup> McDonald, Mary Jean. “The Citizens’ Committee for Children of New York and Evolution of Child Advocacy (1945-1972).” *A History of Child Welfare* Ed. Eve P. Smith and Lisa Merkel-Holguin, 278.

overlook “the political salience surrounding issues of inclusion and exclusion” in the public-private welfare state.<sup>549</sup> By examining the conflict over foster care access, this chapter illustrates how state and nongovernmental organizations develop in response to one another over time, and how racial divisions mediate this “co-evolving” relationship.<sup>550</sup> In doing so, this chapter shows how the delegation of social welfare to private agencies can actually weaken racial integration efforts, generate distinct modes of social welfare inclusion, and racialize perceptions of social problems.

### **Building the First Public Foster Care Programs in New York City**

By the late 1940s, it was clear that the Race Discrimination Amendment of 1942 had failed and as a result, the City began to wrest control away from the private child welfare system. Crystal Potter, the Second Deputy Commissioner of the Department of Welfare wrote in a 1946 publication that the city faced “three possible choices” in dealing with the Black child in need of foster care: “[v]oluntary acceptance of [the city’s] responsibility to give fair chance to every child; or legislation to prohibit discriminatory practices in child-caring institutions; or acceptance of the tragic and expensive results in damaged children and wasted human potentialities.”<sup>551</sup> In the ensuing years, the City opted to accept responsibility for Black and Puerto Rican youth by developing a public foster care system as a supplement to private child welfare. To start, the city took control of temporary shelters which had long been mismanaged.

In the early 1940s, the exclusion of non-white children from private child caring agencies led to severe and racialized overcrowding in temporary shelters, which historically had cared for youth awaiting placement in long-term facilities. There were a total of fifteen private shelters in New York City, including two Protestant, four Catholic, two Jewish, and seven non-sectarian shelters. Together they had the capacity to care for 1,000 children, and over the course of the year in 1946, they provided care to about 12,000 children.<sup>552</sup> However, the Children’s Court primarily relied on five autonomous borough agencies under the Society for the Prevention of Cruelty to Children (S.P.C.C.).<sup>553</sup> S.P.C.C.s grew out of campaigns against animal cruelty in the 1870s, and were imbued with the legal power of child protection and parental punishment in New York City.<sup>554</sup> By the early 1900s, they provided critical infrastructure for the temporary care of children whose cases were being reviewed by the Court. In the 1940s, the average length of stay in a temporary shelter was around six to eight months before permanent placement.<sup>555</sup>

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<sup>549</sup> Thurston, Chloe N. 2015. “Policy Feedback in the Public-Private Welfare State: Advocacy Groups and Access to Government Homeownership Programs, 1934–1954.” *Studies in American Political Development* 29(2): 251. See also: Garrow, Eve E. 2012. “Does Race Matter in Government Funding of Nonprofit Human Service Organizations? The Interaction of Neighborhood Poverty and Race.” *Journal of Public Administration and Theory* 24(2): 381-405.

<sup>550</sup> Weir, Margaret, and Jessica Schirmer. 2018. “America’s Two Worlds of Welfare: Subnational Institutions and Social Assistance in Metropolitan America.” *Perspectives on Politics* 16(2): 382.

<sup>551</sup> Markowitz and Rosner Papers. 1946. “The Institutional Care of Negro Children in New York City.” Crystal M. Potter, Second Deputy Commissioner NYC Dept. of Welfare. May, MS 1615/Box 8/Folder 29.

<sup>552</sup> Polier Manuscripts. 1948. “Temporary Care for Children in NYC.” April, MC 413/Box 6/Folder 64.

<sup>553</sup> Polier Manuscripts. 1945. “Report on the Critical Situation Facing the Children’s Court of the City of New York in Regard to the Placement of Neglected and Delinquent Children for Temporary and Long-Term Care.” December, MC 413/Box 4/Folder 43.

<sup>554</sup> Gordon, Linda. 1988. *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston 1880-1960*. New York: Penguin Books.

<sup>555</sup> Markowitz and Rosner Papers. 1948. “CCC: Facts Concerning Temporary Care of Dependent, Neglected, and Delinquent Children.” May, MS 1615/Box 8/Folder 29.

While many children remained in temporary care only briefly before being returned home or transferred to a long-term facility, an increasing number were considered “unplaceable,” contributing to overcrowding. Some children “remained as long as three years in shelters which [were] for the most part equipped to handle children for about three-week periods.”<sup>556</sup> Though the shelters received financial support from the City for operations and were subject to supervision and inspection by the State Board of Social Welfare and the Department of Health,<sup>557</sup> the City did not have control of the administration and operation of any shelters.

The overcrowding at these shelters was exacerbated by the increase in delinquency during World War II and an increased effort to separate delinquents from the dependent and neglected. After dropping to a seventeen-year low point in 1941, juvenile delinquency began to creep up again during the war.<sup>558</sup> Judge Bruce Cobb noted that war factors contributed to the increase, including “mothers taking up factory and other employment, thus leaving a larger number of children to look after themselves.”<sup>559</sup> Delinquency was greater among white children, but a disproportionate number of cases came from Harlem.<sup>560</sup> As Judge Polier noted, it was “only partially true” that there had been an increase in juvenile delinquency in Harlem, yet it was absolutely “true that the increase for colored children [was] less than the increase for whites.” Nonetheless, by 1941, Black children made up 35 percent of delinquency cases in the court system and there were few places to commit them.<sup>561</sup> During the war years, about half of all committed delinquents were assigned to the New York State Training School at Warwick, and of this half, only 7.5 percent were actually sent to the facility.<sup>562</sup> Instead, many were sent home on probation, while others were sent to temporary shelters, alongside neglected children, where they awaited vacancies. While shelter care was meant to be a “physically unrestricted” facility pending transfer, many became more akin to “all-purpose institutions” for delinquents and truants, as well as the abused and neglected.<sup>563</sup> Media sources described S.P.C.C. shelters as “jails” that lacked structure and recreation.<sup>564</sup> The overcrowding was so severe that children slept in the hallways and communicable disease was rampant. But just as alarming as the sanitary conditions was the fear of the spread of delinquency.

The slow slide into delinquency became a pervasive concern for the Black children who disproportionately made up the shelters’ long-term residents. In 1942, a “series of shocking occurrences” came to light in the shelter system—children assaulting attendants and other children, “daring” escapes, suicide, and rape. Some shelters adopted round-the-clock police

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<sup>556</sup> Markowitz and Rosner Papers. 1948. “CCC: Facts Concerning Temporary Care of Dependent, Neglected, and Delinquent Children.” May, MS 1615/Box 8/Folder 29.

<sup>557</sup> Markowitz and Rosner Papers. 1946. “CCC MSS: Minutes of Institutional Section Meeting.” October 10, MS 1615/Box 11/Folder 15.

<sup>558</sup> *New York Times*. 1943. “Delinquency Here Again on Increase.” August 13.

<sup>559</sup> *New York Times*. 1943. “Delinquency Rise in City Put at 10.8%.” January 9.

<sup>560</sup> *New York Times*. 1943. “Delinquency Here Again on Increase.” August 13.

<sup>561</sup> Polier Manuscripts. 1941–2. “Table IV A: Different Delinquent Children Handled by Children’s Court in New York City During 1941 and 1942 by Health District and Color.” Undated, MC 413/Box 3/Folder 34.

<sup>562</sup> Polier Manuscripts. 1945. “Letter from Judge Polier to Acting Presiding Justice Bruce Cobb.” August 14, MC 413/Box 3/Folder 29.

<sup>563</sup> Sherwood, Norman. 1953. “Shelter Care in Emergency Situations.” *Yearbook*, 171.

<sup>564</sup> Polier Manuscripts. 1945. “Hope for Shelter ‘Prisoners’ . . . Two Investigations Under Way: Three Domestic Court Justices and Investigation Dept. Look Into Treatment of Kids Under SPCC Care.” *PM Daily*. October 1, MC 413/Box 5/Folder 53.



guards, and others futilely attempted to spatially segregate the “good” from the “bad.”<sup>565</sup> As a result of these occurrences, long-standing legislation prohibiting the incarceration of youth in city jails and prisons was overturned. Between 1942 and 1945, the Court was authorized to use the City Prison to detain young, delinquent boys when “facts warranted doing so.”<sup>566</sup> As a result, the city opened a delinquency facility called Youth House on April 3, 1944 to provide temporary detention for delinquent boys from Manhattan and Brooklyn, becoming one of the first public effort to increase institutional space for the increasing number of Black and Puerto Rican youth.<sup>567</sup> After, delinquent boys who would have previously been sent to the Manhattan S.P.C.C. were now sent to Youth House.<sup>568</sup>

Despite the segregation of children considered most dangerous, “contamination” remained a concern in the same shelters that for years had been the last safety net available to homeless Black children.<sup>569</sup> An investigation of the Manhattan S.P.C.C. reported that “delinquent boys, mingling with dependent and neglected children, were observed teaching ‘the art of mugging.’”<sup>570</sup> Child welfare officials, and the general public, worried that such shelters provoked delinquency: “among the juvenile inmates of S.P.C.C. shelters are many Negro children, maintained in deteriorating idleness for weeks and even months because there are too few homes or institutions where they can gain admission. . . . The impressions they get at these shelters may turn the balance of their future careers.”<sup>571</sup>

The shelters challenged accusations of misconduct by underscoring a problematic and subtly racial distinction between adolescence and adulthood. The Brooklyn S.P.C.C. retorted that they wouldn’t have such problems if they could just send “the big, delinquent boys and girls” elsewhere.<sup>572</sup> A worker at the Manhattan S.P.C.C. described how one supervisor had to “handle 50 boys, who [were] mixed together helter-skelter regardless of their age or their offenses.” He continued saying that “boys of first offense, maybe truancy or running away, [were] sometimes grouped with delinquents “not always quite normal.”” The Manhattan headquarters was being used as a “dumping ground,” he charged. “This place must either be a shelter, or a house of detention. Right now it’s a house of detention.” The concern was that many of “these so-called boys” were in fact, “full-grown men who [had] committed grave crimes.” The worker pointed out that “these “grownups” should not be allowed to mix with truant and runaway children.” Reports from other institutions, such as Warwick, used similar language to describe “large Negro boys” who generated fear among the staff,<sup>573</sup> and a Manhattan shelter reported a riot started by a

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<sup>565</sup> Polier Manuscripts. 1945. “Memorandum on Shelter Detention Pending Final Court Disposition or Transfer to Institution of Commitment from the Children’s Court.” June 4, MC 413/Box 25/Folder 305.

<sup>566</sup> Polier Manuscripts. 1944. “Letter from Judge Polier to Acting Presiding Justice Cobb.” June 26, MC 413/Box 3/Folder 28.

<sup>567</sup> Polier Manuscripts. 1945. “Report on the Critical Situation Facing the Children’s Court of the City of New York in Regard to the Placement of Neglected and Delinquent Children for Temporary and Long-Term Care.” December, MC 413/Box 4/Folder 43.

<sup>568</sup> *New York Herald Tribune*. 1944. “Tombs Holding Boys Shut Out of Reformatory.” April 5.

<sup>569</sup> Polier Manuscripts. 1944. “Letter to Mayor LaGuardia: Joint Report.” January 4, MC 413/Box 5/Folder 51.

<sup>570</sup> Polier Manuscripts. 1944. “Letter to Mayor LaGuardia: Joint Report.” January 4, MC 413/Box 5/Folder 51.

<sup>571</sup> Polier Manuscripts. 1943. “City Urged to Ditch SPCC, Run Its Own Child Shelters.” *PM Daily* October 7, MC 413/Box 5/Folder 53.

<sup>572</sup> Polier Manuscripts. 1945. “Letter to Mayor from Acting Presiding Justice.” Undated, MC 413/Box 5/Folder 52.

<sup>573</sup> Polier Manuscripts. 1945. “Memorandum with Psychiatrist at the New York State Training School.” MC 413/Box 4/Folder 40.

“big boy” which they speculate was “*about race.*”<sup>574</sup> The superintendent of the Manhattan S.P.C.C. “denied that there were any hulks as described . . . but admitted that some of them were “very big for their age.””<sup>575</sup> The situation was so dire that Acting Presiding Judge Bruce Cobb urged his fellow judges, when making case dispositions, to “earnestly” consider the fact that children may become “hardened or sophisticated . . . through contact” with other children in shelters.<sup>576</sup>

After a number of official investigations and a series of newspaper exposés, many of the S.P.C.C. shelters were closed down in the mid-1940s.<sup>577</sup> The Manhattan Society for the Prevention of Cruelty to Children was closed on April 1, 1944 as the result of a joint investigation by the Committee on Institutions of the Children’s Court and the Commissioner of Investigations, leading to the withdrawal of funds from the institution. The Brooklyn Society for the Prevention of Cruelty to Children voluntarily closed its doors on September 30, 1945, stating that the City’s contribution together with private contributions were not sufficient to finance its operations. And the Queens S.P.C.C. shut down the same day citing a lack of finances.<sup>578</sup> With the closing of the shelters, the city began to make room for public services.

In 1946, Mayor William O’Dwyer established the New York City Commission for the Temporary Care of Children to make recommendations on improving the standards of care for children in temporary shelters. The Commission consisted of the Commissioner of Welfare, the Commissioner of Health, the Presiding Justice of the Domestic Relations Court, and 9 public members. Though private sectarian child caring agencies had long opposed public interference, the religious federations supported the efforts, according to Judge Polier, when “they realized that the “public” Commission was themselves, appointed by themselves” as the 9 public figures from the Protestant, Catholic, and Jewish faiths.<sup>579</sup> As a joint public/private endeavor, the Commission resolved that the city must provide foster homes and institutional care for children needing shelter and long-term care for whom there were no private facilities.<sup>580</sup> The Citizens’ Committee for Children (CCC) supported the resolution for a public child caring program, arguing that this would safeguard child protection “just as other public programs like schools and health [were] safeguarded.”<sup>581</sup> In advocating for a public system, the members were careful to point out that they did “not propose to abolish private care but ask for cooperative planning between public and private agencies.”<sup>582</sup> In June 1946, the Committee on the Domestic Relations

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<sup>574</sup> Polier Manuscripts. 1944. “Shelter Care of Children by the NY SPCC.” A Report to Mayor Fiorello H. LaGuardia by the Committee on Institutions. January 4, MC 413/Box 5/Folder 51.

<sup>575</sup> *PM Daily*. 1945. “Hope for Shelter ‘Prisoners’ . . . Two Investigations Under Way: Three Domestic Court Justices and Investigation Dept. Look Into Treatment of Kids Under SPCC Care.” October 1.

<sup>576</sup> Polier Manuscripts. 1943. “Letter to the Justices from Acting Presiding Justice Bruce Cobb.” June 22, MC 413/Box 5/Folder 49.

<sup>577</sup> Polier Manuscripts. 1945. “Letter to Judge Cobb from the Brooklyn SPCC.” September 13, MC 413/Box 5/Folder 52.

<sup>578</sup> Polier Manuscripts. 1945. “Report on the Critical Situation Facing the Children’s Court of the City of New York in Regard to the Placement of Neglected and Delinquent Children for Temporary and Long-Term Care.” December, MC 413/Box 4/Folder 43.

<sup>579</sup> Markowitz and Rosner Papers. 1946 “CCC MSS: Minutes of Institutional Section Meeting.” October 10, MS 1615/Box 11/Folder 14.

<sup>580</sup> Markowitz and Rosner Papers. 1948. “CCC: Facts Concerning Temporary Care of Dependent, Neglected, and Delinquent Children.” May, MS 1615/Box 8/Folder 29.

<sup>581</sup> Markowitz and Rosner Papers. 1947. “CCC: Institutional and Foster Care Section.” March 6, MS 1615/Box 11/Folder 14.

<sup>582</sup> Markowitz and Rosner Papers. 1947. “CCC: Institutional and Foster Care Section.” March 6, MS 1615/Box 11/Folder 14.

Court followed with a resolution that proposed that children be placed “in temporary shelters maintained by the City, and in institutions maintained by the State.”<sup>583</sup>

On September 1, 1947, through the efforts of the New York City Commission for the Temporary Care of Children, the operation and supervision of the Children’s Center became the responsibility of the Department of Welfare.<sup>584</sup> Previously established under private auspices in 1945, the Children’s Center offered “temporary care for children whose families were stricken with sudden emergencies.”<sup>585</sup> The City had long assumed the full public subsidy for dependent children in temporary shelters, foster homes, and institutions, even those that were privately run.<sup>586</sup> But the Children’s Center became the first program to be completely financed *and* operated by the city.<sup>587</sup> In this way, the Center represented an unprecedented turn toward public provision within a long history of private sectarian dominance in child welfare. Yet, within its first year, the *New York Times* reported that the facility was “filled to capacity.” Nearly four thousand children were cared for over the course of the first year of operation, “but it [was] still filled to capacity with 150 children there still unplaced for long-term care.” The Commissioner of Welfare, Edward E. Rhatigan, stated that the city “desperately require[s]... an altogether new interracial facility,” as the “shortage of facilities for long-term care continue to crowd short term shelters.” Unless other arrangements could be made for these children, he reasoned that “we must face the solution from another direction—the city must establish its own facilities,” for *long-term* care. He pleaded: “The present system—public financing and private administration—won’t work.”<sup>588</sup>

At stake was the question of how the city would assume responsibility within the context of a powerful private sectarian child welfare system in which agencies operated the service of their choice and retained complete control over their admission processes despite public funding. But after a long history of resistance to public interference, private sectarian agencies were now opening themselves up to the possibility of public programs. The nine religious members on the Commission for the Temporary Care of Children recognized that the City’s push to integrate foster care would continue if not for the establishment of public programs. And they further recognized, as did the CCC, that these public programs would come to serve those excluded by private agencies—racial minorities. But as the city worked to establish its own programs, it relied on an assumption of public-private cooperation, even as private child caring agencies historically failed to uphold their end of the bargain. As minority children began to represent a new public responsibility, the fragmentation between state child welfare and voluntary associations created conflict over how to classify and confer public status upon them. The following sections examine how supplemental public programs came to meet the needs of non-white youth and the consequences of this arrangement.

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<sup>583</sup> Markowitz and Rosner Papers. 1948. “CCC: Facts Concerning Temporary Care of Dependent, Neglected, and Delinquent Children.” May, MS 1615/Box 8/Folder 29.

<sup>584</sup> Markowitz and Rosner Papers. 1948. “CCC: Facts Concerning Temporary Care of Dependent, Neglected, and Delinquent Children.” May, MS 1615/Box 8/Folder 29.

<sup>585</sup> Polier Manuscripts. 1946. “Press Release: Social Service Union Wins Recognition at Children’s Center.” September 12, MC 413/Box 3/Folder 33.

<sup>586</sup> By comparison, the City received an 80% reimbursement from Federal and State funds for the cost of dependent children cared for in their own homes.

Source: Markowitz and Rosner Papers. 1948. “CCC: Facts Concerning Temporary Care of Dependent, Neglected, and Delinquent Children.” May, MS 1615/Box 8/Folder 29.

<sup>587</sup> Polier Manuscripts. 1948. “Temporary care for Children in New York City.” April, MC 413/Box 6/Folder 64.

<sup>588</sup> Polier Manuscripts. 1947. “Crisis Seen Rising for Shelter Care: Rhatigan (Welfare Commissioner) Declares Situation for Child Welfare is Worse Than One Year Ago.” *New York Times*. May 9, MC 413/Box 3/Folder 33.

## **The Brown Isaac’s Bill: Racialization of the Public Foster Care System**

As the first public foster care program became overcrowded, officials grew concerned with how true integration could be achieved within the context of a public/private child welfare system. The city resisted a take-over of substitute care services not simply because of resistance on the part of voluntary agencies, but because of the enormity of knowledge, networks, and infrastructure that had been built by private agencies. American governmental programs have historically relied on the organizational capacities of private associations to distribute welfare provisions. This arrangement enables policymakers to appeal to private interests, navigate political coalitions, and respond to public demand for support without appearing to increase the size of the government.<sup>589</sup> It also enables the state to rely on “private entities to provide the expertise and personnel it needs to fulfill its new tasks.”<sup>590</sup> But importantly, public foster care in New York City was built as a supplement to the private child caring system, and so it increasingly catered to those children excluded from private agencies—racial minorities.

Overcrowding continued to worsen the conditions in temporary shelters in the late 1940s and 1950s as officials struggled to find long-term care for all children. Many children were among those “awaiting placement” in their own homes or in temporary shelters. In December 1944, only 331 children were awaiting placement for transfer to a long-term institution, of which 22.4 percent were Black.<sup>591</sup> By August 1955, the CCC reported that 1,279 children were awaiting placement, and of these, 29% were white, 55% were Black, and 16% were Puerto Rican.<sup>592</sup> In addition to those “awaiting placement” was another group of children who were “unallocated,” meaning they had not even been assigned to a long-term institution; they were simply housed indefinitely in a shelter. By 1959, the Foster Care Commission reported that the number of “unallocated” children had increased to 1,782 and 78 percent were non-white.<sup>593</sup> Even still, the number of “unallocated children” did not represent the actual number of children needing out-of-home placement, as “Children’s Court judges and Welfare Department investigators frequently [did] not recommend placement away from home [when] ... no facilities [were] available.”<sup>594</sup> Even after the creation of the first public shelter, the profound racial discrimination practiced by private sectarian agencies, primarily Protestant institutions, left an increasing number of minority youth in a state of limbo as “hard-to-place” children.

As a result of the increasing number of youth awaiting placement in temporary shelters, the Department of Welfare finally established the Division of Foster Home Care in 1949, the first public program for long-term care of children. The efforts for foster home care began in 1946, when the CCC became concerned with the number of “well babies” in hospitals,<sup>595</sup> as mentioned in Chapter 4. In the 1940s, well-baby wards in hospitals were eliminated at the behest of the

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<sup>589</sup> Morgan, Kimberly, and Andrea Louise Campbell. 2011. *The Delegated Welfare State: Medicare, Markets, and the Governance of Social Policy*. New York: Oxford University Press.

<sup>590</sup> Metzger, Gillian E. 2003. “Privatization as Delegation.” *Columbia Law Review* 103: 1377.

<sup>591</sup> Markowitz and Rosner Papers. 1963. “Citizens’ Committee for Children of New York, Inc.” October 17, MS 1615/Box 11/Folder 13.

<sup>592</sup> Markowitz and Rosner Papers. 1956. “CCC Memorandum: Hillcrest Center Population.” February 26, MS 1615/Box 11/Folder 13.

<sup>593</sup> Polier Manuscripts. 1960. “Memorandum from the Committee on Institutions.” January 29, MC 413/Box 4/Folder 47.

<sup>594</sup> Markowitz and Rosner Papers. 1948. “CCC: Next Steps to Expand Facilities for the Care of Children Who Require Placement Outside their Own Homes.” May 10, MS 1615/Box 11/Folder 12.

<sup>595</sup> Well-babies were infants who were healthy but cared for in hospital settings because there was no place to send them.

child welfare and medical community because of the high mortality risk associated with congregate care of infants. Instead, the CCC helped establish New York City's first public foster home service.<sup>596</sup> The program was originally charged with finding homes for 100 children under two years of age in the first year of its operation.<sup>597</sup> This program began officially as the Division of Foster Home Care in 1949, and worked to "provide homes for the large number of babies awaiting placement, most of whom were sheltered on hospital well-baby wards."<sup>598</sup>

As the first public programs were developed—Youth House for delinquents, the Children's Center for temporary shelter, and the Division of Foster Home Care for infants and young children—a concern emerged that the city-run foster care system would become an "undesirable public catch-all program for children unwanted by [private] agencies."<sup>599</sup> The CCC argued that "[p]ublic long-term placement programs were created only when the voluntary agencies acknowledged that they could not provide for all the children in need of care." As a result, public services were "generally viewed as supplementary to the voluntary."<sup>600</sup> The CCC expressed concern that a public program might become filled with all the "unplaceable children" who struggled to gain access to private child caring agencies.<sup>601</sup> This fostered a conflict-laden relationship between private child welfare and the emerging public system which had significant consequences for racial frameworks of public responsibility.

Because it was not clear whether the public foster care program would "be parallel to that of private agencies or supplementary,"<sup>602</sup> private agencies continued to retain "complete control over [their] intake,"<sup>603</sup> and often excluded "problem children." Already by March 1949, the CCC wrote that it was "clear that the program [Foster Home Unit in the DPW] [would] be almost exclusively for Protestant Negro children, as private agencies seem[ed] to find it possible to supply facilities for other children."<sup>604</sup> It was agreed that the development of a program for Protestant Negro children was not "a healthy one" and that it was necessary to make strong attempts to provide care for a more "representative group of children."<sup>605</sup> The CCC felt that "the program should not become a segregated service where the City would care primarily for Negro children who would then be known as wards of the State."<sup>606</sup> But discussions of race blended

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<sup>596</sup> Markowitz and Rosner Papers. 1964. "CCC: Child Care—20<sup>th</sup> Anniversary Report." Undated, MS 1615/Box 11/Folder 13.

<sup>597</sup> Markowitz and Rosner Papers. 1964. "CCC: Child Care—20<sup>th</sup> Anniversary Report." Undated, MS 1615/Box 11/Folder 13.

<sup>598</sup> Markowitz and Rosner Papers. 1958. "Resources Required to Meet Current Foster Care Needs." March 20, MS 1615/Box 11/Folder 13.

<sup>599</sup> Markowitz and Rosner Papers. 1947. "Institutional and Foster Care Section." Citizens' Committee on Children of NYC. March 6, MS 1615/Box 11/Folder 14.

<sup>600</sup> Markowitz and Rosner Papers. 1963. "CCC Draft: Memorandum on the Need for Reorganizing New York City's Child Care Services." November 21, MS 1615/Box 11/Folder 13. Original text is underlined.

<sup>601</sup> Markowitz and Rosner Papers. 1947. "CCC: Institutional and Foster Care Section." March 6, MS 1615/Box 11/Folder 14.

<sup>602</sup> Markowitz and Rosner Papers. 1949. "CCC: Meeting of the Foster Care Section." March 14, MS 1615/Box 11/Folder 14.

<sup>603</sup> Markowitz and Rosner Papers. 1963. "CCC Draft: Memorandum on the Need for Reorganizing New York City's Child Care Services." November 21, MS 1615/Box 11/Folder 13.

<sup>604</sup> Markowitz and Rosner Papers. 1949. "CCC: Meeting of the Foster Care Section." March 14, MS 1615/Box 11/Folder 14.

<sup>605</sup> Markowitz and Rosner Papers. 1949. "CCC: Meeting of the Foster Care Section." March 14, MS 1615/Box 11/Folder 14.

<sup>606</sup> Markowitz and Rosner Papers. 1948. "CCC: Institutional and Foster Care Section." May 3, MS 1615/Box 11/Folder 14.



became predominately Black.<sup>612</sup> However, the Bill was actually less concerned with the practices of private agencies than with making sure *public* facilities did not become predominantly minority. As new public programs were being proposed and developed, some CCC members questioned whether the Brown-Isaacs Bill would be necessary if the city developed a long-term institution. The general feeling “was that the Brown-Isaacs Bill was needed so that the new facility would not be an exclusively Negro one.”<sup>613</sup>

Within a few years, it became clear that while the Bill had ensured that most agencies served a racially mixed group “the overall picture ha[d] actually deteriorated,” and the fears of a predominantly Black public foster care program were realized.<sup>614</sup> The Children’s Center, as the first public shelter for the dependent and neglected, was the first program to become overcrowded with a predominately minority population. Because foster care was hard to find for older children given the “lack of facilities of any kind for adolescents,”<sup>615</sup> the Children’s Center bore the burden of care for this age group, as it was the only shelter that accepted children over 14 years of age. Between 1955 and 1956, roughly 690 adolescents were admitted to the Center, yet only 78 were accepted by voluntary, long-term agencies.<sup>616</sup> According to the CCC, voluntary institutional programs preferred to serve younger children, in the belief that this group had the most to gain from the program.<sup>617</sup> As such, “the Children’s Center [...] had to cope with providing shelter for months and years for these young people who, for the most part, just wait until they are 16 and can go back to the community.”<sup>618</sup>

Deanne was one such child cared for at the Children’s Center, and captures the judges sentiments about the new public programs. Described as a “very light Negro child of superior intelligence,” she suffered from behavioral problems, and as an adolescent frequently ran away from her aunt’s home. After having spent time in an institution called Leake and Watts, she absconded only to return a year later arguing that “she belonged there [at Leake and Watts].” They cited overcrowding as the reason they could not keep her, but in a letter to the court, they also noted that she was “difficult to treat.” They reasoned that theirs was an institution for “normal” children, and only “a certain percentage of the group [could] be deliberately chosen behavior problems.” A case consultant wrote to the Federation of Protestant Welfare Agencies regarding her placement at Children’s Center: “Our inability to place Deanne almost two years ago when the urgent need for placement was recognized, certainly has added to her insecurity and the resultant problems.”<sup>619</sup> Luckily for the young girl, Judge Polier ruled she be continued in the aunt’s home under court supervision rather than remain at the overcrowded Children’s Center.

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<sup>612</sup> Markowitz and Rosner Papers. 1951. “CCC: Meeting of Foster Care Section.” November 15, MS 1615/Box 11/Folder 14.

<sup>613</sup> Markowitz and Rosner Papers. 1952. “CCC: Meeting of Foster Care Section.” January 8, MS 1615/Box 11/Folder 14.

<sup>614</sup> Markowitz and Rosner Papers. 1956. “CCC: Proposal for a Survey of Placement Programs for Babies.” November 8, MS 1615/Box 11/Folder 12.

<sup>615</sup> Markowitz and Rosner Papers. 1957. “CCC: Foster Care Section Report.” May, MS 1615/Box 11/Folder 13.

<sup>616</sup> Markowitz and Rosner Papers. 1958. “Resources Required to Meet Current Foster Care Needs.” March 20, MS 1615/Box 11/Folder 13.

<sup>617</sup> Markowitz and Rosner Papers. 1957. “CCC: Foster Care Section Report.” May, MS 1615/Box 11/Folder 13.

<sup>618</sup> Markowitz and Rosner Papers. 1957. “CCC: Foster Care Section Report.” May, MS 1615/Box 11/Folder 13.

<sup>619</sup> Polier Manuscripts. 1946. “Letter from Case Consultant to the Federation of Protestant Welfare Agencies.” December 9, MC 413/Box 8/Folder 86.

The Children's Center quickly became overcrowded, reaching what Henry L. McCarthy, the Commissioner of Welfare, described as "a dangerous state" (See Image 5.2).<sup>620</sup> At the start, the Center had a capacity of 321 children.<sup>621</sup> Yet by 1955, the Children's Center regularly reported upwards of 400 children in care.<sup>622</sup> By 1958, the Center was caring for over 500 children daily.<sup>623</sup> In addition to caring for adolescents, they also had a large number of young children who were difficult to place in foster homes because of the extensive amount of care they needed. These were children who were described as having started as "well babies" physically and mentally, but "as they [had] grow[n] older in one institution after another," they became "despondent, cynical, bitter." The *New York Times* reported that "[s]ome slip into delinquency, become emotionally disturbed or even mentally ill."<sup>624</sup> Most of these children were Black or Puerto Rican.

**Image 5.2: Children's Center Is Overcrowded With Unwanted Youngsters, *New York Times***<sup>625</sup>



The majority of children who remained at the Center longer than three months were non-white. In 1956, of the children cared for over 90 days, 165 were Negro, 39 Puerto Rican, and 21 white.<sup>626</sup> "The children in the minority racial groups have the added tragedy," the *New York*

<sup>620</sup> *New York Times*. 1955. "Homeless Young a Tragic Problem: Children's Center Is Overcrowded With Unwanted Youngsters." March 21.

<sup>621</sup> Markowitz and Rosner Papers. 1964. "CCC: Child Care—20<sup>th</sup> Anniversary Report." Undated, MS 1615/Box 11/Folder 13.

<sup>622</sup> Markowitz and Rosner Papers. 1956. "CCC Foster Care Section Report: Children Need Families." May, MS 1615/Box 11/Folder 12.

<sup>623</sup> Markowitz and Rosner Papers. 1958. "Resources Required to Meet Current Foster Care Needs." March 20, MS 1615/Box 11/Folder 13.

<sup>624</sup> *New York Times*. 1955. "Homeless Young a Tragic Problem: Children's Center Is Overcrowded With Unwanted Youngsters." March 21.

<sup>625</sup> *New York Times*. 1955. "Homeless Young a Tragic Problem: Children's Center Is Overcrowded With Unwanted Youngsters." March 21. Accessed through Historical Newspapers (Proquest).

<sup>626</sup> Markowitz and Rosner Papers. 1956. "CCC Memorandum: Hillcrest Center Population." February 26, MS 1615/Box 11/Folder 13.



*Times* wrote, “of seeing white youngsters come and go after short stays while they remain behind completely uncertain of their future and with a growing sense of having been abandoned.”<sup>627</sup> Younger children slept on “narrow cots,” while many older children had to sleep two to a cot. The gymnasium, hallways, and other recreational areas were converted into sleeping areas, which prevented play and exercise during the winter months when outdoor space was limited. Unsurprisingly, the Commissioner of Health warned of the risk in communicable diseases and respiratory infections,<sup>628</sup> especially as healthy children were housed in the infirmary.<sup>629</sup> The “Department of Health warned City officials that the center [would] be closed unless immediate action was taken to relieve the situation.”<sup>630</sup>

Because of the overcrowding, the Foster Care Commission of the CCC worked to establish an annex for the overflow of the Children’s Center. In 1955, James R. Dumpson, then the Director of the Bureau of Child Welfare in New York, met with the Foster Care Section of the CCC to discuss the proposal to purchase a former convalescent home, a less than ideal institution to be used for the long-term care of children. In 1955, the Department of Welfare was authorized to establish Hillcrest, a group care institution for the care of 200 school-age children between 6 and 16 years-old who were neglected or dependent but could not receive care from voluntary agencies.<sup>631</sup> Specifically, the program was developed to serve children needing substitute care who were “seriously retarded educationally and present[ed] evidence of serious emotional problems.”<sup>632</sup> The estimated cost was similar to the Children’s Center at roughly \$8 a day per capita, and the program staff would be completely interracial. The CCC voted unanimously to support the plan.<sup>633</sup>

From the start, there was great concern over the trend toward segregation in this facility. To diversify admissions processes, the Bureau of Child Welfare recommended that Hillcrest not receive direct court remands, but rather receive a group of children “drawn from all the temporary shelters.” They reasoned that since there was “a larger number of white children in voluntary shelters, this would decrease the possibility of segregation.”<sup>634</sup> The CCC had long been concerned that a long-term public institution would “become a segregated program serving only Negro and other minority group children as [was the case in] the Foster Home Care program in the Department of Welfare.”<sup>635</sup> And their prediction rang true. Within the first six months of operation, the CCC reported that “unless there is revision of community placement policies and

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<sup>627</sup> *New York Times*. 1955. “Homeless Young a Tragic Problem: Children’s Center Is Overcrowded With Unwanted Youngsters.” March 21.

<sup>628</sup> Markowitz and Rosner Papers. 1955. “CCC: Minutes of Foster Care Section.” September 27, MS 1615/Box 11/Folder 15.

<sup>629</sup> Markowitz and Rosner Papers. 1956. “CCC Foster Care Section Report: Children Need Families.” May, MS 1615/Box 11/Folder 12.

<sup>630</sup> Markowitz and Rosner Papers. 1956. “CCC Foster Care Section Report: Children Need Families.” May, MS 1615/Box 11/Folder 12.

<sup>631</sup> Markowitz and Rosner Papers. 1955. “CCC: Minutes of Foster Care Section.” September 27, MS 1615/Box 11/Folder 15.

<sup>632</sup> Markowitz and Rosner Papers. 1964. “CCC: Child Care—20<sup>th</sup> Anniversary Report.” Undated, MS 1615/Box 11/Folder 13.

<sup>633</sup> Markowitz and Rosner Papers. 1955. “CCC: Minutes of Foster Care Section.” September 27, MS 1615/Box 11/Folder 15.

<sup>634</sup> Markowitz and Rosner Papers. 1955. “CCC: Minutes of Foster Care Section.” September 27, MS 1615/Box 11/Folder 15.

<sup>635</sup> Markowitz and Rosner Papers. 1956. “CCC Memorandum: Hillcrest Center Population.” February 26, MS 1615/Box 11/Folder 13.

procedures the [Hillcrest] Center will continue to be used almost exclusively for care of Negro Protestant children.”<sup>636</sup> In 1956, Judge Polier wrote that the population in care at Hillcrest was “almost 100% Negro.”<sup>637</sup> The facility cared for 84 children, 76 of which were Negro.<sup>638</sup> There were only five white children, four of whom were part of the same family. Judge Polier reasoned that these children were placed as a “symbolic effort” to prove that this was not an institution for Black children only.

Judge Polier described Hillcrest as “a segregated and Jim Crow institution.”<sup>639</sup> In CCC discussions, it was suggested that much of the current problem at Hillcrest was due to the fact that “private agencies [had] not sufficiently expanded intake of Negro children.” Yet other members “felt little else could be expected.” In many ways, Hillcrest was simply serving those that needed it the most—in fact, 650 Black Protestant children were awaiting long-term placement, compared to only 82 white children.<sup>640</sup> The Director of Hillcrest noted that the majority of their referrals were “the rejects of other agencies,” who did not receive care “until they’[d] been rejected by all other agencies.”<sup>641</sup> In a CCC meeting, “[i]t was pointed out that the whole premise of use of public service in this City was the reverse of other communities. In most other communities public services [were] the basic child care resources, and private agencies [were] used selectively, while in New York City the public department serve[d] only those children not accepted by private agencies.”<sup>642</sup>

New York City public foster care programs developed as a supplement to private child welfare. Although voluntary organizations are often understood to fill in for “government failure,” scholars have pointed to the myriad ways government programs develop in response to the inherent limitations of private social aid.<sup>643</sup> Far from a simple delegation of authority or a weakening of the state, the relationship between the state and private organizations is one of “mutual dependence” or “symbiosis,” with the state dependent on the organizational capacities of private associations, and private agencies reliant on public funding.<sup>644</sup> Both have their strengths and weaknesses: the state has more reliable sources of revenue, a democratic agenda, and professionalism, whereas private nongovernmental associations are better able to personalize

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<sup>636</sup> Markowitz and Rosner Papers. 1956. “CCC Memorandum: Hillcrest Center Population.” February 26, MS 1615/Box 11/Folder 13.

<sup>637</sup> Polier Manuscripts. 1956. “Letter from Judge Polier to Judge Bolin.” November 7, MC 413/Box 3/Folder 29.

<sup>638</sup> Markowitz and Rosner Papers. 1956. “CCC Memorandum: Hillcrest Center Population.” February 26, MS 1615/Box 11/Folder 13.

<sup>639</sup> Polier Manuscripts. 1957. “Letter to Citizens Committee for Children from Judge Polier.” March 19, MC 413/Box 22/Folder 259.

<sup>640</sup> Markowitz and Rosner Papers. 1957. “CCC: Foster Care Section Meeting.” February 26, MS 1615/Box 11/Folder 15.

<sup>641</sup> Polier Manuscripts. 1960. “Committee on Institutions Memorandum.” January 29, MC 413/Box 4/Folder 47.

<sup>642</sup> Markowitz and Rosner Papers. 1957. “CCC: Foster Care Section Meeting.” February 26, MS 1615/Box 11/Folder 15.

<sup>643</sup> Quadagno, Jill. 2000. “Promoting Civil Rights through the Welfare State: How Medicare Integrated Southern Hospitals.” *Social Problems* 47(1): 68–89; Salamon, Lester M. 1987. “Of Market Failure, Voluntary Failure, and Third-Party Government: Toward a Theory of Government-Nonprofit Relations in the Modern Welfare State.” *Nonprofit and Voluntary Sector Quarterly* 16(1–2): 29–49.

<sup>644</sup> Smith, Steven Rathgeb, and Michael Lipsky. 1993. *Non-profits for Hire: The Welfare State in the Age of Contracting*. Cambridge, MA: Harvard University Press; Clemens, Elisabeth S. 2017. “Reconciling Equal Treatment with Respect for Individuality.” Pp. 35–57 in *The Many Hands of the State: Theorizing Political Authority and Social Control*, edited by K. Morgan and A. Shola Orloff. Cambridge, UK: Cambridge University Press.

the provision of services.<sup>645</sup> But the growth of public programs in response to failures in the private sector can have profound consequences for racial incorporation. New York City public foster care is a critical example of a supplemental state program that grew on top of a discriminatory private child welfare system. This next section explores the consequences of this form of state growth, and the influence the private sector had on the public agenda.

### Changing Classifications of Children’s Needs after Integration

The nascent public foster care system in New York City was only a small portion of the overall foster care population; however, it’s existence was important because of the interplay between public and private responsibility for non-white youth. In 1949, only 331 children were cared for by public programs (See Table 5.1). Though that number had grown to 1,059 by 1956, most children were still cared for by private agencies. In a 1964 report, the CCC celebrated the fact that the City had the “rudiments of a public direct care program” where there was none twenty years prior.<sup>646</sup> Still, more than ninety-five percent of the children in foster care were served by one of nearly seventy voluntary agencies.<sup>647</sup>

**Table 5.1: Children in Care by Voluntary and Public Auspices, New York City<sup>648</sup>**

	June 30, 1949	June 30, 1956	June 30, 1963
Voluntary Auspice	16,067	15,980	17,564
Public Auspice	331	1,059	2,178
Total	16,398	17,039	19,742

Even as these children only represented a small portion of out-of-home care, their rejection from private child care programs shaped public perceptions of their needs—particularly around behavior, intelligence, and capacity. Scholars have shown that delegated governance tends to amplify discrimination by shifting discretion over the rules of eligibility and sanctions to lower levels of government, private nongovernmental organizations, and front-line administrators.<sup>649</sup> Nonprofits assume a large portion of the responsibility for classifying problems and directing services.<sup>650</sup> As such, they wield substantial power over the administration and operation of social welfare programs and social control “with respect to public rights and

<sup>645</sup> Clemens, Elisabeth S. 2017. “Reconciling Equal Treatment with Respect for Individuality.” Pp. 35–57 in *The Many Hands of the State: Theorizing Political Authority and Social Control*, edited by K. Morgan and A. Shola Orloff. Cambridge, UK: Cambridge University Press; Salamon, Lester M. 1987. “Of Market Failure, Voluntary Failure, and Third-Party Government: Toward a Theory of Government-Nonprofit Relations in the Modern Welfare State.” *Nonprofit and Voluntary Sector Quarterly* 16(1–2): 29–49.

<sup>646</sup> Markowitz and Rosner Papers. 1964. “CCC: Child Care—20<sup>th</sup> Anniversary Report.” Undated, MS 1615/Box 11/Folder 13.

<sup>647</sup> Markowitz and Rosner Papers. 1958. “Resources Required to Meet Current Foster Care Needs.” March 20, MS 1615/Box 11/Folder 13.

See also: Markowitz and Rosner Papers. 1964. “CCC: Children Need Care: The Need for Reorganizing New York City Child Care Services.” February 4, MS 1615/Box 11/Folder 13.

<sup>648</sup> Markowitz and Rosner Papers. 1963. “CCC: Statistics on Children in Shelter Care.” October 18, MS 1615/Box 11/Folder 13. Note: Children under care includes children in long-term care, delinquent, and temporary care.

<sup>649</sup> Lieberman, Robert C., and John S. Lapinski. 2001. “American Federalism, Race, and the Administration of Welfare.” *British Journal of Political Science* 31(2):303–29; Schram, Sanford F., Richard C. Fording, and Joe Soss. 2008. “Neo-liberal Poverty Governance: Race, Place and the Punitive Turn in US Welfare Policy.” *Cambridge Journal of Regions, Economy and Society* 1(1): 17–36.

<sup>650</sup> Smith, Steven Rathgeb, and Michael Lipsky. 1993. *Non-profits for Hire: The Welfare State in the Age of Contracting*. Cambridge, MA: Harvard University Press, 98.

claims of citizenship.”<sup>651</sup> Such was the case with private child caring agencies, who defined the parameters for understanding Black and Puerto Rican children’s needs through admission policies. As public foster care developed in the shadow of private child welfare, public programs appropriated the very classifications created by the private sector to exclude non-white children—aggressive, low-IQ, pre-delinquent.

After the Race Discrimination Amendment of 1942 and the Brown-Isaacs Bill of 1951, private institutions wary of invoking race as a reason for rejection began to use coded language that further entrenched negative ideas about the needs of Black youth. As early as 1946, the “needs of the dependent children” were described as being “different from the needs presented by the dependent children several years [prior].”<sup>652</sup> In her essay on the “new needs” in the foster home field, Judge Polier argued that “private child-care agencies [were] becoming increasingly selective in intake, excluding not only by reason of race, color, or national origin, but because of the severity of emotional problems, school retardation, [and] low I.Q.”<sup>653</sup> Agencies claimed they were not equipped for the “special needs” of Black children and that they were “geared only for the care of the so-called ‘normal child.’”<sup>654</sup>

Many agencies relied on intelligence quotients to legitimate their decisions, which allowed them to claim that the “rejection was not because [the] child was Negro, but because of problems [they] would present to the institution,” as one agency reasoned.<sup>655</sup> Historically, psychological tests were used to determine what was assumed to be “fixed” levels of intelligence.<sup>656</sup> In 1935, a special committee on immigration and naturalization released *A Study on Reactions of Puerto Rican Children in New York City to Psychological Tests*. The report concluded that Puerto Rican children suffered from “a marked and serious inferiority in native ability to public school children here,” and that only “few bright or even average Puerto Ricans were found.”<sup>657</sup> Scholars challenged these findings, showing that the low English language skills of migrants was a contributing factor. Other scholars likewise showed that Black children’s intelligence levels were positively correlated to duration in the city.<sup>658</sup> Nonetheless, child caring agencies voiced concern that they did not have the educational resources to address the needs of children with low intelligence levels.

Even as World War II brought strong challenges to the “notion of fixed intelligence,” IQ scores continued to matter for private agencies who claimed to be unable to contend with such children. This pattern is exemplified in a 1953 case involving five Black children who were found to be neglected after their mother died.<sup>659</sup> When their father locked them out of the house and could not be located, they “appeared” the next day at the Department of Public Welfare office seeking shelter. The court was able to commit two of the children, but the other three

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<sup>651</sup> Smith, Steven Rathgeb, and Michael Lipsky. 1993. *Non-profits for Hire: The Welfare State in the Age of Contracting*. Cambridge, MA: Harvard University Press, 14.

<sup>652</sup> Polier Manuscripts. 1946. “Letter to Commissioner Rhatigan of the Department of Welfare from the Greater New York CIO Council.” April 8, MC 413/Box 35/Folder 434.

<sup>653</sup> Polier Manuscripts. 1946. “New Needs in the Foster Home Field.” May 13, MC 413/Box 45/Folder 557.

<sup>654</sup> Polier Manuscripts. 1946. “Letter to Commissioner Rhatigan of the Department of Welfare from the Greater New York CIO Council.” April 8, MC 413/Box 35/Folder 434.

<sup>655</sup> Polier Manuscripts. 1945. “Letter from Probation Officer R. M. Bonanno to Judge Polier.” October 18, MC 413/Box 22/Folder 258.

<sup>656</sup> Markowitz, Gerald and David Rosner. 1996. *Children, Race, and Power: Kenneth and Mamie Clark’s Northside Center*. Charlottesville: University of Virginia Press, 124.

<sup>657</sup> Schepes, Erwin. 1949. “Puerto Rican Delinquent Boys in New York City.” *Social Service Review* March, 57.

<sup>658</sup> Klineberg, Otto. 1935. *Negro Intelligence and Selective Migration*. New York: Columbia University Press.

<sup>659</sup> Polier Manuscripts. 1953. “Memorandum: Neglect Petition.” July 6, MC 413/Box 8/Folder 86.

children were refused admission by 13 different agencies. The three boys, ages 8, 11, and 14, were found to be “mentally defective” according to IQ tests, and nearly half the agencies that rejected them specified that they “[could not] meet the educational needs of these children.” Both the probation officer and Judge Polier appealed to the Federation of Protestant Welfare Agencies, urging their help. Judge Polier argued that all three children had made “amazing progress” since their time at the shelter; specifically, all their IQs increased substantially. The Federation stated that although they were “sympathetic, [they] saw no way of being helpful.” All three children were returned to the recently reopened S.P.C.C. Queens shelter indefinitely.

A key component to the “unsuitability” of many Black children was their comparative lack of malleability. In Geoff Ward’s (2012) examination of Black children’s experience of the early juvenile justice system, he found they were excluded from the rehabilitative ideals of Progressive-era delinquency developments because they were perceived to be unmalleable.<sup>660</sup> Records of the Domestic Relations Court from the twentieth century reveal that psychiatrists also made this characterization of Black children in case dispositions. This is apparent in the case of Thomas, an 11-year-old “colored boy,” who was brought before the court on a delinquency charge for stealing a wallet.<sup>661</sup> It was found later that “his father frequently administer[ed] severe beatings with an electric cord for his misbehavior,” leading him to run away, during which time he slept “in subways and earn[ed] food by collecting bottles.” The psychiatrist found that he was “mentally retarded,” “seriously disorganized,” and had poor social integration. He concluded that it “[would] be difficult to work with this boy because his intellective impairments make it impossible to approach him on anything other than the most primitive emotional level.” In this case, the psychiatrist was disinclined to recommend psychiatric treatment, and the boy was sent to a reform school. This pattern is seen in yet another case of a young Black boy who was described as possessing symptoms of schizophrenia. He heard voices, saw visions, and desired to kill his family. But the Bellevue psychiatrist argued for a shortened term of care, noting that “with his limited intelligence and his negro ancestry, the symptoms are not considered as pathological as if they had occurred in a White boy of higher endowment.”<sup>662</sup> Psychiatrists were not necessarily reluctant to diagnose Black children with psychological issues; rather, they believed that with “inferior intellectual capacity,” there was little hope in treating them.

In contrast, private agencies considered white children much more amenable to change, even if they were categorized as low intelligence. Take, for example, the case of Simon, a half-Spanish, half-Jewish teenage boy who, after many delinquencies including running away from home, stealing, truanting, and “possibly” burning down a house, was privately placed in Hawthorne Home, an institution run by the Jewish Board of Guardians.<sup>663</sup> When he was found to be stealing again, he was sent to court and placed in a foster home through the Jewish Child Care Association. After running away, he was remanded to an S.P.C.C. shelter at the age of 16. A psychiatrist diagnosed him as having psychopathic personality and “retardation.” He recommended that Simon’s desire to be placed on a farm be granted: “It may be conjectured that he later will join the Merchant Marine. . . . Such should be the optimistic point in the prognosis. A pessimistic view, on the other hand, might lead one to expect quick deterioration into

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<sup>660</sup> Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>661</sup> Polier Manuscripts. 1944. “Youth House Psychiatrist’s Report.” September 7, MC 413/Box 8/Folder 84.

<sup>662</sup> Polier Manuscripts. 1942. “Letter from Bellevue Hospital Psychiatric Division to Acting Presiding Justice Bruce Cobb.” September 28, MC 413/Box 22/Folder 258.

<sup>663</sup> Polier Manuscripts. 1947. “Youth House Report.” February 25, MC 413/Box 8/Folder 82.

psychopathic and/or psychotic patterns. In any case, it would appear worthwhile to either give him a chance at a farm environment or to attempt a thorough and prolonged psychiatric study and treatment.” He was eventually placed in the Children’s Aid Society farm. In this case, Simon’s delinquencies were initially handled directly through a private agency. When he eventually came into the court system, he was seen as possessing the capacity to be rehabilitated, despite his history of delinquency, his classification of retardation, and his diagnosis as psychopathic.

Private agencies justified their rejection of Black children with a section of the State Charities Law, which stated that a child “incapable of being materially benefitted by the discipline of the institution” may be returned to the court.<sup>664</sup> When agencies could no longer rely on policies of explicit racial discrimination, they began to reject Black children on the basis of “unsuitability,” contributing to their classification as “hard-to-place.” And so, a war was waged between judges who attempted to commit Black children to private institutions for the dependent and neglected, and the agents of these institutions who often claimed Black and Puerto Rican children could not “benefit” from such programs. By 1949, the Committee on Child Care reported that the experience over the past decade “clearly established that [the 1942 Race Discrimination Amendment] failed to overcome the evil it was intended to meet and that those children who suffer most by reason of lack of appropriate facilities [were] the Negro children.”<sup>665</sup> Social welfare workers reasoned that without an expansion of services for the emotionally disturbed and the intellectually challenged, these children would fall through the cracks.<sup>666</sup> What began as an attempt to mandate integration had given way to a system of racially-coded rejections that racialized ideas about children’s needs. Reflecting upon the continued use of IQ scores decades later, Judge Polier wrote that “the imposition of minimum IQ scores as a condition to acceptance by voluntary agencies that are publicly funded adds one more discriminatory roadblock to treatment for Black and Puerto Rican children.”<sup>667</sup> As the public system began to develop in the late 1940s, it absorbed more and more non-white children rejected by private agencies, and as it did, ideas about their intellectual incapacity, emotional and behavioral conduct, and trajectory toward delinquency began to shape their status as clients of the state.

### **Damaged Children in a De Facto Segregated Public Foster Care System**

By the 1950s, the conditions of Black and Puerto Rican children’s treatment was part of a rising concern with “de facto segregation” in the urban north, and the psychological and emotional damage caused by discrimination. In the course of the post-WWII decades, public agencies had “[become] segregated and used only as a last resource for children rejected by voluntary agencies.”<sup>668</sup> The children of the public system were not only “almost entirely Protestant Negro children,” but they were the hardest to place given the selective nature of

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<sup>664</sup> Polier Manuscripts. 1944. “Summary of Report by Leonard Harrison on Institutional Facilities for the Care of Delinquent Children.” August 31, MC 413/Box 4/Folder 42.

<sup>665</sup> Polier Manuscripts. 1949. “Report of Mayor’s Committee on Child Care.” September 1, MC 413/Box 35/Folder 434.

<sup>666</sup> Markowitz and Rosner Papers. 1964. “CCC: Children Need Care: The Need for Reorganizing New York City Child Care Services.” February 4, MS 1615/Box 11/Folder 13.

<sup>667</sup> New York (State). 1972. *Juvenile Justice Confounded: Pretensions and Realities of Treatment Services*. Committee on Mental Health Services Inside and Outside the Family Court in the City of New York, 5.

<sup>668</sup> Polier Manuscripts. 1957-1968. “Analysis of C.B.S—T.V. Panel Report on The New York City Foster Care System.” Undated, MC 413/Box 41/Folder 499.

private admission policies—they were “emotionally disturbed,” “educationally retarded,” and “aggressive.” This section shows that foster children came to be understood as damaged not simply based on emerging child welfare studies which distinguished the impoverished foster children of yesteryear with the more emotionally disturbed youth of the 1940s and 1950s, but also through the framework of racial concerns over the harm caused by segregation in foster care.

De facto segregation is much more associated with educational settings; however, it was a critical and intractable problem in the New York City foster care system. Dr. Kenneth and Mamie Clark, members of the Citizens’ Committee for Children and expert witnesses in *Brown V. Board of Education* (1954), were key figures in New York City civil rights, and in 1954, Kenneth Clark set off a fierce struggle over de facto segregation when he asserted that New York City schools were racially segregated “in fact, but not by law.”<sup>669</sup> A few years later, the Commissioner of Welfare would use similar language to describe the New York City foster care system in what was at the time, an incendiary accusation in the northern context. In 1959, James R. Dumpson became the first African American Commissioner of Welfare.<sup>670</sup> At a 1961 New York State Welfare Conference, he boldly stated that the “child care facilities *under public welfare administration* in [New York] City [were] de facto segregated institutions and facilities.” He went on to list the population of the public foster care facilities, citing that Hillcrest Center had a population of 221 children, of which 213 were Negro. Children’s Center had a population of 558, of which 372 were Negro and 114 Puerto Rican. He argued that these children wait for years “because too many private agencies have been slow in finding the funds to expand their facilities. They wait... because some of our private group care facilities are more concerned about racial balance of their facilities than they are about the damage and hurt that comes to children who wait for care in a de facto segregated facility.”

De facto segregation in foster care was different than in schools. The “legal defense of innocence” was more clear cut in the field of education—school segregation was not the result of intentional laws as in the South, but of northern cities’ patterns of residential segregation. In foster care, de facto segregation was clearly a product of discrimination by private religious institutions, particularly within the Protestant faith. First, the use of IQ scores contributed to de facto segregation, and also served as a defense for non-white children’s exclusion, drawing on frameworks of different educational needs. Furthermore, the admission processes devised to diversify the population of public foster care programs were thwarted by unofficial agreements between the public and private sector. For example, there was “no indication” that white children had been referred and rejected by the predominantly Black institution, Hillcrest. Rather, it seemed the Department of Welfare was not referring white children to Hillcrest at all. Judge Polier wrote that “[a]t the present time when our Board of Education is seeking to find ways to desegregate our schools, it seems fantastic that the Department of Welfare should by policy or procedures be developing what amounts to a segregated institution for children.” “While I am sure that there is no official policy, the program seems to indicate that there is some “gentlemen’s agreement” that this institution is to be used for Protestant Negro children.”<sup>671</sup> As reformers continued to tamp down on the autonomy of private institutions in a game of cat and

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<sup>669</sup> Glass, Michael R. 2018. “From Sword to Shield to Myth: Facing the Facts of *De Facto* School Segregation.” *Journal of Urban History* 44(6): 1199.

<sup>670</sup> Bruzzese, Christine. 2020. “Spotlight On: Black History Month.” *NYC Records & Information Services*. [https://www1.nyc.gov/assets/records/html/2020-02-12\\_newsletter.html](https://www1.nyc.gov/assets/records/html/2020-02-12_newsletter.html)

<sup>671</sup> Polier Manuscripts. 1956. “Letter from Judge Polier to Judge Bolin.” November 7, MC 413/Box 3/Folder 29.

mouse, private agencies continued to devise ways of eschewing responsibility. The Citizens' Committee for Children (CCC) found that "voluntary agencies manage[d] to syphon off the white children no matter what 'casework' reasons they g[a]ve."<sup>672</sup>

Sometimes probation officers, who managed cases for neglected and delinquent children whose cases were overseen by the Children's Court, were pressured to give racial descriptions of children despite the Brown Isaac's Bill mandate. Such was the case in a 1959 neglect petition by the Children's Society for five children born of a Puerto Rican mother who had been diagnosed with schizophrenia. The court attempted to place the children with the Catholic Home Bureau, but "[b]ecause they [we]re interracial children [they] anticipate[d] some difficulty finding a suitable home." They would not accept 4 year-old Claire because while "light olive complexioned," she had "negroid features," nor her 5 year-old brother who was dark skinned but did not have "negroid features." The probation officer described how the Catholic Home Bureau pressured her into describing the color of the mother and children: "Actually, your Honor, the worker, I would say, tried to pin me down. I had told her as far as I was concerned, the family was Porto Rican. She said that she could not have such a general description. She said that we couldn't call the description as white." After mediation by the court, the racial categories were changed and the Catholic Bureau then accepted all four children. Yet, this pattern continued, as a few years later Probation officers described having to determine the "color of skin, texture of hair, and "cuteness"" of non-Caucasian neglected children." In a letter to Judge Polier, Miss Margaret Robinson wrote that in her duty as a probation officer, she made referrals to the Department of Welfare for the temporary placement of neglected children, and in recent years had become frustrated by the need to "give a physical description of all Negro children." "[T]hey must know the exact shade of coloring." This was asked of Negro and Puerto Rican children, but not white children. In some cases, agencies justified this by asserting it was necessary to know what type of foster home they might fit best in.<sup>673</sup>

Political projects of desegregation were greatly informed by concerns over the psychological harm and damage caused by segregation, and this was reflected in child welfare reformers' language. As mentioned in Chapter 2, prior to the New Deal, children were often understood to need foster care for reasons of poverty. But by the 1940s and 1950s, reports documented the rise of "problem children" in the foster care system (See Image 5.3). Social workers like Betty Gray wrote of the "increase in the number of emotionally disturbed children" during the late 1940s and 1950s.<sup>674</sup> Some children came into foster care as emotionally disturbed children, but many more *became* emotionally disturbed as they stayed in substitute care. Maas and Engler wrote in their 1959 study that many children in substitute care spent the better part of their childhoods in out-of-home care. "Among them are children likely to leave care only when they come of age, often having had many homes—and none of them their own—for ten or so years. Children who move through a series of families or are reared without close and continuing ties to a responsible adult have more than the usual problems of discovering who they are. These

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<sup>672</sup> Markowitz and Rosner Papers. 1963. "CCC: Draft Memo on Discrimination and Child Care Services in New York City." September 3, MS 1615/Box 8/Folder 29.

<sup>673</sup> Polier Manuscripts. 1966. "Letter to Judge Polier from Margaret Robinson." December 14, MC 413/Box 19/Folder 228.

See also: Polier Manuscripts. 1966. "Letter to Judge Polier from W. Holliday." December 14, MC 413/Box 19/Folder 228.

<sup>674</sup> Gray, Betty. 1958. "Casework Treatment of Emotionally Disturbed Children in Foster Family Care." *Smith College Studies in Social Work* 28(2): 126.



are the children who learn to develop shallow roots in relationships with others, who try to please but cannot trust, or who strike out because they can be let down.”<sup>675</sup>

**Image 5.3: Inquiry Focuses on Those Rejected by Private Agencies, *New York Times*** <sup>676</sup>



This rhetoric was filtered through the lens of race in the context of de facto segregation. On the ground in New York City, these children were known as “lost children” or the “hard-to-place,” and they were primarily non-white. There was “virtually no movement of ‘hard-to-place’ children.”<sup>677</sup> Studies lumped Protestant Negro children with other “problem children,” including those with behavior problems, low IQs, family groups, children under two years of age, and the physically handicapped.<sup>678</sup> When these children could not be placed, they were either returned home, or were placed in the increasingly overcrowded public facilities, including Children’s Center, Hillcrest, or Youth House. These institutions became severely overcrowded and predominately non-white. For example, an inspection found that beds lined every inch of the supposedly temporary Children’s Shelter, including the hallways and the play spaces, yet some children still slept two to a bed. Over 50 percent of children in the facility had been there more than three months, and of these children, 89 percent were Black or Puerto Rican. As one judge noted, “the long stays hit the non-White children most seriously. . . . These children come back before the court, either to be paroled or remanded month after month, for periods of 3 months to 6 months, with some as long as 2–3 years. As time goes on the children are seen neither by the

<sup>675</sup> Maas, Henry S. and Richard E. Engler, Jr. 1959. *Children in Need of Parents*. New York: Columbia University Press, 356.

<sup>676</sup> Teltsch, Kathleen. 1967. “Inquiry Focuses on Those Rejected by Private Agencies.” *New York Times* June 29. Accessed through Historical Newspapers (Proquest).

<sup>677</sup> Polier Manuscripts. 1960. “Memorandum from the Committee on Institutions.” January 29, MC 413/Box 4/Folder 47.

<sup>678</sup> Markowitz and Rosner Papers. 1948. “CCC: Next Steps to Expand Facilities for the Care of Children Who Require Placement Outside their Own Homes.” May 10, MS 1615/Box 11/Folder 12.

Judges nor the Probation Officers. Some of them receive no visitors. *They are, indeed, lost children.*”<sup>679</sup>

Reformers in the post-war era became concerned with the psychological costs of this treatment. The court voiced concern that these children awaiting placement “[were] not given the opportunity to become useful citizens.”<sup>680</sup> Instead, “many children [simply] move from the more or less socially accepted category of being dependent to the socially unacceptable category of being delinquent,” as the CCC argued.<sup>681</sup> In a plea for more institutional support, the CCC highlighted the case of an “attractive 11-year-old Negro girl,” who was placed in Callagy Hall at the age of 8 due to neglect. After having difficulty adjusting to her fourth foster home, the social worker admitted that “the most they [could] do is wait for her to ‘crack’ so she [could] be eligible for either a mental hospital or a state training school.”<sup>682</sup> Older children, in particular, remained in overcrowded public shelters until they developed disciplinary problems. In an investigation, “a city official reported that a group of girls, after months of residence [at a temporary shelter], had become increasingly unmanageable and had to be transferred to Hudson Training School [for delinquents].”<sup>683</sup> In an increasingly non-white foster care system, the contours of public responsibility hardened around perceptions of the psychological and behavioral costs of child welfare discrimination.

After a long history of exclusion, Black children were finally making their way into the foster care system. But the stop-gap measures of labeling Black children as delinquent to ensure out-of-home care (Chapter 3), alongside the shifts in intelligence and behavior classifications by private agencies, had now devolved into practice. Judges no longer needed to label Black children damaged because, in the eyes of the court and child welfare officials, they *became* disturbed the longer they stayed in the system—they learned from their peers at the crowded dinner table, they slept in the same beds, and they reacted naturally to abandonment and discontent in the public system. This was the child welfare system that Black children inherited when they finally gained access—a two-track system of public and private pathways molded by distinct racial categories of perceived need, innocence, and capacity.

## Conclusion

This chapter traced a distinct racialized mode of inclusion spurred by a shifting relationship between public and private child welfare in New York City. After integration in the early 1940s, a new mode of racialization took shape as the City slowly attempted to wrest control from private child welfare. After the City tied public funding of private institutions to the intake of all races, Black and Puerto Rican youth were increasingly rejected on the basis of coded intellectual and psychological criteria. To ensure inclusion, the City pushed for the creation of a public foster care system. But instead of insisting on the more difficult and costly task of dismantling the delegated authority of private child welfare, they opted to construct a

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<sup>679</sup> Polier Manuscripts. 1960. “Memorandum from the Committee on Institutions.” January 29, MC 413/Box 4/Folder 47.

<sup>680</sup> Polier Manuscripts. 1946–9. “Summary of the Report on Needs and Facilities for Foster Care of Children in New York City.” Undated, MC 413/Box 35/Folder 434.

<sup>681</sup> Markowitz and Rosner Papers. 1964. “Citizens’ Committee for Children of New York, Inc.: News.” June, MS 1615/Box 11/Folder 18.

<sup>682</sup> Markowitz and Rosner Papers. 1964. “Citizens’ Committee for Children of New York, Inc.: News.” June, MS 1615/Box 11/Folder 18.

<sup>683</sup> Polier Manuscripts. 1960. “Memorandum from the Committee on Institutions.” January 29, MC 413/Box 4/Folder 47.

“derivative” public foster care system—one built as a supplement to the voluntary sector and reliant on cooperation. This compromise over responsibility racialized the developing public foster care system of New York City, and it legitimated negative classifications of behavior and capacity as an underlying force in the state’s framing of how and why Black children deserve to be protected.

The history of New York City foster care highlights the consequences of public social welfare programs that develop in response to weaknesses in the private sector. Jill Quadagno (2000) argues that racial inequality can be reduced when private “institutions that maintain the racial order [are] incorporated into the public sphere.”<sup>684</sup> Public foster care in New York City grew in response to weaknesses around inclusion and program efficacy in the private child welfare sector. But rather than resolving these deficiencies, this case showed how the “derivative” development of public foster care legitimated the very classifications and frameworks created by the private sector to exclude Black youth—including low IQ, emotional disturbance, and behavioral problems. In an increasingly non-white foster care system, the contours of public responsibility hardened around perceptions of the psychological and behavioral costs of racial discrimination. Given the role that race plays in perceptions of deservingness and opinions about welfare, the increasing association of public foster care with non-white children may have shaped investment in the subsidized care of “other people’s” children.<sup>685</sup> The way New York City public foster care developed and evolved in response to private child welfare suggests we must pay attention not only to the myriad ways delegated governance fosters inefficiencies through privatization, but also how the private sector influences the policy agenda of the public sector.

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<sup>684</sup> Quadagno, Jill. 2000. “Promoting Civil Rights through the Welfare State: How Medicare Integrated Southern Hospitals.” *Social Problems* 47(1): 85.

<sup>685</sup> Gilens, Martin. 1999. *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy*. Chicago: University of Chicago Press.

## Chapter 6: The White Exodus from New York City Foster Care, 1930s-1960s

According to news reports in the late 1950s, “[e]veryone in New York [was] aware of the growing proportion of the population who are colored,”<sup>686</sup> not least because of the increasing concern with nonwhite poverty. The Governor of Rochester was reported in the State Welfare Conference saying that “it was “a tragic paradox” in the midst of general prosperity that thousands of families continued to have incomes below the minimum standard set for public relief.”<sup>687</sup> Indeed, a few years later, *Fortune* magazine proclaimed that the U.S. was entering a new phase in “the great income revolution” of the previous decade. They predicted that in the coming decade, “[r]eal poverty [would] be largely abolished in the U.S.”<sup>688</sup> And yet, social workers warned that “in spite of the split-level house with the backyard barbecue, the new station wagon, and the 27-inch TV, family breakdown persist[ed].”<sup>689</sup> For a brief moment during the Depression, social workers and politicians recognized poverty as economically rooted, but now social workers argued that wholesome families required more than economic security. Amidst the prosperity of the post-war years, non-white poverty was increasingly seen as an anomaly rooted in the cultural and psychological pathology of the individual.<sup>690</sup> Within this era revered for its stability and prosperity, the New York foster care population dramatically transformed.

As New York City’s composition changed and news reports sounded the alarm on nonwhite migrants, the foster care population quietly transformed out of step with population trends. This chapter shows that in the post-war years, white children made a near exodus from out-of-home care in New York City. By the late 1950s, Black and Puerto Rican youth were the majority of children in foster care. A number of factors help explain the decline in white substitute care rates including the increase in white infant adoption, as well as the general out-migration of white families to the suburbs alongside increased nonwhite in-migration. While these factors are all critical to the racial demographics of out-of-home care, they are also part of a broader shift in access to family stability that began in the 1930s during the New Deal. This chapter argues that an important part of the white exodus is rooted in what the Governor of Rochester referred to as the “tragic paradox” of poverty in the midst of general prosperity. Extending arguments in Chapter 2, this final chapter examines the vast changes in the racial dynamics of out-of-home care in New York City within the context of a “golden age” of prosperity that generated profound economic uplift for working class white families.

Much of the work on racialization of foster care has focused on the oppressive inclusion of minority youth, but what has often been missing from histories of racialization is the decline of white children. As the foster care population began to change in post-war years, local private and public child welfare services struggled to define the contours of responsibility for non-white youth. In the shuffle, white impoverished children faded from public scrutiny, becoming an

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<sup>686</sup> *New York Times*. 1957. “New York’s Non-Whites.” November 20.

<sup>687</sup> Rasking, A. H. 1957. “Nonwhites Up 41% in City, Whites Down 6% Since ‘50.” *New York Times* November 19.

<sup>688</sup> Parker, Sanford S. and Lawrence A. Mayer. 1959. “The Decade of the “Discretionary” Dollar.” *Fortune* June, 136.

<sup>689</sup> MacRae, Robert H. 1958. “Prerequisites for Strong Family Life.” *Proceedings of the National Conference of Social Work*, 114.

<sup>690</sup> O’Conner, Alice. 2001. *Poverty Knowledge: Social Science, Social Policy, and the Poor in Twentieth-Century U.S. History*. Princeton: Princeton University Press; Markowitz, Gerald and David Rosner. 1996. *Children, Race, and Power: Kenneth and Mamie Clark’s Northside Center*. Charlottesville: University of Virginia Press.

“unmarked category.”<sup>691</sup> But the policies and ideologies upholding the protection of impoverished white children were not constructed in isolation, but rather in relation to children of color. This chapter offers insight into how foster care came to be a racialized state service, not just through the oppressive policing of Black and Puerto Rican families, but through the uplift of white families.

The 1940s and 1950s were an era of great prosperity in American history, but many scholars have shown that the remarkable growth of the postwar economy was profoundly uneven.<sup>692</sup> Child welfare professionals had imagined that economic prosperity and the widespread availability of relief would render foster care relatively obsolete, but they failed to account for the large number of minorities left behind by post-war affluence. This chapter shows that once white children began to leave out-of-home care, social welfare professionals began to understand the needs of minority youth through the framework of pathology. Social welfare workers reasoned that with the advent of welfare and labor protections, the needs of foster care youth had shifted away from economic solutions, and the “new needs” trended toward pathology.

### **The War and the “Lull” in Child Protection**

During the war, many social workers predicted increased need for out-of-home care. In 1942, the Sheltering Arms foster care agency noted in their Annual Report that “[w]ith steadily rising birthrate, increased illegitimacy inevitable in war time, and the many threats to family solidarity, baby care has been one of the outstanding needs in the community.”<sup>693</sup> The stresses of economic depression and the war brought about “unparalleled ambiguity and anxiety about family life.”<sup>694</sup> “Many American children are growing up in homes where there are no men,” wrote social worker Dorothy Hutchinson, but could be raised well by loving mothers.<sup>695</sup> Yet women themselves were making their way into the workforce in record numbers. As they did, the city scrambled to provide access to day care services. Still, agencies like the Sheltering Arms found themselves “overwhelmed with requests by mothers of babies whose husbands had gone into the armed services and who felt it was necessary to work to supplement army allowances.”<sup>696</sup> These “restless and unhappy” mothers struggled to survive on their husbands’ “allotments” and sought private foster care arrangements as a way to stay afloat, personally and financially.

Despite these concerns over family arrangements, the foster care population in New York City actually declined during the war. The war-time shortage in child welfare services may have accelerated this decline. Dr. Leona Baumgartner, head of the City Health Departments’ Child Hygiene Division, reported that on September 30, 1941, there were 6,305 foster homes. “A year

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<sup>691</sup> Lipsitz, George. 1995. “The Possessive Investment in Whiteness: Racialized Social Democracy and the “White” Problem in American Studies.” *American Quarterly* 47(3): 369.

<sup>692</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company; Sugrue, Thomas. 2005. *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit*. Princeton: Princeton University Press.

<sup>693</sup> Sheltering Arms Children’s Service Records. “Annual Report 1942.” MC 1385/Box 138.

<sup>694</sup> Levey, Jane F. 2001. “Imagining the Family in U.S. Postwar Popular Culture: The Case of the Egg and I and Cheaper by the Dozen.” *Journal of Women’s History* 13(3): 125.

<sup>695</sup> Hutchinson, Dorothy. 1944. “Foster Home Care in Wartime.” *Proceedings of the National Conference of Social Work*, 238.

<sup>696</sup> Sheltering Arms Children’s Service Records. “Annual Report 1943: Wartime care of Foster Home Babies.” MC 1385/Box 138.

later, the number dropped to 5,630. On Sept. 30, 1943, there were only 4,961.”<sup>697</sup> A letter to the mayor indicated that since the war, “boarding homes ha[d] been lost faster than they could be found.”<sup>698</sup> But by the end of the 1940s, it was clear that the foster care population was going through a significant transformation that far exceeded the shortage in boarding homes. *The Child Care Report* in New York City revealed that between 1940 and 1949, the number of New York City children under care declined 22.8 percent. In 1940, over 26,000 children were cared for in substitute care. By 1945, this decreased to a little over 20,000 and remain low throughout the post-war period. Nor did the worry over army wives privately fostering their children pan out in the city-wide data: private commitments declined from 3,002 children in 1942 to 2,824 in 1945. By 1949, only 2,042 children were cared for as private charges.<sup>699</sup>

Child welfare reports also revealed that the decline in substitute care occurred among all religious faiths, but was greatest for Jewish agencies. In the early to mid-20<sup>th</sup> century, the Catholic substitute care population was much larger than that of Protestant or Jewish faiths. On the eve of the war, Catholics made up three-fifths of children in substitute care. Over the course of the decade, their population declined by 19%, from 12,379 in 1940 to 9,999 in 1950. The Protestant foster care population, which made up over one-fifth of children in care, also declined over the course of the decade by 26%, from 4,623 to 3,400.<sup>700</sup> But child welfare workers were particularly impressed by the casework efforts of Jewish agencies. The 1951 Child Care Section reported that while overall rates of substitute care declined between 1939 and 1949, the decline was greatest among Jewish children who experienced a 65% drop from 4,091 to 1,440. They argued that “[t]his higher reduction during the past ten years in the number of Jewish children in foster care is directly related to the casework program in the Jewish family and child-caring agencies.”<sup>701</sup>

Scholars indicate that the decrease in foster care rates was not limited to New York City, but was part of a much broader decline. Leroy Pelton finds that “[t]he foster care population increased from 1910 until 1933, [and] declined until sometime before 1961” when it began to increase again.<sup>702</sup> This decline was part of a broader shift in the post-war period, when concerns over child protection, and family violence more generally, receded from public awareness.<sup>703</sup> Michal Raz argues that child protection issues were “practically nonexistent” by the 1950s.<sup>704</sup>

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<sup>697</sup> Polier Manuscripts. 1943-1945 “City Must Act to Rescue Kids from Insanitary SPCC Shelters.” By Albert Deutsch. Undated, MC 413/Box 5/ Folder 53.

<sup>698</sup> Polier Manuscripts. 1948. “Letter to Mayor O’Dwyer.” August 6, MC 413/Box 35/Folder 434.

See also: Hutchinson, Dorothy. 1944. “Foster Home Care in Wartime.” *Proceedings of the National Conference of Social Work*.

<sup>699</sup> New York (State). 1951. *Child Welfare in New York State*. Citizens’ Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 38-39.

<sup>700</sup> New York (City). 1957. *Fact Book on Children in New York City: Characteristics of the Child Population and Welfare, Health, and Education Services for Children*. Welfare and Health Council of the City of New York, 72.

<sup>701</sup> New York (State). 1951. *Child Welfare in New York State*. Citizens’ Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 18.

<sup>702</sup> Pelton, Leroy. 1987. “Not For Poverty Alone: Foster Care Population Trends in the Twentieth Century”. *The Journal of Sociology and Social Welfare* 14(2): 42.

<sup>703</sup> Gordon, Linda. 1988. *Heroes of Their Own Lives: The Politics and History of Family Violence, Boston 1880-1960*. New York: Penguin Books; Nelson, Barbara. 1984. *Making an Issue of Child Abuse: Political Agenda Setting for Social Problems*. Chicago: University of Chicago Press, 6-11.

<sup>704</sup> Raz, Mical. 2020. *Abusive Policies: How the American Child Welfare System Lost Its Way*. Chapel Hill: The University of North Carolina Press, 3.

But what many reports failed to mention at the time, and historical scholarship has overlooked, was that this decline in substitute care was a decline among *white* children.

### The White Exodus, 1940s and 1950s

The thrust of this chapter centers around what I call the white exodus in foster care. Figure 6.1 is an approximation of the white decline in New York City foster care between 1937 and 1963. The data are pulled from various city reports as well as memoranda from Judge Polier's archival collection. The data primarily come from the Department of Welfare, but while total population counts were made on a semi-regular basis, racial breakdowns were often the result of special case reports or committee studies. As a result, these data only capture broad trends in substitute care at this moment in history.

The data refer to public charges classified as dependent, neglected, or delinquent. Public charges were children who underwent official referral from the Children's Court or Department of Welfare, and whose board rates were paid by the city. Most children in out-of-home care in New York City were public charges, even if cared for by private agencies.<sup>705</sup> Because of racial discrimination, private charges were predominately white, and in this way, the white decline may be slightly underestimated.<sup>706</sup> Of the children cared for as public charges, those classified as delinquents only accounted for a small portion of the population.<sup>707</sup> The Department of Welfare defended the inclusion of delinquents in their foster care population counts, arguing that there was great overlap between the categories of delinquency and neglect; a delinquent child "might be adjudged "neglected" or vice-versa if the judge felt that that classification made it easier to get for him the care and training he needed."<sup>708</sup> The children cared for as public charges during these years were primarily cared for in institutions, foster homes, and temporary shelters.

Overall, the data in Figure 6.1 show a dramatic decline in white children's presence in out-of-home care between the late 1930s and early 1960s. The start of this decline began in the final years of the depression. A report by the Welfare Council of New York City showed that in

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<sup>705</sup> For example, in 1940, private charges represented 13% of children in substitute care and by 1949 this had declined to 10%.

Source: New York (State). 1951. *Child Welfare in New York State*. Citizens' Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 39.

<sup>706</sup> To get a sense of how much the inclusion of private charges matters to the overall data, I provide a comparison between 1936 (public and private) and 1937 (public) data. A racial breakdown of public and private charges from 1936 reveals a slightly higher white population than one based on public charges only. In 1936, 24,148 children were cared for as *public and private charges*. Of this, 21,777 were white, representing 90.2% of all cases. By contrast, the data from 1937 show that 23,019 children were cared for as *public charges*, and of this, 88.7% (20,203) were classified as white. When private charges were included in the foster care statistics, white youth made up a larger proportion, but over the years, this may have been increasingly negligible as private foster care arrangements were on the decline.

Source for 1936: Polier Manuscripts. 1936. "Planning for Brooklyn Children Needing Foster Care, Research Bureau, Welfare Council Study." December, MC 413/Box 19/Folder 218.

Source 1937: Polier Manuscripts. 1939. "Children Under Care of Department of Welfare According to Color." March 17, MC 413/Box 22/Folder 258.

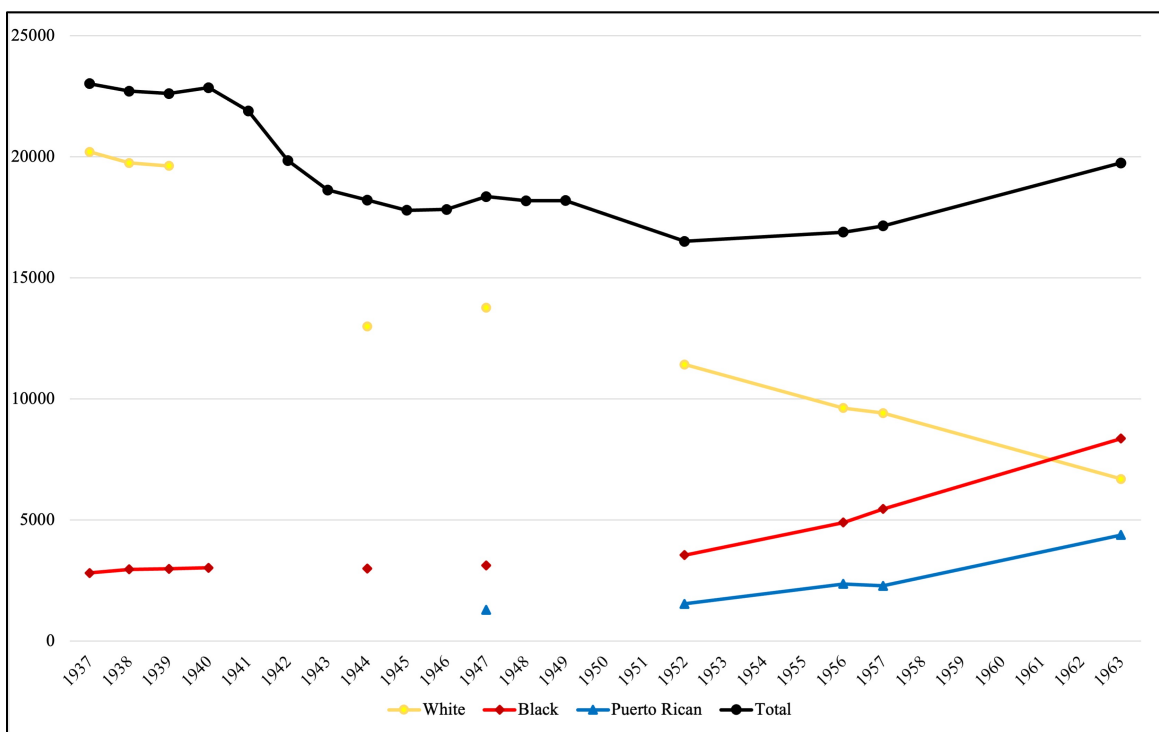
<sup>707</sup> For example, in 1956, 14,665 of the nearly 17,000 public charges in temporary and long-term care were cared for as dependent or neglected.

Source: New York (City). 1957. *Fact Book on Children in New York City: Characteristics of the Child Population and Welfare, Health, and Education Services for Children*. Welfare and Health Council of the City of New York, 70.

<sup>708</sup> Polier Manuscripts. 1939. "Children Under Care of Department of Welfare According to Color." March 17, MC 413/Box 22/Folder 258.

1937, 20,203 white youth made up nearly 88.7% of all children in substitute care. By 1939, this population declined to 19,626, representing 86.8% of all children. Chapter 2 argued that the seeds of the white exodus began in the 1930s, when family stability diverged for Black and white Americans as the policy regime of family preservation stratified along racial lines. The government endeavored to uplift white men as wage-earners through a restructuring of the economy. This coincided with the new child welfare approach which posited economic protections as the key to reducing out-of-home care. This chapter continues this line of argument and will show that these economic forces only became stronger after the war.

**Figure 6.1: Population Counts of New York City Foster Care by Ethnic Group<sup>709</sup>**



<sup>709</sup> Sources:

1937-1939: Polier Manuscripts. 1939. "Children Under Care of Department of Welfare According to Color." March 17, MC 413/Box 22/Folder 258.

1940: Data on "Negro children" from Polier Manuscripts. 1939. "Children Under Care of Department of Welfare According to Color." March 17, MC 413/Box 22/Folder 258.

1940-1949 "Totals": New York (State). 1951. *Child Welfare in New York State*. Citizens' Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 39.

1944 racial breakdown: "Child Care Report: Anticipated Number of Children Needing Foster Care" used to estimate breakdown of the total. Source: New York (State). 1951. *Child Welfare in New York State*. Citizens' Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 39.

1952, 1957, and 1963: Markowitz and Rosner Papers. 1963. "CCC: Statistics on Children in Shelter Care." October 18, MS 1615/Box 11/Folder 13.

1956: New York (City). 1957. *Fact Book on Children in New York City: Characteristics of the Child Population and Welfare, Health, and Education Services for Children*. Welfare and Health Council of the City of New York, 70.



As mentioned previously, between 1940 and 1949, the substitute care population in New York City declined greatly, especially during the war years.<sup>710</sup> The majority of the wartime decline in foster care came from white decline. A report by the Citizens' Committee for Children (CCC) revealed that in 1944 there were approximately 16,000 public charges, of whom 3,000 were Negro (about 18.75%), leaving roughly 13,000, or 81% of white youth in foster care.<sup>711</sup> This racial breakdown is corroborated by another special report conducted by the Committee on Child Care at the behest of the Mayor in 1947-8 entitled *Anticipated Number of Children Needing Foster Care*, which studied the racial composition of referrals to substitute care, as well as those already under care. This report indicated that the white foster care population had declined to 75%, while the Black foster care population increased to 17%, and the Puerto Rican population was estimated for the first time to be 7%.<sup>712</sup> While the data from the 1940s is limited, relying on racial breakdowns from separate reports, the patterns indicate a significant downward trend among the white foster care population.

The 1952, 1956, 1957, and 1963 data<sup>713</sup> come from the New York City Department of Welfare, Division of Statistics. The data from these years reveals that there was an unprecedented and rapid decline in white children's presence in out-of-home care. In 1950, white youth made up roughly 85% of the New York City population under 20 years of age. By 1952, white youth represented 69.2% of foster care children, decreasing to 54.9% in December 1957.

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<sup>710</sup> The 1940-1949 totals are greater than the totals from the 1950s because they capture neglected, dependent, and delinquent children in institutional and foster home care, as well as those under the supervision of State Training Schools and at Youth House (which were publicly supported children, but paid for by the State as opposed to the city). They also include youth in "suspended payment" status who were living in a free foster home, or in an adoptive home, or in some other type of care for which boarding care payment was not required (Fact Book, P. 67). The data from the other years (late-1930s data and 1950s-60s data exclude these children). To get a sense of the difference this makes, I compare data from 1949, the only year that shows both classifications. The data that include the training schools, Youth House, and "suspended payment" youth, count the public charge population as 18,189. The data that excludes these youth estimates the public charge population to be 16,398 (Fact Book, P. 68). It is safe to assume that a large portion of this missing data from the Training Schools and Youth House are Black and Puerto Rican children. During these years, the State Training Schools had a population capacity of 450 at Warwick, ~480 at Hudson, and 350 at Youth House, though it often had a population of nearly 500. In total, they likely accounted for nearly 1,500 children.

Sources: Polier Manuscripts. Undated. "The New York State Training School for Boys: A Summary." MC 413/Box 3/ Folder 37.

Polier Manuscripts. 1937. "Visit to New York State Training School for Girls." December 3, MC 413/Box 4/Folder 41.

Markowitz and Rosner Papers. 1961. "CCC: Statement by Trude W. Lash, Executive Director of CCC, Before the Board of Estimate on the 1962 Capital Budget." November 17, MS 1615/ Box 11/Folder 13.

<sup>711</sup> The total number of public charges listed by the CCC is slightly lower than that listed by the Department of Welfare because, for these years, public charge totals included children supervised by State Training Schools and at Youth House, as well as those in free foster homes and adoptive homes (See previous footnote).

Source: Markowitz and Rosner Papers. 1964. "Background Material for Perspective in Preparation of the 20<sup>th</sup> Anniversary Report: Child Care Section." MS 1615/Box 11/Folder 13.

<sup>712</sup> Data were presented as percentages, which I used to calculate racial breakdown based on public charge totals.

<sup>713</sup> November 1952, December 1957, and June 1963 data source: Markowitz and Rosner Papers. 1963. "CCC: Statistics on Children in Shelter Care." October 18, MS 1615/Box 11/Folder 13.

Note: The data are not described, however, the November 1952 numbers align with the New York City Department of Welfare, Division of Statistics. These data include New York City children in foster (substitute) care at public charge, exclusive of children in Training Schools and Youth House.

1956 data: New York (City). 1957. *Fact Book on Children in New York City: Characteristics of the Child Population and Welfare, Health, and Education Services for Children*. Welfare and Health Council of the City of New York, 70.

By 1960, the white youth population of New York City had declined to 70.5%, but in June 1963, white youth made up only 35.4% of the foster care population. It was not simply that their proportions decreased relative to increasing non-white proportions; rather, their population counts decreased as well from 11,426 (1952) to 9,414 (1957) to 6,994 (1963). The rapid decline of white children in foster care in the post-war years represented nothing short of an exodus from substitute care. The white exodus was part of a dramatic shift in child protection that set the stage for associations between poverty, race, and child protection needs in the 1960s.

As white youth made an exodus from foster care, Black and Puerto Rican children's presence slowly increased until the 1950s when it skyrocketed. In 1937, only 12% or 2,816 children in foster care were Black. As the white foster care population declined, Black youth made up a larger proportion of the substitute care population even as their numbers stagnated around 3,000 in the mid-1940s. By 1950, Black children represented only 10.5% of the population in New York City, but nearly 21.5% of children in foster care (at 3,550). By 1957, this rose to 5,453, or nearly 32%, and finally surpassed the white foster care population in the subsequent years. Meanwhile, Puerto Rican children were approximately 7% (1,285) of the foster care population when first documented in 1947. By 1950, Puerto Ricans represented 4.5% of youth in New York City, but their cases increased to 2,281 (13%) in 1957, and 4,381 (22%) by 1963.<sup>714</sup>

The data from New York City shows that between the late 1930s and early 1960s, foster care transformed from a system that predominantly served white youth to one that disproportionately served Black and Puerto Rican youth. The swift drop in the white substitute care population cannot be overlooked in histories of foster care racialization—the post-war years were an extraordinary moment of white exodus that reflected dramatic transformations in family poverty. As mentioned in the introduction, histories of foster care racialization have tended to focus on the oppressive inclusion of minorities in foster care during the 1960s, but this data shows that racialization occurred earlier in New York City. Extending the historical timeline uncovers another explanation for racial disparity in the foster care system, one that isn't only about punitive surveillance and regulation of minority families in the 1960s, but actually about welfare state development starting in the 1930s. In the following sections, I show that as the hardship of the Depression and WWII faded, the nuclear family was revived through “economic and political support systems” that rewarded “socially-sanctioned families.”<sup>715</sup>

### **A Changing Focus in the Field of Foster Care: The Decline of Economic Insecurity**

The white exodus happened within the context of vast changes to the landscape of poverty and family life in the post-war years. To understand the changes in family life and the foster care population more generally, one must examine the unprecedented prosperity and optimism of America at this time. Judge Polier, of the Domestic Relations Court, wrote in 1946 that “Happily since 1933 with the development of public responsibility for human welfare in our country under President Roosevelt, *poverty alone is no longer a cause for foster-home care*. In other words the American people through its government, Federal, State and Municipal, have provided financial assistance to parents so that homes can be maintained which formerly were

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<sup>714</sup> These estimates likely under-report Puerto Ricans because some were classified as either white or nonwhite. Overall, these data may also underestimate the non-white foster care population during the 1950s, as youth in State Training Schools and Youth House, primarily Black and Puerto Rican were excluded from these counts.

<sup>715</sup> Coontz, Stephanie. 1995. “The Way We Weren’t: The Myth and Reality of the “Traditional” Family.” *National Forum* 75(3): 13.

broken by poverty alone.”<sup>716</sup> Reformers understood the dynamics of child welfare to be distinct after the New Deal—economic assistance and social insurance provisions had profoundly changed the need for foster care. But the effects of financial provisions were startlingly different for Black and white children.

Child welfare reformers rarely mentioned the provision of welfare, rather it was the social insurance programs they extolled for the economic stability they created for families in the post-war years. Ewan Clague, Commissioner of Labor Statistics in the U.S. Department of Labor, wrote in 1952 that “[i]n the crisis of twenty years ago we adopted a program of national security... The significant point is that the nation has taken steps to provide some continuity of income even in the face of loss of employment and wage-earning capacity.”<sup>717</sup> While public assistance was the “primary line of defense” against destitution up until 1940, by the 1950s, an impressive array of social and private insurance plans allowed for income maintenance and the prevention of dependency in the event of personal and economic crises.<sup>718</sup> As white foster care declined from 88% in 1939 to 75% in 1947, the economic agenda of child welfare began to take a back-seat. In fact, studies from New York City reported that many of “the economic hazards of family life [were] now met through social insurances, and there [was] no longer need for public assistance to care for children in these situations.”<sup>719</sup> They cited old-age and survivors insurance as benefitting women and children after workplace accidents or the death of the breadwinner. Likewise, women and children received compensation when servicemen were killed or disabled in the war. “Workmen’s compensation, railroad retirement benefits, unemployment insurance, and disability insurance protect all eligible children against economic hazards which families face.”<sup>720</sup>

The precipitous decline in white children’s foster care rates in New York City in the mid-1940s coincided with increasing prosperity—homeownership, economic stability, increased educational attainment, and expanded social insurance provisions. Social welfare professional, Leonard Mayo, wrote that since the early 1900s, economic aspects and family stability had improved. Annual income was higher, and health, education, and recreation had improved.<sup>721</sup> Seth Low, a researcher in the Children’s Bureau, also highlighted the increasing prosperity of the post-war years. He cited “[a]dvances in the national standard of living and improvements in the nation’s health,” as well reductions in poverty all of which “lowered admissions to institutional care for reasons of death, illness, or poverty of parents.” Likewise, the “growth of economic security and human welfare programs ha[d] reduced the numbers of children separated from their families for reasons of poverty and ... made alternative arrangements to institution care more widely available, including Old Age, Survivors’ and Disability Insurance, Aid to Families with

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<sup>716</sup> Markowitz and Rosner Papers. 1946. “*New Needs in the Foster Home Field.*” By Justine Wise Polier. May 13, MS 1615/Box 12/Folder 15. Emphasis added.

<sup>717</sup> Clague, Ewan. 1952. “Economic Factors Affecting Family Living.” *Proceedings of the National Conference of Social Work*, 68.

<sup>718</sup> New York (State). 1958. *Public Assistance Recipients in New York State, January-February 1957: A Study of the Causes of Dependency During a Period of High-Level Employment*. Interdepartmental Committee on Low Incomes, 14.

<sup>719</sup> New York (State). 1951. *Child Welfare in New York State*. Citizens’ Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 16.

<sup>720</sup> New York (State). 1951. *Child Welfare in New York State*. Citizens’ Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 16.

<sup>721</sup> Mayo, Leonard W. 1950. “Security for Children and Youth.” *Proceedings of the National Conference of Social Work*.

Dependent Children, adoption, foster family care, and child welfare services designed to maintain and strengthen family stability.”<sup>722</sup>

As mentioned in the introduction, a great optimism struck reformers. By the mid-1950s, nearly 60 percent of Americans had achieved a “middle-class” standard of living, “in contrast to only 31 percent in the last year of prosperity before the Great Depression.”<sup>723</sup> Arlene Skolnick argues that “[i]nstead of a pyramid-shaped distribution of income, with most people on the bottom, America’s income structure bulged out in the middle and came to resemble a football.”<sup>724</sup> “All this allowed most middle-class Americans, and a large number of working-class ones, to adopt family values and strategies that assumed the availability of cheap energy, low-interest home loans, expanding educational and occupational opportunities, and steady employment”<sup>725</sup> But “[w]hether or not the new prosperity was making Americans more equal, social scientists were almost unanimous in concluding that it was.”<sup>726</sup> As social scientists and child welfare workers extolled the virtues of post-war prosperity, economic stability, and social insurance, their perceptions of the impoverished began to shift. So many families were aided by government programs of stability that the loss of the breadwinner by death was no longer a main factor in dependency.<sup>727</sup>

The white exodus accelerated in the 1950s, declining by 39% between 1952 and 1963. What we see in these years is a reflection of growing prosperity and stability among white families. Between 1947 and 1964 “the number of white families living in poverty ha[d] decreased 27 percent while the number of poorer nonwhite families decreased only 3 percent.” The issue was not that African Americans were poorer than the prior generations; rather, white and Black income and wealth had “grown *more*, not less, distinct in the postwar golden age.”<sup>728</sup> Though unemployment virtually disappeared for white and African Americans, and black-white wage inequality showed great progress in the 1940s, this progress stagnated by the 1950s.<sup>729</sup> In New York, “[c]ensus data on 1949 income indicate[d] that the median individual income for white income earners was \$2,717 compared to \$1,712 for Nonwhites and \$1,647 for Puerto Ricans. Of white income earners 27 percent had incomes over \$3,500, compared to only 5 percent of Nonwhites, and 6 percent of Puerto Ricans.”<sup>730</sup> By 1952, nearly two-thirds of African

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<sup>722</sup> Low, Seth. 1965. *America’s Children and Youth in Institutions*. U.S. Department of Health, Education, and Welfare, 5.

<sup>723</sup> Chafe, William H. 2011 (1986). *The Unfinished Journey: American Since World War II*. New York: Oxford University Press, 112.

<sup>724</sup> Skolnick, Arlene. 1991. *Embattled Paradise: The American Family in An Age of Uncertainty*. New York: Basic Books, 54.

<sup>725</sup> Coontz, Stephanie. 1992. *The Way We Never Were: American Families and the Nostalgia Trap*. New York: Basic Books, 29.

<sup>726</sup> Hodgson, Godfrey. 2005. *American in Our Time: From World War II to Nixon—What Happened and Why*. Princeton: Princeton University Press, 52.

<sup>727</sup> New York (State). 1951. *Child Welfare in New York State*. Citizens’ Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 45.

<sup>728</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 15.

<sup>729</sup> Maloney, Thomas N. 1994. “Wage Compression and Wage Inequality Between Black and White Males in the United States, 1940-1960.” *The Journal of Economic History* 54(2): 358-381.

<sup>730</sup> Lowell, Anthony M. 1956. *Socio-Economic Conditions and Tuberculosis Prevalence New York City, 1949-1951*. New York Tuberculosis and Health Association, 21.

Americans and almost sixty percent of Puerto Rican households had incomes below \$3,000 compared to 28% of white households in New York City.<sup>731</sup>

Thomas Sugrue (2005) argues that the affluence of the “golden age of capitalism” during the 1940s and 1950 belied its destructive forces that disproportionately affected non-white families.<sup>732</sup> Minorities had become the primary recipients of home relief and aid to dependent children. “In New York City the great majority of home relief and aid to dependent children recipients were Puerto Rican or Negro, while the majority of OAA (Old Age Insurance), AD (Aid to Disabled) or AB (Aid to the Blind) recipients [were] white.” The Black population made up over 51% of ADC recipients and 31% of Home Relief recipients, while Puerto Ricans made up 31% of ADC and 51% Home Relief.<sup>733</sup> Meanwhile whites made up only roughly 17% of cases in both programs.

The racial wealth gap continued to expand in the 1960s, as census data showed in 1968 that “whites [had] improved their economic positions since 1960, whereas minority groups [had] not.” During the 1960s, the number of white families in New York City declined, and “many families who left the city presumably came out of the middle income ranges.” That “White families moved up in income so uniformly over the entire income distribution, despite the loss of many middle income families to the suburbs, gives strong evidence of the extent to which whites were able to take advantage of prosperity during that period.”<sup>734</sup> As Katznelson argues, “[t]he exclusion of so many black Americans from the bounty of public policy, and the way in which these important, large-scale national programs were managed, launched new and potent sources of racial inequality.” “[A]t the very moment when a wide array of public policies was providing most white Americans with valuable tools to advance their social welfare—insure their old age, get good jobs, acquire economic security, build assets, and gain middle-class status—most black Americans were left behind or left out.”<sup>735</sup> The uplift of white families in the post-war era is a critical part of the history of foster care racialization, and helps explain in part the white exodus from substitute care. However, the relationship between idealized nuclear family life, prosperity, and government uplift was mediated through a number of forces that shaped the decline of the white foster care population, including suburbanization, increased white adoption, and the rise of pathological understandings of Black and Puerto Rican family life, which I will discuss in the next sections.

### *Changing Demographics of the City: The Great Migration and Suburbanization*

The white exodus occurred during a time of great demographic change in the city, and it is tempting to attribute much of the changes in foster care to these patterns. According to news reports, “[e]veryone in New York [was] aware of the growing proportion of the population who

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<sup>731</sup> New York (State). 1958. *Public Assistance Recipients in New York State, January-February 1957: A Study of the Causes of Dependency During a Period of High-Level Employment*. Interdepartmental Committee on Low Incomes, 35.

<sup>732</sup> Sugrue, Thomas. 2005. *The Origins of the Urban Crisis: Race and Inequality in Postwar Detroit*. Princeton: Princeton University Press.

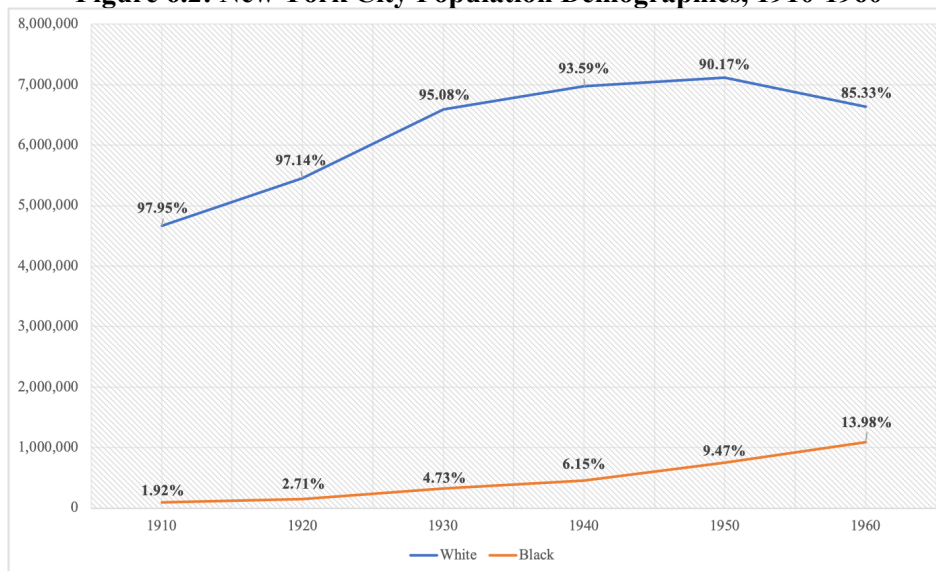
<sup>733</sup> New York (State). 1958. *Public Assistance Recipients in New York State, January-February 1957: A Study of the Causes of Dependency During a Period of High-Level Employment*. Interdepartmental Committee on Low Incomes, 35-36.

<sup>734</sup> Gordon, David M. 1969. “Income and Welfare in New York City.” *The Public Interest* Vol. 16: 77-78.

<sup>735</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 18, 23.

are colored.”<sup>736</sup> Since 1930, “the nonwhite population had tripled... while the white total stood still.”<sup>737</sup> In another report run by *The Chicago Defender*, earlier in the year, the executive director of the Community Council of Greater New York was quoted as saying that in 1950, 85 percent of the city’s children were white, but by 1960, only two-thirds of the city’s children were expected to be white, with “a third of all children [expected to be] Puerto Rican or Negro.”<sup>738</sup> The changing ethnic composition of the city was of great concern not least because of a growing unease with nonwhite poverty. This section argues that the changing demographics of the city and of suburbanization cannot completely account for the tremendous decline in the white foster care population in the post-war years. But suburbanization does speak to patterns in housing policy that saw many lower and working class white Americans gain access to middle-class stability. In this way, suburbanization helps explain the white foster care exodus not simply because fewer whites resided in the city, but because it signaled access to “the middle-class dream ... [for] European immigrants at the end of the Second World War.”<sup>739</sup>

**Figure 6.2: New York City Population Demographics, 1910-1960**



\*White includes Hispanic (not separated until 1970)

First, the demographics of the city were indeed changing. The white population continued to grow through the 1940s and the first half of the 1950s; but overall, during the 1950s, almost half a million white residents fled to suburbs. Instead, New York City had, in the words of the press, become “a magnet for Negro migration.”<sup>740</sup> The Black population of New York City stood at 450,000 in 1940. By 1960, over one millions residents were Black, or one seventh of the population (See Figure 6.2).<sup>741</sup> A different stream of migration began after the US conferred citizenship on Puerto Rico in 1917, and by the 1920s and 1930s, Puerto Ricans were “forming

<sup>736</sup> *New York Times*. 1957. “New York’s Non-Whites.” November 20.

<sup>737</sup> *New York Times*. 1957. “Nonwhites Up 41% in City; Whites Down 6% Since ’50.” November 19.

<sup>738</sup> *The Chicago Defender*. 1957. “Say Third of Children in N.Y. Will be Negro in ’60.” May 11.

<sup>739</sup> Feder, Ellen K. 2007. “Chapter 2: The Family in the Tower: The Triumph of Levittown and the Production of a New Whiteness.” In *Family Bonds: Genealogies of Race and Gender*. New York: Oxford University Press, 29.

<sup>740</sup> *New York Times*. 1957. “Nonwhites Up 41% in City; Whites Down 6% Since ’50.” November 19.

<sup>741</sup> Glazer, Nathan. 1970. *Beyond the Melting Pot: the Negroes, Puerto Ricans, Jews, Italians, and Irish of New York City*. Cambridge: The MIT Press, 25-28.

the fastest-growing community of foreign migrants in New York.”<sup>742</sup> By 1954, New York City was home to 82% of the continental Puerto Rican population, at an estimated 246,000.<sup>743</sup> Surveys showed that between 1950 and 1957, the nonwhite population rose 41.3%, against a decline of 5.9% for whites.<sup>744</sup> The changing population brought with it great concern with poverty, especially for families. In the late 1940s, C. C. Zimmerman’s *Family and Civilization* (1947) wrote that there was “an alarming instance of disintegration in the familial process” in urban areas.<sup>745</sup> Given this shift in the population, it stands to reason that the foster care population would shift as well.

But the white exodus was more pronounced than white flight. While white flight was significant, the white youth population (under 20 years) declined only 7.9% between 1950 and 1960. In fact, during the first half of the decade, between 1950 and 1956, the number of white children in New York City actually increased. Meanwhile, between 1952 to 1957, white children’s proportion of the foster care caseload dropped from 69 percent to 57 percent, “or more than proportionately to the decrease in the community as a whole.” By 1960, the white youth population of New York City had declined to 70.5%, but in June 1963, white youth made up only 35.4% of the foster care population. The *Fact Book* notes that “the shifts in the ethnic composition of the foster care caseload deviate to some extent from the shifts in the ethnic composition of the city’s child population”; while white youth disproportionately declined relative to their place in the community, nonwhite youth disproportionately increased. White flight and non-white in-migration are both critical parts of the white exodus history, but they are important less so for the demographic shifts they produced than for their role in racial uplift.<sup>746</sup>

Against the alarming images of a minority urban landscape, a “new type of urban family” moved to the “fringes” or suburbs with the help of government housing programs.<sup>747</sup> According to surveys in New York, both the Black and white population of the suburbs increased, but the “numerical totals for whites exceeded those for Negroes by about 15 to 1.”<sup>748</sup> The suburbs were a haven for the white middle and lower classes to form families away from the fears associated with the changing population of urban areas.<sup>749</sup> But white flight was not simply a response to the increasing presence of minorities in urban areas, it was enabled by government programs for affordable housing. As Kenneth Jackson puts it, “[q]uite simply, it often became cheaper to buy than to rent.”<sup>750</sup> Starting with the New Deal and continuing through the mid-1940s, the state was active in creating new “fringe” communities. In 1933, the Home Owners Loan Corporation (HOLC) was signed into law under the Roosevelt administration. The program helped save

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<sup>742</sup> Thomas, Lorrin. 2009. “Resisting the Racial Binary? Puerto Ricans’ Encounter with Race in Depression-Era New York City.” *Centro Journal* Vol. XXI Num. 1: 7.

<sup>743</sup> Jaffe, Abram J. 1954. *Puerto Rican Population of New York City*. New York: Bureau of Applied Social Research, Columbia University.

<sup>744</sup> *New York Times*. 1957. “Nonwhites Up 41% in City; Whites Down 6% Since ’50.” November 19.

<sup>745</sup> Jaco, E. Gartly and Ivan Belknap. 1953. “Is A New Family Form Emerging in the Urban Fringe?” *American Sociological Review* 18(5): 551.

<sup>746</sup> New York (City). 1957. *Fact Book on Children in New York City: Characteristics of the Child Population and Welfare, Health, and Education Services for Children*. Welfare and Health Council of the City of New York, 71.

<sup>747</sup> Jaco, E. Gartly and Ivan Belknap. 1953. “Is A New Family Form Emerging in the Urban Fringe?” *American Sociological Review* 18(5): 551.

<sup>748</sup> *New York Times*. 1957. “Nonwhites Up 41% in City; Whites Down 6% Since ’50.” November 19.

<sup>749</sup> Skolnick, Arlene. 1991. *Embattled Paradise: The American Family in An Age of Uncertainty*. New York: Basic Books, 59.

<sup>750</sup> Jackson, Kenneth T. 1987. *Crabgrass Frontier: The Suburbanization of the United States*. New York: Oxford University Press, 196-204.

thousands of homeowners from foreclosure and introduced the long-term mortgage system. These methods were adopted by the Federal Housing Administration (FHA) in 1934, originally designed as a measure to stimulate building and alleviate unemployment in the construction industry. The efforts of the FHA were later supplemented by the GI Bill which capped interest rates and strengthened long-term mortgages. The Bill helped nearly sixteen million soldiers purchase a home after WWII.<sup>751</sup>

Scholars have shown that these government programs made it possible for white middle and working class families, among them Jews and Catholics, to leave the cramped and often dilapidated apartments of New York City for new suburban houses. Often, suburban housing was cheaper than renting in the city. After World War II, the Irish working class in particular greatly benefited from “residential mobility enabled by federal home-ownership programs.”<sup>752</sup> Theirs was not representative of vertical mobility (as in better wages or occupations), but rather a “delicate balance between social mobility and “ethnic succession.”” It was a process of “horizontal mobility” that “enabled workers to enjoy middle-class amenities in their housing and neighborhoods—a style of living that, in the more traditional definition of mobility, should have taken a generation or two longer.”<sup>753</sup>

As America shifted from renting to owning homes, “[r]esidential ownership became the key foundation of economic security for the burgeoning and overwhelmingly white middle class.”<sup>754</sup> Supported by “the spread of the concept of the guaranteed annual wage in American industry,” “so-called “blue collar” workers, particularly those in industrial labor and those in the “lower strata” were drifting to the fringe.<sup>755</sup> “In New York and the northern New Jersey suburbs, fewer than 100 of the 67,000 mortgages insured by the GI Bill supported home purchases by non-whites.”<sup>756</sup> In this way, the suburbs supported a particular racialized version of a state-supported family ideal.

Ultimately, the move to the suburbs was not only representative of out-migration rooted in fears about integration, crime, and the decline of the family in urban areas, but was also representative of white uplift. The “deliberate action on the part of governmental agencies [was] a key constituent of the postwar production of the possessive investment in whiteness, this investment [was] marked in the initiation of new suburban residents into the club of whiteness.”<sup>757</sup> As continued in-migration and high birth rates rapidly transformed perceptions of family life in urban areas, suburbanization offered many lower-class white families access to middle-class status without significant vertical mobility. The white exodus represented not only a changing population amidst white flight, it also represented state investment in housing programs

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<sup>751</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company.

<sup>752</sup> Almeida, Linda Dowling. 2001. *Irish Immigrants in New York City, 1945-1995*. Bloomington: Indiana University Press, 36.

<sup>753</sup> Casey, Marion R. ““From the East Side to the Seaside”: Irish Americans on the Move in New York City.” In *The New York Irish* ed. Ronald H. Bayor and Timothy J. Meagher. Baltimore: The John Hopkins University Press, 397.

<sup>754</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 116.

<sup>755</sup> Jaco, E. Gartly and Ivan Belknap. 1953. “Is A New Family Form Emerging in the Urban Fringe?” *American Sociological Review* 18(5): 554.

<sup>756</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 140.

<sup>757</sup> Feder, Ellen K. 2007. “Chapter 2: The Family in the Tower: The Triumph of Levittown and the Production of a New Whiteness.” In *Family Bonds: Genealogies of Race and Gender*. New York: Oxford University Press, 33.



that enabled many white families to move to the suburbs and extended upward mobility to a whole generation of white, nuclear families, signaling shifts in the dynamics of poverty.

*The Changing Child Welfare Landscape: Permanency in Foster Care and Adoption*

In addition to increasing access to middle class status among working class white families and suburbanization, the increase in white infant adoption may help explain some of the white exodus. Adoption was part of the post-war prosperity and idealized white nuclear family. John Dula, a consultant-surveyor at the Child Welfare League of America described the focus on adoption as “almost hysterical in some places,” and as “diverting attention from other programs.”<sup>758</sup> Historian Rickie Solinger (1992) has shown that until the late 1930s, cases of illegitimacy were generally handled by child-centered agencies charged with making sure that children remained with their mother. But in the post-war era, social agencies introduced casework treatment with the effect of redefining illegitimacy as a psychological issue. Maternity homes were widely promoted by the US Children’s Bureau, and a market emerged for white infants.<sup>759</sup> It is impossible to estimate how many adopted infants would have lingered in foster care if not for the new coercive market, but it is clear that the rise in adoption forced foster care services to reckon with long-term care of predominantly non-white youth.

In the post-war years, adoption became a “solution” to the permanency needs of children. A study by the State Charities Association in New York reported that to achieve care for children, “various methods ha[d] been proposed and practiced over the years—institutional care, foster home care, adoption, small group programs, residential treatment centers, homemaker services, day care programs, keeping children in their own homes.” But no method had been effective for all homeless children. “[I]n recent years the pendulum swing has been toward adoption as the solution for practically all homeless children,” as it holds “the best promise of adjustment and growth... in a normal family grouping.” They noted however that this solution should be viewed in relation to reality—a reality in which older children, handicapped children, and non-white children were not viewed as adoptable.<sup>760</sup>

“Permanency” of placement was spurred by a concern with children who spent long periods of their life in out-of-home care. Dr. Florence Clothier wrote that “each time the social worker undertakes to move an infant or a young child she is jeopardizing his chances of forming, holding and incorporating love objects which are, for him, essential to normal growth.”<sup>761</sup> Child welfare professionals encouraged parental surrender when visitation was unfulfilled. Social workers scolded mothers who surrendered children to foster care but not adoptive care. They reasoned that foster care was more akin to permanent limbo. In one case of limited visitation by a mother whose child was cared for in a foster home through the Sheltering Arms, a social worker reasoned that the mother had no excuse for her lack of visitation. Though employed long hours, the worker wrote that the mother’s other children were cared for by neighbors during these hours, and so she “therefore could have gotten away to visit [her other child in foster care]” reasoning that it was “a ride of perhaps 15 minutes.” When this same mother, of white Spanish

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<sup>758</sup> Dula, John E. 1952. “Future Directions in Foster Care for Children.” *Proceedings of the National Conference of Social Work*, 140.

<sup>759</sup> Solinger, Rickie. 1992. *Wake Up Little Susie: Single Pregnancy and Race Before Roe v. Wade*. New York: Routledge.

<sup>760</sup> New York (State). 1962. *Facts to Build On: A Study of Adoption in New York State*. State Charities Aid Association and the New York State Association of Councils and Chests, 3-4.

<sup>761</sup> Clothier, Florence. 1937. “The Problem of Frequent Replacement of the Young Dependent Children.” *Mental Hygiene Quarterly* 21 (October): 549-558.

descent, swore she would “never surrender” the child despite the promise of a long-term foster family who desired adoption, the social worker “pointed out that she had in effect surrendered [the child] in that she had left him in foster care to be raised by others, never knowing his own family.” The concern with parental surrender was not limited to white mothers. A 1953 study by the Child Care Planning Board on hard-to-place Black infants, revealed that “[m]any of these cases were further complicated by the indecision on the part of the mother in regard to placement of the child for adoption.”<sup>762</sup>

By the mid-1950s, the Court successfully argued to curtail the rights of parents who failed to visit their children in foster care. In 1945, a two-month old girl and her year-old brother were admitted to Bellevue Hospital for malnutrition, and later taken to Speedwell Society. A year later, the mother of the children signed an authorization for the commitment of the children in which she agreed that if the children were not visited for 12 consecutive months, the children must be placed for adoption. After their initial placement, the parents visited regularly every two weeks for about six months. “Thereafter the visits declined and appeared to take place only when prodded to do so, notwithstanding the fact the [parents] lived only a subway and omnibus distance from the home where [the daughter] was living.” During the next few years, the girl was barely visited annually, and the boy was visited similarly until none at all after 1949 when the foster family moved out of New York City (though they offered to pay for transit for visitation).

The issue before the court was whether the parents had abandoned their children. The court argued that they recognized the natural rights of parents to their children “as sacred,” but found “that in this case the parents ... did not act as a real mother and father should have acted. They withheld from [the children] their physical presence, their love, their care and the opportunity to supervise and guide their growth and development and neglected and refused otherwise to perform their natural and legal obligations.” The court ruled that guardianship be granted to their respective foster care agencies and that adoption could proceed without parental consent. The Court recognized that this case would “serve as a guide” to the Department of Welfare for the many “helpless children who have been abandoned by parents who have figuratively left them on the doorstep of the City of New York.”<sup>763</sup> After the decision, Welfare Commissioner McCarthy “asked all child-caring agencies to review their cases with regard to adoptability as a result of this decision.”<sup>764</sup>

Yet, by the late 1950s, the New York State Charities Association study found great racial divergence in adoption rates. Of the 2,808 adoption placements reported among surveyed agencies in 1959, 92% were white children. Overall, 3,372 white children were cared for in adoptive homes compared to 239 Black youth, a margin of almost eleven to one. Almost all non-white youth were considered “hard-to-place.” Sixty-two percent of adoptable children in New York City agencies were considered hard-to-place, and of then 35% were white compared to 94% of non-white youth. While age and disability were primary reasons for this characterization, “for non-white children, the key reason [was] ... their color.” The Report concluded that there were not enough “families willing or able to open their doors to those children. A sobering statistic is that among those under study there were 35 non-white children to each adoptive

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<sup>762</sup> Markowitz and Rosner Papers. 1953. “Proposal of the Committee of Care of Infants to the Child Care Planning Board.” May 22, MC 1615/Box 11/Folder 15.

<sup>763</sup> Markowitz and Rosner Papers. 1956. “CCC: Excerpt From the New York Law Journal.” October 29, MC 1615/Box 11/Folder 12.

<sup>764</sup> Markowitz and Rosner Papers. 1957. “CCC: Foster Care Section Report.” May, MC 1615/Box 11/Folder 13.

couple available.”<sup>765</sup> But equally important was the influence of the agencies themselves. In one such case, the New York Foundling Hospital reported that a young, “light skinned” Puerto Rican girl with “dark hair and eyes,” was available and that the agency had “explored the use of an adoptive family,” but they found “her darker skin tone would create conflicts within the home and community,” and so she remained in foster care for the first few years of her life.<sup>766</sup>

By the late 1950s, reformers became greatly concerned with the life chances of the many non-white children lingering in foster care. In 1957, an influential study titled *Children in Need of Parents* helped support parental surrender policies and fueled concern over the children lingering in foster care. Maas and Engler found that more “than half of [children in substitute care] gave promise of living the major part of their childhood years in foster families and institutions.” These children were often unvisited by parents, and “seemed destined to remain on in long-term foster care unless adoption plans could be made for them.”<sup>767</sup> Concern over these mainly non-white children was articulated in an article written by the Committee on Adoption that stated that ““the end result” of children not being provided permanent homes through adoption “almost invariably is sick, inadequate, delinquent or unproductive adults.” The Court reported that it “has a grave responsibility of what kind of life-time care an abandoned, neglected child is to receive... The child is entitled to adoptive care. In too many cases where a child such as this is Negro, the adoptive services available to other children have been withheld.”<sup>768</sup> Ultimately, the coercive adoption of white infants shaped the experiences of minority foster youth, who faced uncertainty in their long-term needs and came to be seen as unproductive future citizens as a result. White infant adoption was part of the changing ideals around child-centered families, and fueled by increased white prosperity, among other factors. But while adoption may help explain some of the white exodus, and certainly sheds light on the shifts in treatment of foster care youth, it was only one part of the larger puzzle of the white exodus.

### *Producing Pathology: Hard-Core Families*

As impoverished white youth receded from public scrutiny, more and more Black and Puerto Rican youth came to the forefront and their foster care rates increased steadily during this time. But their growing numbers did not fit neatly within the economic frameworks used by child welfare professionals to understand solutions to child dependency. The post-war era had brought great prosperity and expanded access to social insurance protections, enabling many children to be cared for in their own homes. Amidst the decline in overall foster care rates during the 1940s, social welfare professionals reasoned that the increased need among Puerto Rican and Black youth represented more than simple economic need. The *Fact Book* noted that “[t]he relatively greater number of Negro and Puerto Rican children in placement is to be expected, since these are the more economically disadvantaged groups in the community. Although dependency alone is seldom the cause of foster care placement, the problems associated with low income (ie. inadequate and overcrowded housing, child neglect and family break-up, etc.) frequently precipitate the need for planning for foster care for children.”<sup>769</sup> As the racial demographics of

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<sup>765</sup> New York (State). 1962. *Facts to Build On: A Study of Adoption in New York State*. State Charities Aid Association and the New York State Association of Councils and Chests, 6-15.

<sup>766</sup> Polier Manuscripts. 1965. “Court Case Transcript.” MC 413/Box 8/Folder 84.

<sup>767</sup> Maas, Henry S. and Richard E. Engler, Jr. 1959. *Children in Need of Parents*. New York: Columbia University Press, 356-357.

<sup>768</sup> Polier Manuscripts. 1965. “Court Case Transcript.” MC 413/Box 8/Folder 84.

<sup>769</sup> New York (City). 1957. *Fact Book on Children in New York City: Characteristics of the Child Population and Welfare, Health, and Education Services for Children*. Welfare and Health Council of the City of New York, 70-71.

poverty changed during these years, so too did the explanations for impoverishment and foster care.

Black and Puerto Rican families did not benefit as much from the prosperity of the post-war years. A report by Daniel Creamer, of the National Industrial Conference Board, reported that while most “low-income” families in New York City were white (75%), the “low-income” incidence for non-white families in New York City was 79% higher than for whites. Differences in family size, marital status, and educational attainment had little to do with the difference; instead, unequal wage opportunity was the key. Nearly 57% of white male heads of families were “engaged in better-paying occupations,” compared to only 26% of non-whites. The report concluded that “[w]hile the non-white family heads had somewhat greater exposure to unemployment in 1949 than did white family heads... All the evidence we can muster points to the lack of equal job opportunities as the single more important factor.”<sup>770</sup>

Yet, the language of economic security in child welfare slowly gave way to the social and psychological fit of families. Prior to the war, children in substitute care were understood as “normal” children who had been struck by severe poverty. But after the war, children in out-of-home care were increasingly understood to be not just impoverished, but disturbed.<sup>771</sup> In 1950, Leonard Mayo, a prominent New York City child welfare leader, argued that the meaning of the word “security” had changed, shifting from its “largely economic” connotation to a more ephemeral focus on “behavior” and a concern for the environment of the “whole person.” In the midst of plenty, security was “something deeper than the satisfying of elemental and material needs.”<sup>772</sup> In the golden age of economic prosperity, social welfare professionals could no longer explain foster care as stemming simply from economic need. New foster youth implicitly faced distinct challenges from the previous generations; federal economic relief was supposed to make foster care obsolete, yet these children’s rates continued to increase. Judge Polier argued that because economic relief was widely available, social agencies “must be prepared to meet the far more complex and deep-seated problems of children who have for the most part been removed from homes in which they have been exposed to and hurt by the emotional and mental problems of inadequate parents.”<sup>773</sup>

Unable to explain their need within the context of economic relief, the increasingly non-white foster care population was thought to have behavioral and emotional problems or come from pathological families. Leonard Mayo wrote that though the child born in 1950 will have a better life than his elders, with better housing, stability, and health, but he also “faces a more complex and demanding society than his elders. His chances of contracting mental illness are higher, and the physical and mental hazards facing him as he approaches middle life are many.” He argued that the “greatest single asset to security” was the establishment of “a mutually satisfying and warm relationship between the child and his parents.”<sup>774</sup> Child welfare studies

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<sup>770</sup> Creamer, Daniel. 1961. “Some Determinants of Low Family Income.” *Economic Development and Cultural Change* 9(3): 413-444.

<sup>771</sup> Jones, Marshall B. 1989. “Crisis of the American Orphanage, 1931-1940.” *Social Service Review* 63(4): 626. See also: Rymph, Catherine E. 2017. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill: The University of North Carolina Press.

<sup>772</sup> Mayo, Leonard W. 1950. “Security for Children and Youth.” *Proceedings of the National Conference of Social Work*, 62.

<sup>773</sup> Markowitz and Rosner Papers. 1946. “New Needs in the foster home field.” By Justine Wise Polier. May 13, MS 1615/Box 12/Folder 15.

<sup>774</sup> Mayo, Leonard W. 1950. “Security for Children and Youth.” *Proceedings of the National Conference of Social Work*, 68-69.

lamented the effects of “[l]arge-scale migration, hasty marriages, and inadequate housing [which] increase[d] the number of families broken through desertion or divorce.”<sup>775</sup> Where children had grown up in broken homes, preventative services were thought to be unsuccessful.

While care in one’s own home was still rhetorically advocated by children’s agencies, by 1953, there had been “no noticeable evidence of this in the practice of New York City children’s agencies.”<sup>776</sup> Welfare Commissioner Potter “stressed the necessity for earlier preventative services, pointing out that once the families reach the Department of Welfare intake unit, they are pretty well broken up and rehabilitation is very difficult.” The CCC also noted that “community services, which are established to deal only with the more adequate citizens who seek and use their resources, will not be effective in cutting off the constant flow of families who Bradley Buell has characterized as the 6% hard core of any community.”<sup>777</sup> The rise of family pathology was greatly shaped by the work of Bradley Buell’s study *Community Planning For Human Services*. Carried out in St. Paul, Minnesota, in 1948 by the Community Research Associates Inc., and underwritten by The Grant Foundation, they found “dramatic evidence” that 6 percent of the city’s families suffered from a compounding of serious problems. As a result, they absorbed over half of the services offered by community agencies. The multi-problem family had issues of dependency, serious maladjustment, ill-health, a record of anti-social behavior, mental defects, and a failure of social responsibilities. While dependency, ill-health, and recreational need had long been known, maladjustment was “new in the annals of health and welfare.”<sup>778</sup>

Buell’s study argued that the term maladjustment had only recently come to describe a combination of behaviors previously treated as separate in public policy, including delinquency, child neglect, illegitimacy, and mental disorder. To treat them all as one interconnected problem was a feat compared to the shift in knowledge about consumption from a number of different diseases to an understanding of their common cause, the tubercle bacillus germ. Contemporary psychiatric studies reasoned that the common, connected cause in the case of maladjustment was “faulty family soil.” Buell connected the rise of behavioral disorders to shifts in the welfare state. By the turn of the century, scientific thought began to distinguish between dependency caused by economic roots and those of “personal disability.” He argues that this distinction between “firmly embedded in public policy” in the social security legislation of 1935.<sup>779</sup> The rise of the pathological family in foster care was part of a larger shift in how poverty was understood at this time—no longer stemming from economic need after the impressive feats undertaken by the New Deal.

Similar studies from New York City tried to make sense of the “hard-core” impoverished groups. A 1957 study on *Public Assistance Recipients in New York State*, reasoned that these groups were prone to long-term public assistance use despite the prosperity of the post-war years because they were plagued by health problems, old age, and maladjustments in family living.

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<sup>775</sup> New York (State). 1951. *Child Welfare in New York State*. Citizens’ Committee of One Hundred for Children and Youth Child Care Section. Albany, New York, 16.

<sup>776</sup> Markowitz and Rosner Papers. 1953. “Summary of Meeting of Subcommittee on Problems of Foster Care.” April 29, MS 1615/Box 11/Folder 15.

<sup>777</sup> Markowitz and Rosner Papers. 1953. “Meeting of Subcommittee on Problems of Foster Care.” June 22, MS 1615/Box 11/Folder 15.

<sup>778</sup> Buell, Bradley and Associates. 1952. *Community Planning For Human Services*. New York: Columbia University Press, 9-11.

<sup>779</sup> Buell, Bradley and Associates. 1952. *Community Planning For Human Services*. New York: Columbia University Press, 417.

The study reasoned that the nature of dependency was “impersonal” during times of high unemployment. But dependency was a completely distinct force during periods of high employment and rising incomes, as in the post-war era. During times like these, the prolonged use of public assistance reflected maladjustment and compounding social ills.<sup>780</sup> As the CCC wrote, families needed support of a “non-financial nature,” though they acknowledged “financial help may be required from time to time.” Rather, these are the families with major social problems which they are unable to handle alone. “Today the families are rejected by the voluntary agencies because many of them have deep-seated difficulties which do not lend themselves readily to help.”<sup>781</sup> As (white) prosperity grew in the post-war years, with increased access to affordable housing, job stability, and wage increases, alongside old-age and unemployment protections, new understandings of poverty emerged. No longer was direct aid adequate to meet the needs of the new foster care population—poverty alone was not the problem.

New York City Youth Board, established in 1947, also reflected these sentiments in their studies. In a late 1950s study, the Youth Board found that “hard-core” families were “responsible for the major portion of [the] City’s delinquency and youth crime.” These “multi-problem” families were not simply “hard-to-reach,” they possessed “social pathology ... so gross that it could not be ignored.” They were dependent, had few strengths or capabilities, and were hostile and mistrusting. They determined that children from these families were often “unhappy and neglected” and the parents were beset with compounding problems including marital, economic, physical and emotional difficulties. Echoing the Buell study, the Youth Board wrote that these families took up an inordinate amount of community service resources. The many agencies who had tried to work with them through the years had finally given up; such clients were considered uncooperative, “hopeless,” and “untreatable.” This created a conundrum for the protection of youth who had a right to protection prior to removal from their home.<sup>782</sup>

These ideas were echoed in the training of workers in the New York City Bureau of Child Welfare, which established that “the pathology in families of the older children” limited the rehabilitation of youngsters older than pre-school age.<sup>783</sup> The Court reiterated this line of thought in a delinquency case brought to the attention of the court in 1961 by a Black mother who requested a “stern court supervision” of her son who was beyond her control and habitually truant. Against the mother’s wishes, the psychiatrist recommended the child be removed from this “hard-core, marginal family,” but because no therapeutic institutions would accept him, and because of his age—10 years old—he was placed on probation with the assumption of “further deterioration.” The court felt that, given his age “[e]ven removal from his home at this time will accomplish little by way of altering his progressively ... distorted concepts on life.”<sup>784</sup>

As the Black and Puerto Rican foster care population surpassed the white population, social welfare professionals struggled to understand the roots of poverty amidst post-war prosperity. Their conclusions around cultural and social pathology reflected a shift away from

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<sup>780</sup> New York (State). 1958. *Public Assistance Recipients in New York State, January-February 1957: A Study of the Causes of Dependency During a Period of High-Level Employment*. Interdepartmental Committee on Low Incomes, 5-11.

<sup>781</sup> Markowitz and Rosner Papers. 1953. “Meeting of Subcommittee on Problems of Foster Care.” June 22, MS 1615/Box 11/Folder 15.

<sup>782</sup> New York City Youth Board. 1958. “Reaching the Unreached Family: A Study of Service to Families and Children.” *Youth Board Monograph* No. 5.

<sup>783</sup> Markowitz and Rosner Papers. 1957. “CCC: Foster Care Section Meeting.” Feb. 26, MS 1615/Box 11/Folder 16.

<sup>784</sup> Polier Manuscripts. 1961. “Court Action: Delinquent Child.” November 27, MC 413/Box 8/Folder 82.

economic understandings of poverty after the New Deal. In 1965, Alfred Kadushin wrote in *Child Welfare Services* that “there is a trend toward a changing composition of children coming into foster family care. The development of services to children in their own home implies that many situations that once led to foster care do not do so today. This suggests that the families of children needing foster family care are those that demonstrate the greatest disorganization, the greatest pathology.”<sup>785</sup> In the context of a more robust welfare state, if a child was placed outside the home, the removal had to be justified by elements other than poverty. And so, the “tragic paradox” of poverty amidst plenty was explained as pathology that prevented non-white families from making the most of state programs of uplift in the post-war years. These forces set the stage for a shift away from voluntary foster services toward a more coercive child protection system.

## Conclusion

The foster care population of New York City underwent a dramatic transformation in the post-Depression decades. White youth made up a majority (88%) of those in care in 1936, declining to 35.4% in 1963. By December 1973 the exodus of white youth from out-of-home care was solidified: A little more than half of the 28,265 NYC children in foster care under public charge were Black and one-fourth were Puerto Rican. A little over a fifth were white.<sup>786</sup> In an unprecedented turn, white youth underwent a mass departure from substitute care that fundamentally transformed the foster care system in lasting ways. In this chapter, I have argued that a number of factors contributed to the decline of the white foster care population, including declining poverty rates, increased access to affordable housing, and an increasing emphasis on permanency through adoption instead of foster care. But rather than disparate forces, I argued that these factors were all part of a profound emphasis on nuclear family life that was not simply the result of long-awaited stability after the war, but rather “a revolution in the role of government that remade the country’s social structure.”<sup>787</sup>

This shift in the population during the 1940s and 1950s is a critical part of foster care history not simply because it changes the timeline of racialization, but because it illuminates the historical legacies of the racial welfare state for child welfare. Social welfare professionals had faith in the efficacy of social insurance programs to solve the dependent child problem, and to large extent they were right. But the racialized nature of state-sponsored programs of economic security and mobility were privileges for white Americans. Though Black Americans had always been disproportionately poor, their plight was largely ignored until the paradox of poverty after the New Deal. The post-war decades reveal an alarming association with an intractable and seemingly untreatable form of poverty within the new welfare state that came to define the newly visible non-white child foster care population. The massive decline of the white foster care population reflected the changing relationship between race, poverty, and family, and sowed the seeds for new understandings of pathology within the context of child removal among low-income, minority families. The white exodus and the emergence of a racialized public foster care system were two sides of the same coin.

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<sup>785</sup> Kadushin, Alfred. 1974 [1965]. *Child Welfare Services 2<sup>nd</sup> Edition*. New York: Macmillan Publishing Co., 463.

<sup>786</sup> Polier Manuscripts. 1975. “Foster Care in New York: Church and State and the Kids.” By James R. McGraw. January 6, MC 413/Box 22/Folder 255.

<sup>787</sup> Katznelson, Ira. 2005. *When Affirmative Action was White: An Untold History of Racial Inequality in Twentieth-Century America*. New York: W.W. Norton & Company, 142.

## Chapter 7: Conclusion

This dissertation began with the question of how a system built to protect white youth came to disproportionately serve minority children. Today, foster care sits at the crossroads of race, social control, and family, affecting the lives of many poor and minority children. From the 1970s onward, the foster care system began to “take on [its] modern form,” shifting to a focus on surveillance of child abuse.<sup>788</sup> Since then, it has become more punitive, less voluntary, and increasingly connected to criminal justice. It has also grown in size, doubling from 262,000 cases in 1982 to 568,000 in 1999.<sup>789</sup> Recent estimates show the population at almost 424,000 in 2019.<sup>790</sup> But the number of children in foster care at any given time is only a fraction of cumulative risk of CPS investigation and placement. Scholars find that, across the country, one in three children, and over half of Black youth, experience a child maltreatment investigation by age 18.<sup>791</sup> Furthermore, nearly 1 in 17 children risk foster care placement over the course of their childhood—a rate higher for Black children (1 in 9) and Native American children (1 in 7).<sup>792</sup> But while the growth of a coercive child protective system may be a more contemporary feature connected to mass incarceration, among other policy reforms of the 1980s and 1990s,<sup>793</sup> the racialization of foster care has much earlier roots.

This dissertation has argued that the roots of racial disparity in foster care placement is an enduring consequence of racial inequality in the American welfare state. Between the 1930s and 1960s, substitute care transformed from a system primarily designed for the care for white children to one disproportionately concerned with minority youth, particularly Black and Puerto Rican children in New York City. I have traced the origins of this transformation to the New Deal. The developing welfare state marked a profound turn from “saving children” through out-of-home care to preserving families through programs of economic security. The mass exodus of white children from New York City foster care in the post war years was a product of the prosperity and uplift provided by breadwinner programs which enabled a growing number of white children to be cared for in their own homes. As African American families struggled to gain access to New Deal social engineering, welfare and out-of-home care began to emerge as more accessible solutions to Black child poverty than wage-earner protections. In this way, New Deal social policy not only underwrote white socioeconomic prosperity and widened the racial wealth gap, but also racialized family preservation in such profound ways as to change the demography of foster care. The massive decline of the white foster care population reflected the changing relationship between race, poverty, and family, and sowed the seeds for new

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<sup>788</sup> Wildeman, Christopher and Jane Waldfogel. 2014. “Somebody’s Children or Nobody’s Children? How the Sociological Perspective Could Enliven Research on Foster Care.” *Annual Review of Sociology* 40: 602. See also: Lee, Tina. 2016. *Catching a Case: Inequality and Fear in New York City’s Child Welfare System*. New Brunswick: Rutgers University Press.

<sup>789</sup> U.S. House of Representatives. 2000. 2000 Green Book: Overview of Entitlement Programs. Washington, DC: Government Printing Office.

<sup>790</sup> 2020. *Adoption and Foster Care Analysis and Reporting System (AFCARS) FY2019 data*. U.S. Department of Health and Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau.

<sup>791</sup> Kim, Hyunil, Christopher Wildeman, Melissa Jonson-Reid, and Brett Drake. 2017. “Lifetime Prevalence of Investigating Child Maltreatment among U.S. Children.” *American Journal of Public Health* 107(2): 274–80.

<sup>792</sup> Wildeman, Christopher, and Natalia Emanuel. 2014. “Cumulative Risks of Foster Care Placement by Age 18 for U.S. Children, 2000-2011.” *PLOS ONE* 9(3): 1-7.

<sup>793</sup> Swann, Christopher, and Michelle Sylvester. 2006. “The Foster Care Crisis: What Causes Caseloads to Grow?” *Demography* 43(2). Pp. 309-335.



understandings of pathology within the context of child removal among low-income, minority families. The findings of this dissertation have a number of implications for the politics of racial justice, the organization of welfare programs, and the design of services for the protection of minority youth.

### **The Racial Politics of Inclusion**

In his autobiography, Malcolm X wrote of the aftermath of his father's death and his mother's commitment to a state mental hospital in the 1930s: "A Judge McClellan in Lansing had authority over me and all of my brothers and sisters. We were 'state children,' court wards; he had the full say-so over us. A white man in charge of a black man's children! Nothing but legal, modern slavery—however kindly intentioned."<sup>794</sup> These last words—"however kindly intentioned"—supposedly added by his editor Alex Haley, capture the ironies of racial inclusion in American child welfare history.<sup>795</sup> There was great tension between the overt racism of exclusion from private child welfare systems and the progressive ideals of access and inclusion of minority youth in the emerging public system. Racial inclusion in foster care was at once deeply entrenched in the history of racism and subject to a fierce struggle by Black and white reformers for access.

The politics of inclusion is a central point in this study, and a dominant theme that binds these chapters. Inequality in state services is often understood through the lens of exclusion, and to a large degree, racial exclusion was a fundamental part of child welfare history. But equally important were modes of access. Family preservation policies primarily opened up for white families, and in the wake, access to out-of-home care expanded for minority children. As reformers chipped away at exclusionary foster care policies, out-of-home care became a more realistic and viable option than radical transformation in racial and economic justice for Black families. Training schools opened up to meet the needs of older Black and Puerto Rican youth who straddled the line of neglect and delinquency. And the prospect of Black middle class foster families in suburban locales showed promise for meeting the social and economic needs of impoverished and neglected Black children in the city's core. These services emerged as solutions that satisfied private discriminatory agencies' desire to maintain the color-line and reformers' interest in opening lines of access to protection. In this way, the color-line shaped frameworks of racial justice in early child protection by narrowing conversations to modes of access rather than the more difficult task of racial injustice in family preservation policy.

Frameworks of racial justice predicated on the idea that "the mere reversal of exclusion to inclusion" can make up for deeply entrenched histories of institutional discrimination are problematic.<sup>796</sup> The pathways of inclusion identified in this dissertation did increase minority youth's access to child protection services, but did little to disrupt the structure of power relations that maintained the long history of racial inequality in children's care. This was not a moment of "oppressive inclusion," which did indeed shape Black children's experience in the coming decades.<sup>797</sup> Rather, this dissertation has shown that the manner of inclusion in substitute care services was a series of compromises that not only accommodated the color-line, but failed

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<sup>794</sup> Malcolm X. 2015 [1965]. *The Autobiography of Malcolm X*. New York: Random House Publishing Group, 25.

<sup>795</sup> Flood, Alison. 2018. "'Lost chapters' of Malcolm X's autobiography sold at auction." *The Guardian* July 27.

<sup>796</sup> Keeanga-Yamahtta, Taylor. 2019. *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*. Chapel Hill: The University of North Carolina Press, 258. See also: Ward, Geoff K. 2012. *The Black Child-Savers: Racial Democracy and Juvenile Justice*. Chicago: University of Chicago Press.

<sup>797</sup> Webb-Lawrence, Claudia. 1997. "African-American Children in the Modern Child Welfare System: A Legacy of the Flemming Rule." *Child Welfare League of America* 76(1): 9-30.

to reckon with the long history of discrimination in family poverty and child protection services. It was an inclusion of last resort—one built around assumptions about non-white families' ability to thrive within the developing welfare state that had assumedly lifted most families out of destitution. The failure to reckon with the roots of racial injustice caused solutions to center around child removal as a more viable solution to Black family poverty.

Addressing racial disparity in foster care requires a reevaluation of protection for racial minorities. Protecting Black children requires recognition and restitution for the exclusion of minority families from the opportunities of New Deal breadwinner programs aimed at family stability. The denial of access to wage-earner protections and economic mobility at this time had generational consequences of which wealth accumulation, access to homeownership, and social mobility are just a few identified by scholars. But we must also recognize the consequences the racial welfare state had for family stability. In the wake of post-war prosperity, services geared toward Black child protection shifted away from economic aid toward a focus on individual behavior and pathology of a group who were framed as having failed to take advantage of the economic protections available, rather than a group denied access.

### **The Sociology of the State, Family, and the Public/Private Divide**

This dissertation has shown that institutions have a history and that the foster care system was not formed *tabula rasa*, but was built on the foundation of a discriminatory private child welfare system. As minority children began to represent a new public responsibility, the fragmentation between state child welfare and voluntary associations was significant in shaping their reception in established northern child welfare systems. On a local level, public foster care programs in New York City grew in response to weaknesses around inclusion in the private child welfare sector. Public foster care came to service the many non-white youth who faced discrimination and exclusion from the long-established private child caring system. But rather than resolving deficiencies around access, the development of a supplemental public foster care legitimated the very classifications and frameworks created by the private sector to exclude Black youth. In the shadow of private child welfare, public programs appropriated the very classifications devised by the private sector to exclude non-white children—aggressive, low-IQ, pre-delinquent. This is a history of how the protection of non-white youth came to be understood through the lens of pathology. Given the role that race plays in perceptions of deservingness and opinions about welfare,<sup>798</sup> the increasing association of public foster care with Black “hard-to-place” children may have shaped ideas about the social problem and investment in the subsidized care of “other people’s” children.

A key theme in this dissertation is the idea that the state is a key force in the preservation and destabilization of families, but how the state intervenes is deeply shaped by the private sector. The conflict that developed between private child welfare and the emerging public foster care system was not simply a war over the classification and treatment of minority youth, but actually a determinant in the development of public child welfare in New York City. The private sector assumed responsibility for “non-criminal” youth and those deemed capable of benefiting from an agency’s program. When private agencies practiced racial discrimination, this racialized ideas about minority youth as hard-to-place. As the public system began to develop in the late 1940s, it absorbed more and more non-white children rejected by private agencies, and as it did, ideas about their intellectual capacity, emotional and behavioral conduct, and trajectory toward

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<sup>798</sup> Gilens, Martin. 1999. *Why Americans Hate Welfare: Race, Media, and the Politics of Antipoverty Policy*. Chicago: University of Chicago Press.

delinquency began to shape their status as clients of the state. This history suggests that we must examine and critique the ways the private sector shapes the state's population management agenda.

Classifications created by the private sector to reject non-white or other “undesirable” youth, have justified certain kinds of state intervention, particularly around delinquency and behavioral issues. We can see many of these same processes play out a few decades after this study, when private and community-based organizations assumed responsibility for “less serious” delinquent youth, who were disproportionately white, during the War on Poverty and the War on Crime. Elizabeth Hinton's work has shown that this left federal policymakers to “focus on groups they felt posed a more serious threat to general public safety,” and it shaped classifications and interventions for delinquency around race, class, and geography.<sup>799</sup> The ways in which state agencies and private child welfare associations look to “jettison or to obtain responsibility”<sup>800</sup> for groups of children is a critical mechanism by which delegated governance contributes to racial inequality. This dissertation points to the importance of not only incorporating exclusionary or discriminatory institutions under the regulation of the state, but also mitigating the power of the private sector to determine the course of public programming.

### **Race, Crime, and Childhood in Modern Protection Systems**

Echoes of the divestment from Black children's protection continue today in the Black Lives Matter movement. In May 2020, Cornelius Fredericks, a 16 year-old ward of the state, was punished for throwing bread. Fredericks was being cared for at a juvenile residential facility called Lakeside Academy, a private child caring institution which housed 100 teenagers in Kalamazoo, Michigan.<sup>801</sup> A residential institution with over 55 facilities across the country, they work in partnership with the Department of Health and Human Services and Juvenile Justice, providing care for children with behavioral problems who, according to their website, generally come from “unstable homes who have been in and out of foster care, juvenile justice programs and government systems for years.”<sup>802</sup> Nearly a month before George Floyd's murder, “[m]ultiple staff participated in [a supine] restraint and several were observed on the video with their weight on [the boy's] chest, abdomen, and legs.”<sup>803</sup> Fredericks cried out “I can't breathe” as the adults held him down for 10 minutes before he lost consciousness and went into cardiac arrest.<sup>804</sup> Fredericks' death lies at the crossroads of protection and punishment, between foster care and juvenile justice, and reverberates within a long history of the denial of Black humanity

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<sup>799</sup> Hinton, Elizabeth. 2015. “Creating Crime: The Rise and Impact of National Juvenile Delinquency Programs in Black Urban Neighborhoods.” *Journal of Urban History* 41(5): 817.

<sup>800</sup> Lara-Millán, Armando. 2017. “States as a Series of People Exchanges.” Pp. 81–102 in *The Many Hands of the State: Theorizing Political Authority and Social Control*, edited by K. Morgan and A. Shola Orloff. New York: Cambridge University, 98.

<sup>801</sup> 2020. Michigan Department of Health and Human Services Division of Child Welfare Licensing Special Investigation Report. June 17. Retrieved from: [https://www.michigan.gov/documents/mdhhs/CI390201235\\_SIR\\_2020C0207030\\_6\\_18\\_2020\\_\\_Redacted\\_694555\\_7.pdf](https://www.michigan.gov/documents/mdhhs/CI390201235_SIR_2020C0207030_6_18_2020__Redacted_694555_7.pdf)

<sup>802</sup> Sequel Youth & Family Services. “Who We Serve.” Retrieved from: <https://www.sequelyouthservices.com/behavioral-health-program-overview/>

<sup>803</sup> 2020. Michigan Department of Health and Human Services Division of Child Welfare Licensing Special Investigation Report. June 17.

<sup>804</sup> 2020. Michigan Department of Health and Human Services Division of Child Welfare Licensing Special Investigation Report. June 17.

and Black childhood innocence. Woven throughout the dissertation is the question: who is a child deserving of protection?

Neither gender nor age protect Black individuals from what Frederick Douglass designated as the “tendency to impute crime to color.”<sup>805</sup> Today, as in the past, the link between race and crime is made to seem real through the statistical evidence of high rates of incarceration among Black men.<sup>806</sup> But Black children come to embody this association long before they enter the justice system. Race actively shapes meanings of childhood; Black children are often perceived as older and more culpable for their actions than their peers. These racialized constructs of childhood percolate into traditionally nurturing institutions, like schools and community centers, which label and punish behavior in Black children that is often overlooked or characterized as innocent in others.<sup>807</sup> Teachers, among others, approach the lives of Black children with the aim of creating “a citizenry which will simply obey the rules of society.”<sup>808</sup> As it stands today, protection of minority and poor youth is deeply connected to the carceral state. The development of New York City public foster care lends critical insight into the state’s framing of how and why Black children deserve to be protected.

This dissertation has shown that the experiences of Black children in the early foster care system are an important pre-history for contemporary understandings of the link between race, crime, and childhood. By examining the segregated pathways to protection non-white youth faced in the post-war years, this dissertation illuminated a key structural mechanism that historically contributed to the exclusion of Black children from the “full essence of childhood and its definitional protections.”<sup>809</sup> This was a moment when legal frameworks and social institutions began to support the ideal of children as innocent and in need of protection. Yet efforts to afford Black children the same protections from abuse, neglect, and poverty became increasingly carceral. In fact, the public services that developed in response to their needs were not simply “inferior and rotten,”<sup>810</sup> they were deeply connected to the system of criminal justice. By tracing the conflict between public and private child welfare over race and responsibility in early child protection, this dissertation contributes to our knowledge of the institutional origins of Black childhood—one in which notions of nurturance and protection revolve around punitive solutions.

These findings highlight the importance of reconnecting minority children’s protection with economic programs aimed at family stability, especially as Black child protection becomes further entrenched in programs connected to criminal justice as protection. Today, amidst the calls for police abolition, activists have recommended the transfer of police funds and other

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<sup>805</sup> Douglass, Frederick. [1883] 1999. “The United States Cannot Remain Half-Slave and Half-Free.” Pp. 656-669 in *Frederick Douglass: Selected Speeches and Writings*, Edited by P.S. Foner, Abridged and Y. Taylor. Chicago, IL: Lawrence Hill Books, 674.

<sup>806</sup> Muhammad, Khalil G. 2010. *The Condemnation of Blackness: Race, Crime, and the Making of Modern Urban America*. Cambridge: Harvard University Press.

<sup>807</sup> Rios, Victor M. 2006. “The Hyper-Criminalization of Black and Latino Male Youth in the Era of Mass Incarceration.” *Souls* 8(2):40–54; Rios, Victor M. 2011. *Punished: Policing the Lives of Black and Latino Boys*. New York: University Press.

<sup>808</sup> Ferguson, Ann. 2001. *Bad Boys: Public Schools in the Making of Black Masculinity*. Ann Arbor: University of Michigan Press, 234.

<sup>809</sup> Goff, Phillip A., Matthew C. Jackson, Brooke A. L. Di Leone, Carmen M. Culotta, and Natalie A. DiTomasso. 2014. “The Essence of Innocence: Consequences of Dehumanizing Black Children.” *Journal of Personality and Social Psychology* 106(4): 1586–1640.

<sup>810</sup> Polier Manuscripts. 1975. “Foster Care in New York: Church and State and the Kids.” January 6, MC 413/Box 22/Folder 255.

resources to more necessary social welfare services, particularly child welfare. In many ways, “social workers have been promoted as an all-purpose substitute for police officers.” But Dorothy Roberts has argued that Child Protective Services (CPS) is “an integral part of the U.S. carceral regime” that regulates and separates Black, Brown, and Indigenous families for the sake of protection. Rather than “divesting one oppressive system to invest in another,” Roberts argues that we should work toward meeting the economic and social needs of families, including non-coercive programs for cash aid, health care, child care, and housing.<sup>811</sup> This dissertation has shown that mass investment in the uplift of family life is possible, and happened in the post-war years, with tremendous impact on the care of white children within their own homes. Protecting minority children going forward will require recognition and restitution for the racial exclusion from economic programs of family stability. At stake is the perpetuation of a state system that works to preserve the stability and prosperity of some families, while dismantling others—leaving children unmoored from family and heritage through no fault of their own.

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<sup>811</sup> Roberts, Dorothy E. 2020. “Abolishing Policing Also Means Abolishing Family Regulation.” *The Imprint Youth & Family News* June 16.

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## **Appendix I: Archives Consulted**

Children's Aid Society records, 1853-1947 (MS 111). New York Historical Society, New York, NY.

Gerald E. Markowitz and David Rosner Papers, 1923-1999 (MS 1615). Rare Book and Manuscript Library, Columbia University Library, New York, NY.

Lawrence B. Dunham Papers, 1885-1971. Rockefeller Archive Center, Sleepy Hollow, New York.

Papers of Justine Wise Polier, 1892-2015 (MC 413). Arthur and Elizabeth Schlesinger Library on the History of Women in America, Radcliffe Institute for Advanced Study, Harvard University, Cambridge, MA.

Records of the service and its antecedent organizations (Sheltering Arms Children's Service), 1852-1966 (MC 1385). Special Collections and University Archives at Rutgers University, New Brunswick, NJ.

Rockefeller Family Archives, 1819-1989. (FM2 Riverdale Children's Association, 1936-1961). Rockefeller Archive Center, Sleepy Hollow, New York.