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A NATIONAL MOVEMENT FOR ACCESS TO JUSTICE MUST BE HOLISTIC

*Justine Olderman & Runa Rajagopal**

Jazmine Headley is one of many parents across New York City who depends on childcare benefits in order to work and to be the best single parent she can be to her one-year-old son. When her son's daycare reported that it was no longer receiving payment from the city-issued childcare voucher, Jazmine's only option was to take a day off of work to go to her local benefits center and figure out what was wrong. Making the trip to the benefits center meant that Jazmine had to miss a full day's wage, and navigate the bureaucratic public assistance system, all while also attending to her son, who accompanied her to the benefits center because he was unable to stay at daycare. The wait times at the center were long, and all the seats were taken, so Jazmine and her son sat on the floor where they played quietly and waited. When a security guard approached her and told her to get up, Jazmine remained where she was, explaining that there were no seats available.¹ Jazmine's refusal to get up set into motion a series of events: the center's security calling the New York City Police Department (NYPD), law enforcement violently ripping her son from her arms, the NYPD arresting Jazmine, a judge sending her to Rikers Island for five days, and her separation from her son.² Jazmine's story may have started because of her civil legal needs, but it is a story that reflects broader intersecting issues such as the criminalization of poverty, over-policing, the assault on Black motherhood and Black children, pre-trial detention, family separation, and so many more.

As a holistic public defender office located in the heart of the South Bronx, we are neighbors to and represent over twenty-five thousand people each year in civil matters as well as criminal, child welfare, and immigration proceedings; and we reach thousands more through community walk-ins, outreach, re-entry, and benefits work. We employ an interdisciplinary, team-based model that addresses both the causes and consequences of system involvement. Our teams of social workers, criminal, family, immigration, and civil lawyers, and non-lawyer advocates spend time getting to know our

* Thank you to Sheena Paul for her help bringing this piece from concept to completion.

1. See Ashley Southall, "Appalling" Video Shows the Police Yanking 1-Year-Old from His Mother's Arms, N.Y. TIMES (Dec. 9, 2018), www.nytimes.com/2018/12/09/nyregion/nypd-jazmine-headley-baby-video.html [<https://perma.cc/68MK-LUWD>].

2. See Conor Friedersdorf, *The Bigger Failure Exposed by Jazmine Headley's Arrest*, ATLANTIC (Dec. 13, 2018), www.theatlantic.com/ideas/archive/2018/12/jazmine-headley/578065/ [<https://perma.cc/J7AD-3DH4>].

clients as individuals and go where our clients go, beyond the confines of a single case or courtroom. We bear witness to the experiences of our clients, providing us with the knowledge to not only identify the problems but to spearhead long-lasting solutions to the challenges our clients face.

Our framework and our advocacy put us shoulder-to-shoulder with complexly marginalized people, like Jazmine Headley, who are entrapped within our legal systems in a myriad of ways.³ Our model, which is a response to our clients' lived experiences, the intersecting drivers into the various legal systems, and the web-like systems themselves, equips us with a unique vantage point when it comes to the question of how to create a movement for civil access to justice and broad systemic changes. What is clear from Jazmine's story and from our work is that the movement for civil access to justice cannot and should not be seen as distinct from other movements. A movement for access to justice must embrace the full complexity of our clients' lived experiences and recognize that the issues our clients face and the systems that trap them are equally complex and intertwined.

In our work, we first start with the recognition that those who we fight for and partner with are not monolithic but, rather, reflect intersecting identities and experiences that inform and affect how they interact with the legal system. Jazmine Headley, for example, is young, Black, single, a mother, employed, and someone who relies on financial assistance to survive. Although these are only a few parts of who Jazmine is as a person, all of these identities and circumstances contributed to the dehumanizing way she was treated at the benefits center and the sequence of events that followed. We hear of and learn from thousands of clients and community members like Jazmine every year and understand that what they experience is not about just one single aspect of their identity or lived experience. It is critical that we do not reduce and oversimplify the true and complicated narratives of the people that are targeted by and ensnared by our legal systems.

Second, we acknowledge that the drivers of system involvement impede access to justice and are deeply complex, interdependent, and enmeshed with one another. Systemic poverty and racism are not separate social ills that work independently or exist in distinct spheres. Instead, they build on one another and manifest in failing schools, inadequate physical and mental health services, substandard housing, and a lack of training and employment opportunities, as well as in over-policing and over-surveillance. And these issues are concentrated in the communities that our clients call home. They target and pipeline poor Black and Brown people into legal systems, and trap them in a web of consequences that follows their system involvement.

Third, we know that the systems we seek to change are as complex and deeply intertwined as our clients' lived experiences and the drivers of system involvement. As we defend our clients in civil, criminal, child welfare, and immigration systems, we bear witness to the automatic, systematized

3. Jazmine Headley was not a client of The Bronx Defenders, but we have represented thousands of clients in similar circumstances.

information sharing and the ways these systems work in tandem. From the moment someone is arrested and fingerprinted, their arrest data is instantaneously shared with governmental agencies like the New York City Housing Authority, the New York State Division of Licensing Services, the Board of Education, Immigration and Customs Enforcement, and the Administration for Children's Services. And then that arrest information triggers eviction, employment suspension, deportation, and termination of parental rights. For low-income Black and Brown people, like Jazmine Headley, system involvement through any entry point begets more system involvement and irreparably destabilizes their lives.

While many are familiar with the “collateral” consequences of criminal legal involvement, people need not enter the criminal legal system to become ensnared by this complex web of legal consequences. For example, someone can start with a housing case and, if they are evicted and rendered homeless, end up fighting charges of child neglect in family court. Or someone can start with a family court case and, if their children are taken away, end up losing their housing subsidy and being evicted. Or someone can start with a child care benefits case and, if they lose their child-care benefits, end up losing their job and their only source of support for their family which, in turn, can then drive them into the criminal legal system.

We also know that while these systems are complex and intertwined, they also bear a striking resemblance to each other—these systems operate in identically oppressive, bureaucratic, and punitive ways. Upon being forced into these systems, our clients and other poor Black and Brown people are repeatedly dehumanized and made even more vulnerable. Walk through a civil, criminal, family, or immigration courthouse and you will find spaces that fail to meet the needs of those forced to navigate them: court staff and judges who treat people within these systems with disregard and disrespect and an assembly-line approach to justice and adjudication. When our clients challenge these oppressive systems, like Jazmine Headley did, they are criminalized and responded to with excessive physical force, driving them deeper into the legal systems and their consequences.

Finally, we see first-hand the power of our clients' stories and the important role that their stories play in creating systemic change. Because Jazmine Headley's arrest and violent separation from her son were caught on video, we all bore witness to her story. But it was not just the video that captivated people's attention, ignited outrage, and galvanized a movement for change. Jazmine Headley herself did that. In the days after her release, Jazmine met with reporters, gave context to the video, testified in front of the city council, and called for change.⁴ Jazmine and her story compelled legislators, government officials, service providers, advocates, organizers, and many others to collaborate with one another, to look at all the different but related drivers of her system involvement, and to look for holistic

4. See Kimberly Truong, *Jazmine Headley Gets Public Apology After NYPD Tore Her Son from Her Arms*, CUT (Feb. 5, 2019), www.thecut.com/2019/02/jazmine-headley-gives-a-testimony-at-city-council-hearing.html [<https://perma.cc/9R88-53BY>].

solutions to the obstacles she faced. While in the abstract one would not be faulted for arguing that complex stories might deter movements for change, it is precisely because of the complexity of her story that Jazmine Headley captivated millions of people and inspired a rapid interdisciplinary response. Not only did Jazmine's story provide multiple points of reference that people could relate to, but it also revealed the immense power of the intertwined oppressive systems that she was forced to navigate.

As holistic public defenders, we get to know our clients in all of their complexity; we understand the intersecting drivers of their system involvement; and we see first-hand the intertwined nature of the systems in which we defend them. We also spend time partnering with our clients and elevating their stories. What we have learned is that there is no single issue-focused, one-size-fits-all approach that can effectively address the complex realities and needs of those entrapped within our legal systems. Similarly, there is no siloed, one-size-fits-all access to justice movement that can galvanize reforms, coalitions, and systemic change that reaches those most complexly marginalized by and within our legal systems. Jazmine Headley and other poor Black and Brown people who have experienced deep and intersecting injustices deserve a movement that does more than challenge one single aspect of their lived experience. Instead, Jazmine Headley and others similarly situated deserve a movement for civil access to justice, like public defense, that embraces, defends, and is inspired by complexity and intersectionality. A movement for civil access to justice must be holistic. Such a movement requires an interdisciplinary lens; every aspect of the movement must be as seamlessly intertwined, if not more so, than the systems of injustice our movement seeks to dismantle.