

ORIGINAL ARTICLE OPEN ACCESS

# ‘Playing the Game’: How Aboriginal Families Navigate Child Protection Systems to Restore Their Children Home From Out-Of-Home Care

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## ABSTRACT

Reunification, or restoration of children from Out-of-Home Care (OOHC) is very rare. Using evidence generated from the New South Wales-based Aboriginal-led research *Bring them home, keep them home*, this paper examines and celebrates the resistance and resourcefulness of 20 Aboriginal families who navigated a child protection system designed to separate their children from them. Aboriginal families have described the struggle to have their children restored from OOHC following removal as being treated as a *game*, where the child protection system holds all the power, designs the rules which often change and are unclear, and operates on an uneven playing field. The findings uncover a variety of strategies families used to keep their families together and attempt to succeed in the game. While professionals and practitioners working in the child and family sector are part of the system, families identified practical ways that practitioners can play the game to support them by adopting a justice-doing approach, moving from a punitive role to one of advocacy and activism.

## 1 | Introduction

### 1.1 | Why Use a Game Analogy When Talking About the Child Protection System

During our research and advocacy work with Aboriginal<sup>1</sup> families, we have often heard their plight of seeking and achieving the restoration<sup>2</sup> of their children from Out-of-Home Care (OOHC) as being treated as a *game*. This has prompted us to lean into this analogy as the focus of this paper. Games are associated with ‘an activity that one engages in for amusement or fun.’ (Merriam-Webster, [n.d.](#)). This is not what families are referring to. Rather, they are referring to something akin to ‘a physical or mental

competition conducted according to rules with the participants in direct opposition to each other.’ (Merriam-Webster, [n.d.](#)). In applying this definition to the pattern of social interactions that ‘play out’ within the child protection system it is important to note that this game is not situated on an equal playing field, the rules are not clear and accessible to all, and they are open to interpretation.

There are two teams in this game: families and the child protection system. The child protection system in each jurisdiction has a different name. The New South Wales (NSW) child protection system, where this research is located, is currently named the Department of Communities and Justice (DCJ).

Shantelle Common has recently changed organisations.

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The players in the game include children, families, community members and the various practitioners, professionals and foster carers working in the child protection sector. Families are always the underdog and practitioners/professionals are groomed, trained in the language of the child protection system and coopted to play for the winning team and hold all of the power to dismember families. The winning team is almost always the child protection system because they have ultimate control of the game: they design the rules (through policies, procedures and legislation), own the playing field (colonialised Australia), have abundant resources and power to play the game their way (putting more money in the OOHC system than in supporting families), move the goal posts (changes in case plan goals) and make the goals hard to reach (illogical and difficult to follow case plans (NSW DCJ 2024; Davis 2019)). There is also little accountability if they cheat (fail to uphold their responsibility as model litigants) or bend (misrepresent the rules according to their interests) the rules of the game (NSW Auditor General 2024; Davis 2019). Families start on the losing team, and they are often disadvantaged because child protection systems have more players on their side, do the scoring (assess, investigate, substantiate and produce evidence) and adjudication processes are not transparent in their decision making.

Aboriginal families know too well that it is a losing game, even before they are dragged onto the field; even if they do not know when the game starts, they soon detect red flags. Without having access to the rule book, or having been trained in the language used, Aboriginal families and communities understand the odds are stacked against them. The insidious weapons used in this game, in the name of helping, include racist and deficit-based assessment tools, responsabilising parents for social inequities, Western psychological discourses reified by the written word to create evidence stacked against families, and coercing compliance within the sector through ritualism, arbitrary procedures, and subjective interpretations of policy and legislation (Davis 2019; Jenkins and Tilbury 2024; Libesman et al. 2024; Wright et al. 2024).

This game was designed with a settler colonial agenda underpinned by a carceral logic to oppress Aboriginal and Torres Strait Islander peoples of this land (Libesman et al. 2024). That was the agenda of Indigenous genocide, enacted through forcible child removal. The State assumes the role of legislator, investigator, judge, and penitentiary. When parents try to learn the rules, question the decisions made, and try to get ahead of the game, they are labelled as resistant or overly compliant (Leigh et al. 2020). In this lose-lose predicament, Aboriginal families have developed astute and refined strategies to play the game while knowing that no matter what they do it could backfire, and the systemic response could be to double down and take swift action to take the children and place them into State care.

## 1.2 | Structural Context for the Game

Important context for this paper is that regardless of how strong or assertive a parent seems, or how perceptive or knowledgeable they are about the system, and regardless of

the extent of their support and advocacy team, the system will always maintain the power in the game (Braithwaite 2021). Aboriginal parents will never have equal footing to the system in its current form. If they are successful in getting their children back against the odds, they have done so from a position of structural inferiority.

Many children in OOHC should not have been removed to begin with, and literature to support this claim is emerging with more evidence in recent years (Jenkins and Tilbury 2024; Davis 2019; Newton et al. 2024). Newton and colleagues found that of the 1018 NSW Aboriginal children living in OOHC and tracked using longitudinal child protection data, about 40% were removed following just one or no substantiated Risk of Significant Harm report (2024). This suggests that children were removed from their families without adequate and comprehensive prior engagement with support services, and instead the decision to remove children may be premature and not based on a thorough investigation. The same study found that 85% of Aboriginal children who enter OOHC will not go home while they are still children (Newton et al. 2024). Thus, the system is geared towards keeping children in care—counterintuitively to the legislation and policies, which state that restoration is the preferred permanency pathway for all families, and particularly for Aboriginal children, whose cultural and familial connections should be safeguarded through the Aboriginal Child Placement Principle (Hermeston 2023).

When the children are ordered into State care or ordered to not return home, it is because the ‘house always wins’: the system was designed to keep children once removed and sever their relationships with their family (Krakouer 2023). This is both the historical legacy and contemporary architecture everyone working in the child and family sector is working within. We refer to ‘architecture’ to describe the intentional creation of a child protection sector that is designed to enact State sanctioned violence. The nature of this architecture is hidden behind a guise of white benevolence and saviourism served to ‘protect’ children. Consequently, many working in the system uncritically perpetuate the institutional harm through both complicit and overt means.

## 1.3 | Positionality of Authors and Centring Advocacy and Resistance in This Paper

This paper is written by Aboriginal and non-Aboriginal researchers and strong advocates for Aboriginal families in child protection contexts. BJ is a Wiradjuri woman and lead researcher of the *Bring them home, keep them home* research with a background in social work that she uses to agitate for social justice and change. Kimberly is a non-Aboriginal woman who identifies as a settler migrant with Anglo and Indigenous Mexican heritage. She worked within one of the Aboriginal partner organisations during the fieldwork for this research and continues to be a trusted advocate for the families in this study. Caitlin is a settler Australian white woman with a background in Social Work and Indigenous studies. She works within a peak organisation for Aboriginal children and families and strives to elevate the voices of Aboriginal people to fight for necessary change. Neika is a proud Wodi Wodi and Bundjalung woman

and researcher. She is committed to challenging systemic inequities and amplifying Aboriginal families' and communities' voices. Shantelle is a Boorooberongal woman from the Darug nation with lived experience of having her children removed and restored. She was a research participant in this project and is also a valued colleague, leader and advocate in the child and family sector.

Our experience advocating for restorative justice and child restoration with these families has been met with many barriers at the system level. In this way, we have experienced how the system has played the game with us at that higher level. We will not accept playing the game their way any longer. We are using our power to bring exposure to the harms perpetrated against families and their resistance while navigating these systems. This power we have is the power of our research, evidence, and independence from government. We are autonomous women, and this research is our resistance; this paper is an important part of how we will play the game- *our way*- for those families battling systemic abuse and injustices by child protection systems.

In this paper, we use the voices of families as much as possible to centre their experiences and expertise, and as Behrendt (2019) writes, providing a platform for women to tell their story in their own words is a significant part of advocacy work. By embracing the game analogy posed by parents, we invite you to witness the ingenious ways that Aboriginal families have attempted to navigate a system designed to oppress and separate their children from them.

## 2 | Method

This paper is based on findings from the *Bring them home, keep them home* research, a large mixed-methods and Aboriginal community-based research project in regional NSW, Australia (Newton et al. 2024). The research is led by Aboriginal researchers in partnership with three Aboriginal Community Controlled Organisations (ACCOs) and AbSec, the NSW Aboriginal Child, Family and Community Peak Organisation. The research has ethics approval from the NSW Aboriginal Health & Medical Research Council and UNSW Sydney.

Interviews were conducted with 20 parents of Aboriginal children-17 mothers and 3 fathers. 17 parents identified as Aboriginal themselves (we interviewed 3 mothers who were not Aboriginal). We also interviewed two adult children, both of whom were removed from their parents during young childhood. Combined, the 20 parents had 70 children at the time of interview, all of whom identified as Aboriginal. 43 of these 70 children had experienced being removed by DCJ.

This paper draws on the interviews of 22 participants from 20 Aboriginal families conducted between April 2022 and August 2023. Participants were recruited through our research partners and one other large non-government organisation. One adult child joined in on her mother's interview, and the other adult child wanted to share her story following her mother's interview. Interviews followed a semi-structured format, though they were led by what participants wanted to

tell us about their experiences. Interviews lasted between 1 and 1.5 h, and mostly took place in the family home, with a smaller number conducted on the premises of an Aboriginal partner organisation and over the phone/video call. The research team has kept in contact with research participants following the interviews through online parent gatherings, Christmas cards, phone calls and email updates, and supporting families through continued advocacy.

All interviews were voice recorded, transcribed, and de-identified. Transcripts were uploaded to NVivo software and coded into themes using a coding framework that was developed via an iterative process grounded in the interview content and the interview guide. Authors 1–4 contributed to the coding, annotating, and analysis of interviews. Early findings were presented and discussed with parents during online parent gatherings in September and November 2023 to test and refine our data interpretations, and all authors contributed to these discussions.

## 3 | Findings

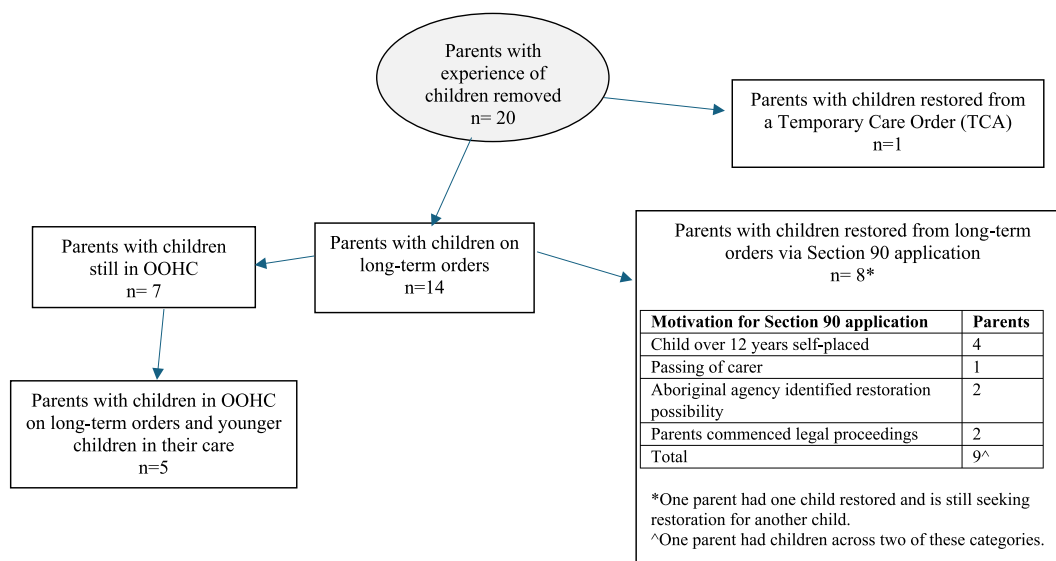
### 3.1 | Summary of Families' Circumstances With the Child Protection System

At the time of the interviews, 14 of the 20 parents had their children restored to them from the NSW OOHC system. Five parents' children were restored relatively soon after their removal from short-term or interim care orders. One parent's children were restored from a Temporary Care Agreement (TCA), which is an order where children are removed through a 'voluntary' arrangement for a maximum period of six-months<sup>3</sup>. There were 14 parents whose children were placed on long-term orders, with 7 parents still seeking restoration and 8 parents whose children have been restored. In one family, one child had been restored while restoration was still in process for their other child. In 5 of the families where children were still in OOHC, parents have given birth to more children and these children were not removed. These figures are illustrated in Figure 1.

In none of the 8 families where children were restored from long-term orders, did DCJ identify that restoration was a possibility for these children. Instead, the Section 90<sup>4</sup> applications were initiated when: four parents' children self-placed back in their care from the ages of nearly 12 years; an ACCO instigated the process for two parents (one of these parents' children self-placed); two parents (from one family) commenced legal proceedings independently; and in one family, the kinship carer passed away and the default placement option was to the children's mother who had maintained a close relationship with her children. This suggests that families cannot rely on DCJ to initiate an assessment to explore the possibility of restoration for children following final orders.

### 3.2 | Strategies Families Used to Navigate the Child Protection System

Families identified a range of strategies to empower themselves and effectively navigate the challenges and obstacles imposed



**FIGURE 1** | Restoration outcomes for parents participating in the research.

on them by the child protection system to support their case for restoration.

### 3.2.1 | Strategic Compliance

A significant way that Aboriginal families are navigating child protection and court processes to both prevent their children being removed, and in trying to get them back, is through a concept we have termed ‘strategic compliance’.

Strategic compliance is when parents go beyond automatically following directives from their caseworker, which many participants call ‘jumping through hoops’, to making a deliberate decision to act on these ‘hoops’ their own way. This requires parents to have some understanding of the way the game is structured, without knowing the intricacies of the rules. They identify what exactly is being asked of them—even if it does not align with their experience of what the problem is—and then predict the potential benefits and risks of their potential responses to fulfilling these requirements, particularly in the context of court and how they will be perceived as making progress towards their restoration goals.

This requires a discernment and deliberation as parents learn through trial and error that simply following what DCJ says they should do is not necessarily a guarantee that the children will be restored. Strategic compliance, in the context of an abusive and unaccountable child protection system, overlaps with other strategies identified where parents pre-empt the department’s game plan to take actions that go above and beyond what is decided for them to do. This may include taking the initiative to complete tasks and gathering it as evidence to support their case at court, as explained by Heavenly.

If they say to do that course, go do two, go do three courses, do more than what they ask. If they ask you, oh slow down on the drugs, get off the drugs all

together...If you start showing initiative for yourself then they will do more. For example, I started doing more activities with my son. I would bring stuff with me to do crafts and activities. Most parents, including me at first, would rely on [NGO] to do all of that, but when I started doing it on my own [NGO] started writing that in their reports and it started making me obviously look better as a parent.

(Heavenly)

Maddie exerted strategic compliance by refusing to stop urine drug testing. This was both a strategy for demonstrating that she was substance-free to support her case for her son’s restoration, but also so she could stay accountable to herself as Christmas was a traumatic and painful time.

They were like, oh, well, you’ve been clean for so long— and you’re working, all this, we’ll just cut them down for you. Then they just stopped giving them to me, my urines. I made them start urine-ing me again, because coming up to Christmas, as well, you know what I mean.

(Maddie)

Several parents referred to the process of having children removed and seeking restoration as being treated like a ‘game’ by caseworkers, referring to the cruelty and lack of compassion that parents experienced throughout the ordeal. Parents discovered, that ‘playing the game’ was how they could endure and survive the cruelty within a system rife with procedural and practice inconsistencies and uncertain outcomes.

I suppose in a way for me, to survive it, I had to do their game to get the result I’ve got now. I had to play their game, whether it morally sat with me, whether it was like breaking my heart to do it, I had to do it,

because that resulted in my kids having me in their lives a bit longer.

(Kalina)

Without being trained in the legal system, parents developed an understanding of the weight placed on the evidence provided to the court by DCJ. Strategic compliance extended to parents gathering their own evidence about their case and interactions with their caseworker to demonstrate that they had complied with their case plans.

It's all a game and you've just got to be the one to win it. That they see it like that, they treat it like that, you play it like that. Then once you can do that, you're good to go. They don't expect you to, you know what I mean? They expect you to keep jumping through more hoops and more hoops and more hoops and more hoops. But you've already jumped through that f\*cking hoop. You know what I mean? I jumped through enough to the point where they tried making me do stuff, I'd be like, but I've already done this. I've already done that. Or you said that I only had to do this. Just write everything down. Keep a whole journal of what you do, child courses, everything. Note spoke to this person, house visit this day, urinalysis this day, just keep on top of it.

(Maddie)

Parents gathering their own evidence is an important strategy against child protection workers who deliberately mislead the court by omitting or misrepresenting evidence.

Always get the notes. Every case note, between every meeting with DCJ, every meeting with [your caseworker], every visit with your kid; you get every single note. They have to send them to you. You say, after every visit, I want my notes... it's very important that you get those, because if there's something in there that you're not aware of, you're not going to find out until it's already in the hands of the courts, and something could be said really bad and blown out of proportion.

(Maddie)

Parents went so far as voice recording DCJ workers in two different families, as a way of trying to capture evidence that DCJ were being dishonest and acting unethically. In both families, the decision to record their interactions with caseworkers was motivated by fear.

### 3.2.2 | Safeguarding Family Relationships

As a family, some feigned compliance to safeguard their relationships with their children when it became clear that DCJ were not supporting parents to maintain relationships with their children. Trent and Carly pretended to separate when DCJ

removed their children because they believed Trent was using violence against Carly, even though the couple insisted that he had not used violence. This plan was successful, as Carly soon had the children returned to her care. Carly was pregnant at the time and once the baby was born, Trent had to secretly visit his family.

We also came up with a little scheme. I said, look, I bet you if I take off for a month, I bet you you're getting the kids back. So, I took off for a month and, lo and behold, she was actually getting to see them and everything...yeah, that was horrible. I was jumping the fence, leaving at five o'clock in the morning, jump in at 12 o'clock just to spend time with the newborn.

(Trent)

Kalina's parents, who were the permanent guardians of her children, wanted to follow the rules at first, but soon realised it was in their family's best interest to let Kalina spend extra time with her children.

Everything had to be a secret...The girls were programmed. You can't say that you live with your mum, but yet my mum and dad never really tried to deny me of that. They bent the rules as much as they could, and I suppose earlier in the piece, I was separated from the girls, which was really hard... because mum and dad were just adamant that it had to be the way DoCS<sup>5</sup> said, and then DoCS started showing their true colours, and mum and dad started to see through it and started to go, you can go down to your mum's now.

(Kalina)

It was a critical decision for Kalina and her parents to prioritise her ongoing connection with her children over complying with court-ordered family contact limitations, because when her parents sadly passed away, Kalina was the first option as carer for her children as their strong relationship was undeniable.

### 3.2.3 | Young People Choosing to Live at Home

At times, families did not feign compliance to safeguard family connections; instead, they were openly defiant of ongoing harmful casework practices and court decisions that attempted to destroy their family. This usually occurred in families where children were older. In this research, five young people from four families removed themselves from their placements to live at home. Alkira and her younger sister started running away from OOH during early adolescence to come back home.

I ran away and I just made myself stay here. They said it was too dangerous for me to be on the streets and instead of running around chasing me all the time, they'd rather just leave me here because it was what I wanted and I wasn't in danger being here so

it was safer for me to be with mum than out on the street.

(Alkira)

Chloe shared a similar experience with her son.

On his 13th birthday he rang me up and told me, Mum, if you don't come and get me I'm going to kill myself... He was that resourceful that he literally got my number out of his grandmother's phone, wrote it in one of his school books and went to the local McDonalds and asked a stranger if he could use their phone to ring me. When I went there and I got him he literally just ran up to me and cuddled me. It was the best feeling in the world.

(Chloe)

The knowledge of their own rights was also powerful motivator for children who desperately wanted to live at home, and Sabrina talked about how her daughter learned about her rights to choose to live with her.

Violet, herself, self-placed this year, she self-placed. She's been very vocal about wanting to come home since the day she was removed, the whole way through. On her lunchbreaks she was going into the library and finding out her own rights. She was ringing up about her rights... She waited years, and years, and years, and years for the court stuff to happen. COVID didn't help...I tried to get the whole process happening in 2019 for Violet home. I have not had a single court date since. It is now 2023—not one single court date.

(Sabrina)

These quotes illustrate that young people's voices are not heard when they want to return home to their parents, even when they threaten self-harm and suicide, so instead they must take action to get what they need.

### 3.2.4 | Resistance, Advocacy and Knowing Your Rights

When we asked parents what advice they would give to families going through a similar life experience, all parents talked about the importance of not giving up, continuing to fight for their children and educating themselves about their rights to protect their family against the system.

...go get legal advice straightaway. Because they don't give you nothing. There is nothing in place. They make you believe that they can do whatever they want, and you've got no rights. I still to this day don't even know my rights. No one actually has ever told me what my rights were at that time and what should have happened. That is probably the biggest thing a

parent in this situation needs to know, is what [DCJ] can and can't do, not what they just tell you they're allowed to do, because it's not right.

(Jewel)

This sentiment reinforces all the findings, that parents have no choice but to be strategic and even forceful in their interactions with child protection services, because they have learnt that passively complying and expecting the system to support their family's best interests will not get their children home. In many situations, parents felt as though the only way for DCJ to listen to them and take back some of their power, was to be assertive at the risk of being called aggressive or disregulated, as expressed by Maddie and Shellie.

They will walk over you. That's why, as much as I sound either aggressive or agitated or whatnot, it's because I'm showing them that they can't rule me and I know my position and I know where I stand and whether they think I stand there or not, I f\*cking know it.

(Maddie)

Stand up for yourself, you're allowed to push for what you want, you're not going to get anywhere if you sit there, they'll just walk all over you. You really have to speak up even if you don't get anywhere at least you've pushed for it.

(Shellie)

Shellie's point that 'even if you don't get anywhere' is critical, because it reinforces the very real structural inequality that parents interface when resisting: they are inferior, and oppressed; they face the challenge of not only being mothers who have experienced State sanctioned child abduction, but they are also Aboriginal Australians, and subjugated to that colonial violence as an added contextual burden in their plight for their child's return.

When Chloe's son ran away from his kinship carer's home, where he reported years of abusive treatment from his father who also lived there, he came home to the safety of his mother. When DCJ tried to take him away again, she fought back.

I basically just put my foot down and I said, if you try to remove my son I'm literally going to spaz the f\*ck out and I'm going to fight. I'm literally going to physically fight if you try and take my son away from me. He doesn't want to be there. He said that. If youse take him back there he's going to kill himself. Youse aren't taking him back. It took a while but they allowed for him to stay with my mum while I tried to get custody of him.

(Chloe)

Chloe had endured years of suffering at the hands of the child protection system, who consistently invalidated her as a

mother concerned for the safety of her child in OOHC. In the end, her son was restored because his abuse was substantiated, and he was old enough to self-place. This example shows how children, when old enough yet still so young, have more power in decision-making than the women who birthed and nurtured them.

Parents' ability to assert their power relied not only on being educated about their rights, but also on feeling supported by strong and staunch advocates. For example, Shellie talked about her engagement and dynamics with DCJ changing when an ACCO became involved to support her family.

Now that I have [ACCO] involved, [DCJ are] very focused on cultural needs and now they want to do restoration, do you know what I mean. It's almost like they're intimidated because I actually have someone by my side who knows what they're talking about and knows they can't push me around anymore sort of thing...even the way they talk to me they're starting to speak to me like I'm a person and not talk down to me. So, it's got a lot better.

(Shellie)

### 3.2.5 | Parent's Advice for Basic Good Casework Practice

While we have leaned into this analogy of the interactions that play out between Aboriginal families and workers representing the child protection system as a game, it is the exact opposite in reality. As one parent Krystell comments, 'They don't understand though, it's not a game, man. It's people's lives'.

Every decision that workers make can have significant life-long consequences for families that have transgenerational impact, as Chloe clearly explains, 'removing kids is so traumatic that it leaves lifetime scars'. Families raised the importance of workers being empathetic and aware of their contributions in causing harm through systemic processes.

Just try to feel how you'd feel if that was your world. Try to have a bit of understanding. Whether they're angry or shut down or whatever, it's all for a reason. It's all for a reason, and I think they need to be a bit more compassionate or gentle, instead of controlling and judgmental.

(Kalina)

Parents don't want to play the game; they are forced to because often caseworkers do not offer genuine help and support, rather they are engaging in administrative compliance and feigned benevolence in the guise of support.

You always think that they're judging you and looking down on you... So, they're just ticking boxes. That's all they did. Tick the boxes, and you don't get really support off them saying, look, you're doing

well, keep going strong, you know what I mean? Which would be a lot of help, do you get me, to hear that from people that—yeah. Anything like that would go a long way.

(Mitch)

It's like they acted to be on your side to a point where they weren't. They weren't on your side at all. They were just ticking their boxes. They were following policies and procedures and stuff like that, and not keeping that reality, sort of thing, in mind. You're actually breaking up a family here. You're actually separating them. You're taking their kids.

(Trent)

Many parents felt judged and dehumanised by child protection workers, as described by Mia, 'They look down on you, they don't treat you like a human being...I felt judged all the time, and like I was not good enough to have my daughter'.

Parents wanted to be treated with dignity, respect, and care. This also extended practically to the way workers communicate and include families. Good communication with families is clear, frequent, and workers are accessible to families. Parents identified that they are often excluded from knowing important information about their children while they are in care and are not supported to understand restoration policies and processes. Parents provided simple advice for workers to improve their practice in these areas.

Talk to parents more. Let them know what's happening with that child or how they're going. The only information they get is maybe once a month. Just a little information pack saying, this child is doing this and how they're going. That still doesn't answer my questions. Involve parents more so we know what's going on. We're not getting it second hand.

(Hazel)

Maddie's advice was simply, 'work with us and not against us, and just stop ignoring every f\*cking phone call'. Service providers also need to ensure they communicate in a way parents can understand and that does not leave room for vagueness, misrepresentation or ambiguity.

Just to help them understand more what's going on... Just explain it—like in a normal language that we understand because they say all these big words and explain it and at the end of it, I think I don't know what they mean.

(Mia)

I find that the way that they talk, you don't get a clear answer, you just want to know where it's heading, or what to do to get it where you want to go... the way that they talk to you, it's like they answer your question, but they don't. It's so hard

to explain it's like it ticks their box, but you're not satisfied with- it manipulates the question. So, I feel like communication's a big thing...because it's not clear.

(Shellie)

## 4 | Discussion and Implications

### 4.1 | The State of Play in Restoration

Like previous literature, this paper has demonstrated that parents cannot rely on DCJ and system processes to support them in preventing their child's removal, and indeed, to achieve their child's restoration (Newton et al. 2024; Braithwaite 2021). Contrarily, we found that it is only once families arm themselves with strategies to circumvent the ongoing State-sanctioned violence, that families feel more agency to confront the situation and hold on to hope that their children will be restored.

The findings identified that it is highly improbable for child protection agencies to initiate restoration proceedings following permanent final orders, and instead the catalyst for children being restored from long-term OOHC is more so related to changes in placement, such as a child self-placing or the breakdown of a living situation.

A negative implication with children self-placing to their family is that most of these parents had to wait many years until the system said their children were old enough to choose to live at home. By this time, parents must contend with years of violence, disconnection, and picking up the pieces of a family broken by the system. Most of the older children in this research who self-placed or were restored were abused in OOHC. There is no accountability for this injustice.

### 4.2 | How Aboriginal Families Play the Game

Through this paper we highlighted how parents referred to restoration processes as a game, where the odds were stacked against them. In an attempt to win the game—which translated to keeping their family together and getting their children home—parents played the game in a variety of ways: they identified patterns in an attempt to understand the hidden rules, found ways to call bluff on feigned benevolence, and exceeded what was expected of them in the hope that they might get ahead of the opposition (the child protection system). Other strategies included starting their own evidence-gathering processes, finding more people- advocates- to join their team, and speaking up when the case workers were not playing according to their own rules.

We also identified a new concept through this research, 'strategic compliance'. Strategic compliance was critical in enabling parents to more effectively play the game. This should not be confused or misunderstood as disguised compliance. Disguised compliance/disguised non-compliance condemns resistance to caseworker engagement as a risk to children, perpetrated by parents who have been demonised as hostile and deceitful in attempting to conceal the deliberate abuse and neglect of their

children (Leigh et al. 2020; Tuck 2013). This is not the reality for many parents. Most families who interface child protection systems do so through oversurveillance and visibility due to racial targeting (Roberts 2023) and biased risk assessment tools, that attempt to make predictions on future child abuse and harm based on algorithmic measurements and predictive risk modelling (Jenkins and Tilbury 2024; Krakouer et al. 2021), and caseworker assessments that punish poverty (Pimentel 2018), conflate maternal mental health and substance use issues with child risk (Roscoe et al. 2018; O'Donnell et al. 2015) and blame mothers for gendered violence committed against them (Stewart and Arnall 2023). In Australia, 80% of the children reported to be at 'risk of significant harm', is due to (State defined) child neglect and emotional abuse (AIHW 2024). Responses to these concerns should be to support struggling families, rather than removing children and severing their family relationships.

Strategic compliance celebrates family resistance as a deliberate response to State sanctioned violence and oppression which uphold parents' dignity and sense of ownership and control over the processes to restore their children. Strategic compliance enabled parents to feel stronger to use the 'master's tools' to 'temporarily beat him at his own game' (Lorde 1984), or to increase their chances of gaining advantage on the unequal playing field.

Strategic compliance aligns well with the game analogy. As we have demonstrated, parents must meet restoration 'goals', and parents and family support workers often refer to the moving 'goalposts' for restoration plans and 'box-ticking', and 'hoop jumping' that parents are expected to complete. Indeed, we talk about the work of advocates as 'leveling the playing field' when referring to power-imbalance. Thus, the only way parents can effectively play this game, is by being strategic in the way they engage with these mandated processes against the backdrop of structural inequities and power imbalances, where the rules of the game are ambiguous and subject to change. Strategic compliance is necessary, because any indication that parents are resisting or not complying, is used against them to build a case that they lack the insight or capability to make the changes that the state perceives is needed. A fine balance must be struck, which parents also managed to navigate, where they learned when and how to actively push back and resist against unreasonable expectations and unethical practices. They learned how to play the game to their advantage.

It is important to note that none of the strategies discussed in this paper- whether used in isolation or in combination- are guaranteed to work. They are simply necessary responses that parents have used to protect themselves and their children against systems that are designed to remove children for the interests of the settler colonial agenda.

### 4.3 | How Practitioners and Professionals Can Play the Game

Practitioners and professionals working within child protection systems, particularly those working for the State, are by default agents of the State- they are the opposition. Service providers

in non-government organisations by extension are also State agents because much of their evidence-based models and funding are sourced from government departments. Those working in family preservation and OOHC contexts rely on mandatory reporting, surveillance, investigations and assessments, and children in OOHC to sustain their employment. Indeed, in NSW child protection and OOHC is a multibillion-dollar industry, and the costs are only increasing each year, while investment in family supports to prevent entries to OOHC and restoration are miniscule by comparison (NSW DCJ 2024, 15).

We encourage and invite practitioners and professionals from across the sector to abandon a parent-deficit and punishment approach (Braithwaite and Ivec 2022) and instead engage in acts of justice-doing (Reynolds 2019) to subvert the oppressive architecture and interrupt the way the game is played. Pryce (2024) has proposed a framework for transforming child protection systems. It requires practitioners to move from embodying an agent of the State to advocate to activist. This is necessary to reduce the damage done to families under the current rule book. While practitioners may not be able to re-write the rules of the game, they can attempt to level the playing field and practice in ways that promote dignity and reduce institutional harm. Indeed, while parents in this research reported on the overwhelming challenges and barriers at the systemic level, they also acknowledged the power of individual practitioners in making a difference to their case, for better or worse. This was also identified in similar research which identified that parents felt practitioners who advocated for them had a significant impact on family inclusion (Davies et al. 2023:5).

We invite practitioners to engage with the following critical practice reflections to cultivate a deeper understanding of their contributions to State harms against Aboriginal families.

- What moves have I made to silence and punish families resisting state sanctioned violence?
- How have I been groomed into believing that this is the only way to play the game?
- Who can join my team to challenge harmful practices?
- What western dominant deficit infusing ideas are guiding my assumptions about Aboriginal families?
- What are the long-term consequences of my actions?
- What actions can I take to ensure I do not do it again?

We hope these questions inspire practitioners and professionals to consider repositioning themselves in the field as advocates and activists at practice and policy levels.

## 5 | Conclusion

Illustrating the child protection system as a 'game' highlights the immaturity and detachment of the system despite the profound, life-altering impacts on families. Families are relegated to 'non-player characters' in an open-world simulation where their choices are restricted, and the violence inflicted on them by child protection caseworkers and practitioners—the real players of the child protection system—and the game itself are

inconsequential. The system's predetermined narratives and game plans perpetuate cycles of injustice, with every action taken to move forward only resetting families back into their assigned positions, using the logics of the settler colonial agenda to justify that this is how the game is played. The *Bring them home, keep them home* research has amplified the voices of many previously untold or unrecognised acts of resistance and strategic compliance, offering critical insights into how families have been forced to navigate and fight against systemic oppression to reclaim their rights.

### Author Contributions

**B. J. Newton:** funding, conceptualisation, investigation, project administration, methodology, analysis, writing – original draft preparation, writing – reviewing and editing, supervision. **Kimberly Chiswell:** conceptualisation, analysis, writing – original draft preparation, writing – reviewing and editing. **Caitlin Parker:** analysis, writing – original draft preparation, writing – reviewing and editing. **Neika Tong:** investigation, project administration, analysis, writing – reviewing and editing. **Shantelle Common:** writing – original draft preparation, writing – reviewing and editing.

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### Conflicts of Interest

The authors declare no conflicts of interest.

### Endnotes

<sup>1</sup> We respectfully use the term Aboriginal, and at times Indigenous, to refer to First Nations peoples in this research and more broadly, as this research was conducted in New South Wales (NSW).

<sup>2</sup> We use the term restoration in lieu of reunification as this is the official term used in NSW for returning children from statutory Out-of-Home Care.

<sup>3</sup> It is important to note that while voluntary, the experience of TCAs can feel coercive and involuntary and many report that it is a soft entry to statutory orders.

<sup>4</sup> Section 90 of the *Child and Young Persons (Care and Protection) Act 1998* refers to 'Rescission and variation of care orders'. Following final orders, a Section 90 application must be granted for parents to achieve restoration.

<sup>5</sup> A previous name of the NSW child protection department was the Department of Community Services (DoCS), and many people still use this name.

### References

Australian Institute of Health and Welfare (AIHW). 2024. Child Protection Australia 2021–22, Child Welfare Series (CSW) no. 92, 'Table S3.10: Children Who Were the Subjects of Substantiations of Notifications Received During 2021–22, by Primary Type of Abuse or

- Neglect, Indigenous Status and State or Territory, 2021–22 (number and per Cent)', Australian Institute of Health and Welfare, Canberra.
- Behrendt, L. 2019. "Stories and Words, Advocacy and Social Justice: Finding Voice for Aboriginal Women in Australia." *Australian Feminist Law Journal* 45, no. 2: 191–205.
- Braithwaite, V. 2021. "Institutional Oppression That Silences Child Protection Reform." *International Journal on Child Maltreatment: Research, Policy and Practice* 4, no. 1: 49–72.
- Braithwaite, V., and M. Ivec. 2022. "Policing Child Protection: Motivational Postures of Contesting Third Parties." *Asian Journal of Criminology* 17, no. 4: 425–448.
- Davies, K., N. Ross, J. Cocks, and W. Foote. 2023. "Family Inclusion in Child Protection: Knowledge, Power and Resistance." *Children and Youth Services Review* 147: 106860.
- Davis, M. 2019. "Family is Culture, Review Report: Independent Review of Aboriginal Children and Young People in OOH." [https://www.familyisculture.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0011/726329/Family-Is-Culture-Review-Report.pdf](https://www.familyisculture.nsw.gov.au/__data/assets/pdf_file/0011/726329/Family-Is-Culture-Review-Report.pdf).
- Hermeston, W. 2023. "First Nations Children and Families and Permanency Planning Reform: The Evidence Counts." *Australian Social Work* 76, no. 3: 358–370.
- Jenkins, B. Q., and C. Tilbury. 2024. "An Evaluation of the Racial Equity of the Actuarial Family Risk Assessment Instrument Used in Queensland, Australia." *Children and Youth Services Review* 164: 107891.
- Krakouer, J. 2023. "Overrepresentation Is Not Accidental: Systemic Racism in Australian Child Protection and Out-Of-Home Care Systems." *Advances in Social Work and Welfare Education* 24, no. 2: 107–112.
- Krakouer, J., W. Wu Tan, and A. Parolini. 2021. "Who Is Analysing What? The Opportunities, Risks and Implications of Using Predictive Risk Modelling With Indigenous Australians in Child Protection: A Scoping Review." *Australian Journal of Social Issues* 56, no. 2: 173–197.
- Leigh, J., L. Beddoe, and E. Keddell. 2020. "Disguised Compliance or Undisguised Nonsense? A Critical Discourse Analysis of Compliance and Resistance in Social Work Practice." *Families, Relationships and Societies* 9, no. 2: 269–285.
- Libesman, T., P. Gray, and K. Gray. 2024. "Legal Education Through an Indigenous Lens." In *The Shackles of Terra Nullius in Child Protection Reforms*, 53–70. Routledge.
- Lorde, A. 1984. *Sister Outsider: Essays and Speeches*, edited by C. A. Berkeley. Crossing Press Print The Master's Tools Will Never Dismantle the Master's House.
- Merriam-Webster. n.d. Game. In Merriam-Webster.com Dictionary. <https://www.merriam-webster.com/dictionary/game>.
- Newton, B. J., P. Gray, K. Cripps, et al. 2024. "Restoring Children From Out-of-Home Care: Insights From an Aboriginal-Led Community Forum." *Child & Family Social Work*. <https://doi.org/10.1111/cfs.13174>.
- Newton, B. J., I. Katz, P. Gray, et al. 2024. "Restoration From Out-Of-Home Care for Aboriginal Children: Evidence From the Pathways of Care Longitudinal Study and Experiences of Parents and Children." *Child Abuse & Neglect* 149: 106058. <https://doi.org/10.1016/j.chiabu.2023.106058>.
- NSW Auditor General. 2024. *Safeguarding the Rights of Aboriginal Children in the Child Protection System: Performance Audit 6 June 2024*. NSW Audit Office of NSW.
- NSW Department of Communities and Justice (DCJ). 2024. *System Review Into Out-of-Home Care: Final Report to the NSW Government*. NSW DCJ.
- O'Donnell, M., M. J. Maclean, S. Sims, V. A. Morgan, H. Leonard, and F. J. Stanley. 2015. "Maternal Mental Health and Risk of Child Protection Involvement: Mental Health Diagnoses Associated With Increased Risk." *Journal of Epidemiology and Community Health* 69, no. 12: 1175–1183.
- Pimentel, D. 2018. "Punishing Families for Being Poor: How Child Protection Interventions Threaten the Right to Parent While Impoverished." *Oklahoma Law Review* 71: 885.
- Pryce, J. 2024. *Broken: Transforming Child Protective Services—Notes of a Former Caseworker*. Harper Collins.
- Reynolds, V. 2019. "Setting an Intention for Decolonizing Practice and Justice-Doing: Social Justice Activism in Community Work and Therapy." In *Embracing Cultural Responsivity and Social Justice: Reshaping Professional Identity in Counselling Psychology*, edited by S. Collins, 615–630. Counselling Concepts.
- Roberts, D. 2023. "Why Abolition." *Family Court Review* 61, no. 2: 229–241.
- Roscoe, J. N., B. Lery, and J. E. Chambers. 2018. "Understanding Child Protection Decisions Involving Parents With Mental Illness and Substance Abuse." *Child Abuse & Neglect* 81: 235–248.
- Stewart, S., and E. Arnull. 2023. "Mothers, Domestic Violence, and Child Protection: The UK Response." *Violence Against Women* 29, no. 3–4: 626–647.
- Tuck, V. 2013. "Resistant Parents and Child Protection: Knowledge Base, Pointers for Practice and Implications for Policy." *Child Abuse Review* 22, no. 1: 5–19.
- Wright, A., P. Gray, B. Selkirk, C. Hunt, and R. Wright. 2024. "Attachment and the (Mis)apprehension of Aboriginal Children: Epistemic Violence in Child Welfare Interventions." *Psychiatry, Psychology and Law*: 1–25. <https://dx.doi.org/10.1080/13218719.2023.2280537>.