

Making the Tough Call:

EXPLORING THE ETHICS OF MANDATED REPORTING
THROUGH THE LENS OF RACIAL & SOCIAL JUSTICE

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Outline

- Introductions
- Outline ethical principles, in relation to obligations of mandated reporters
- Outline legal obligations of mandated reporters
- Explore racial disproportionality in the child welfare system
- Discuss challenges presented to mandated reporters, in light of system issues
- Make a plan of action/**Framework for “Just” (as in “Justice”) Reporting**

Introductions

Who Am I?

- Owning my privilege
- Acknowledging my positionality

Why We're Here?

Ethical Principles

- Standard Principles:
 - Beneficence
 - Non-Maleficence
 - Autonomy/Self-Determination
 - Justice
 - Social Justice
 - Racial Justice

Ethical Principles & Mandated Reporting

- Beneficence
- Non-Maleficence
- Autonomy/Self-Determination
- Justice
 - Social Justice
 - Racial Justice

Legal Obligations of Mandated Reporters: History

Child Abuse as a Social Problem

- Mary Ellen Wilson & NYSPCC, 1875
- Dr's Discovery, 1962
 - C. Henry Kempe/“Battered Child Syndrome”

Idea:

- Require professionals to report suspicions; government prevents harm
 - What ethical principle(s)?
- Physicians first mandated reporters
- By 1967, all states have MR laws
- By 1972, child fatalities in NY drop by 50%

Legal Obligations of Mandated Reporters: History

Original Laws in 1960s/1970s

- Limited list of who were MRs: Only applied to doctors/medical personnel.
- Limited list of reportable behaviors
 - “Serious” & “non-accidental” physical injuries; Emotional abuse and neglect not reportable.

■ Expansion Over Time

- Expanded list of reporters expanded
 - Some states all adults
- Expanded list of reportable behaviors

Legal Obligations of Mandated Reporters: History

- 1963 150,000 reports
- 1980 1 million reports
- 2020 4.4 million report

What ethical principle(s)?

Legal Obligations of Mandated Reporters: THE LAW

Mandated Reporters are REQUIRED BY LAW report to CPS when they have a specific level of suspicion

Common level of suspicion: “Reasonable Suspicion”

- Based on what observed or told...
- Explanations inconsistent with observations and/or knowledge
- Combined with training and experience...
- Feel harm/imminent danger of harm could be the result of an act or omission by the person legally responsible for the child

What if you don't...?

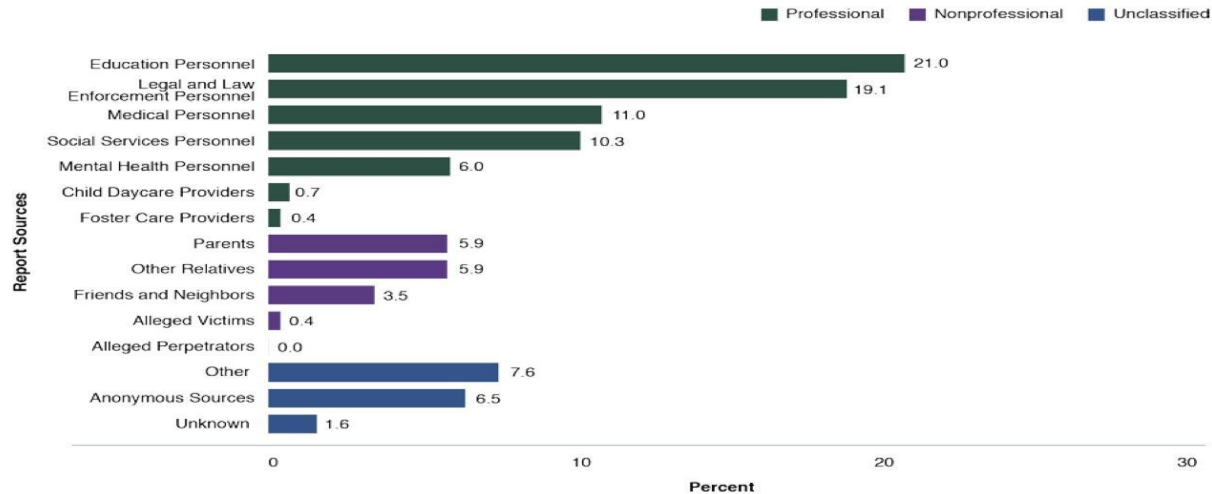
Ethical principle(s) implicated by law?

Where/Who Reports Come From

Professional and Non-Professional Sources: National Experience

Exhibit 2—E Report Sources, 2019

Professionals submitted the majority of screened-in referrals (reports) that received an investigation or alternative response

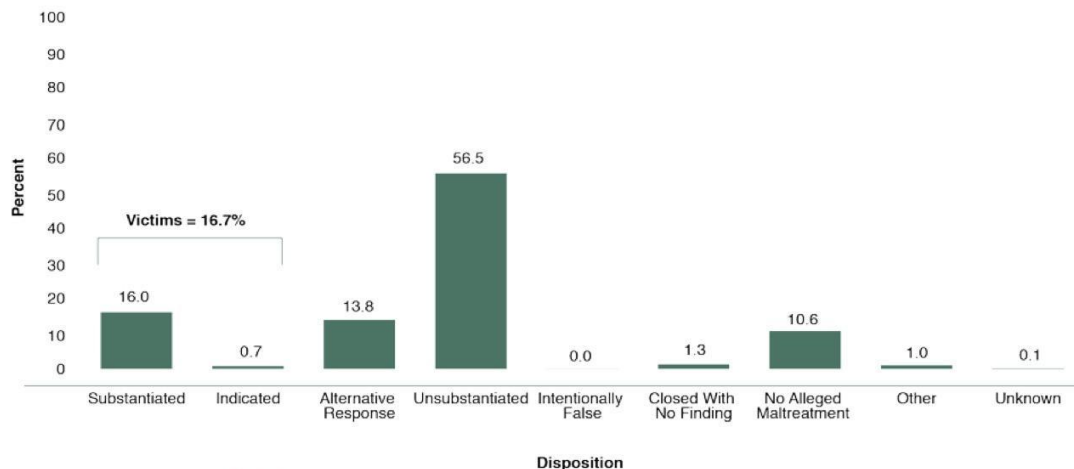


Data are from the Child File. Based on data from 49 states. States were excluded from this analysis if more than 25.0 percent had an "other" or unknown report source. Supporting data not shown.

Report Disposition: The National Experience

Exhibit 3—C Children Who Received an Investigation or Alternative Response by Disposition, 2019

16.7 percent of children received a disposition of substantiated or indicated and are counted as maltreatment victims



Based on data from 52 states. See [table 3-2](#).

Report Disposition Issues

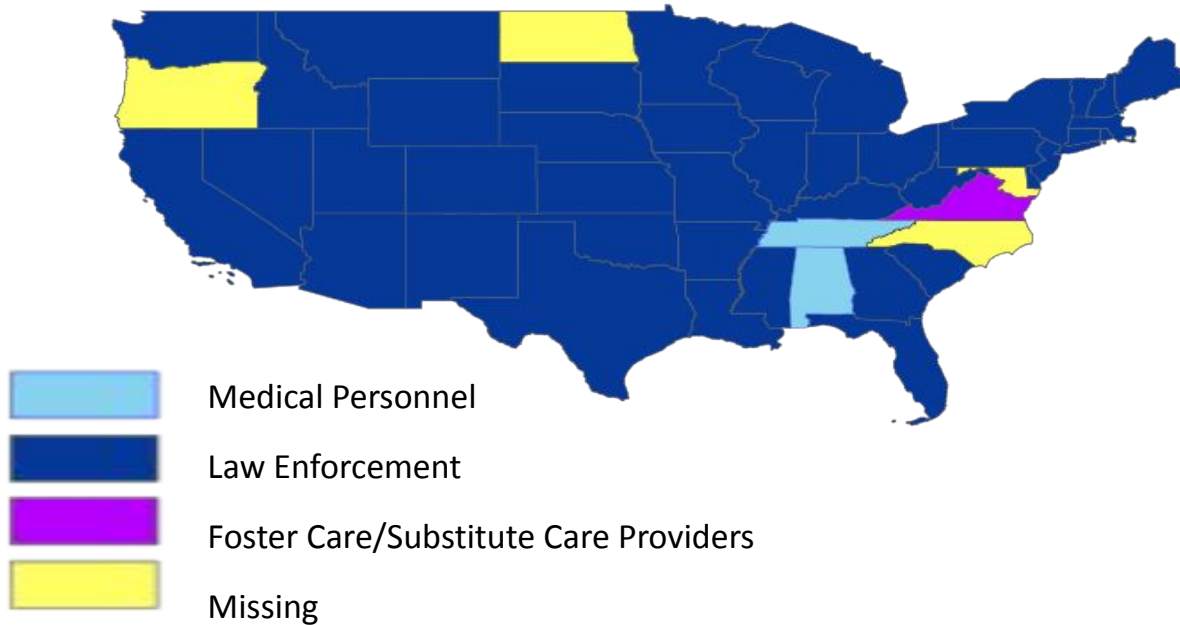
What does “unsubstantiated” really mean?

- No abuse/neglect occurring
 - Well meaning reports looking for help for the family
 - False reports
- Not enough evidence of abuse/neglect
 - Burden of proof at investigation is generally LOW
 - State differences
 - Change in New York standard from “some credible evidence” to “preponderance” in 2022
- Lack of access to complete investigation
- CPS Caveat
 - Disposition not just related to quality of report, but quality of investigation

Impact of Alternative Response/ CARES in NYC on Report Disposition

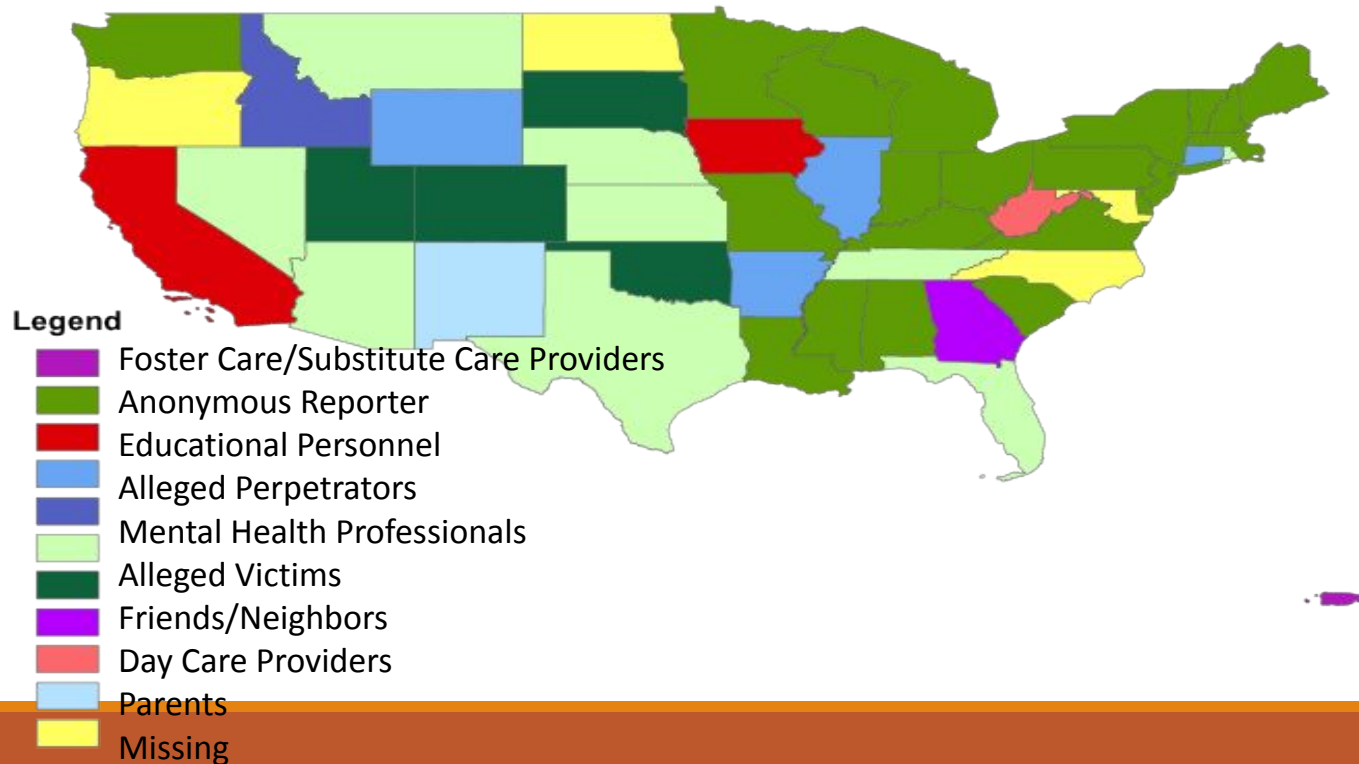
Report Sources by State:

Highest Rate of Substantiation



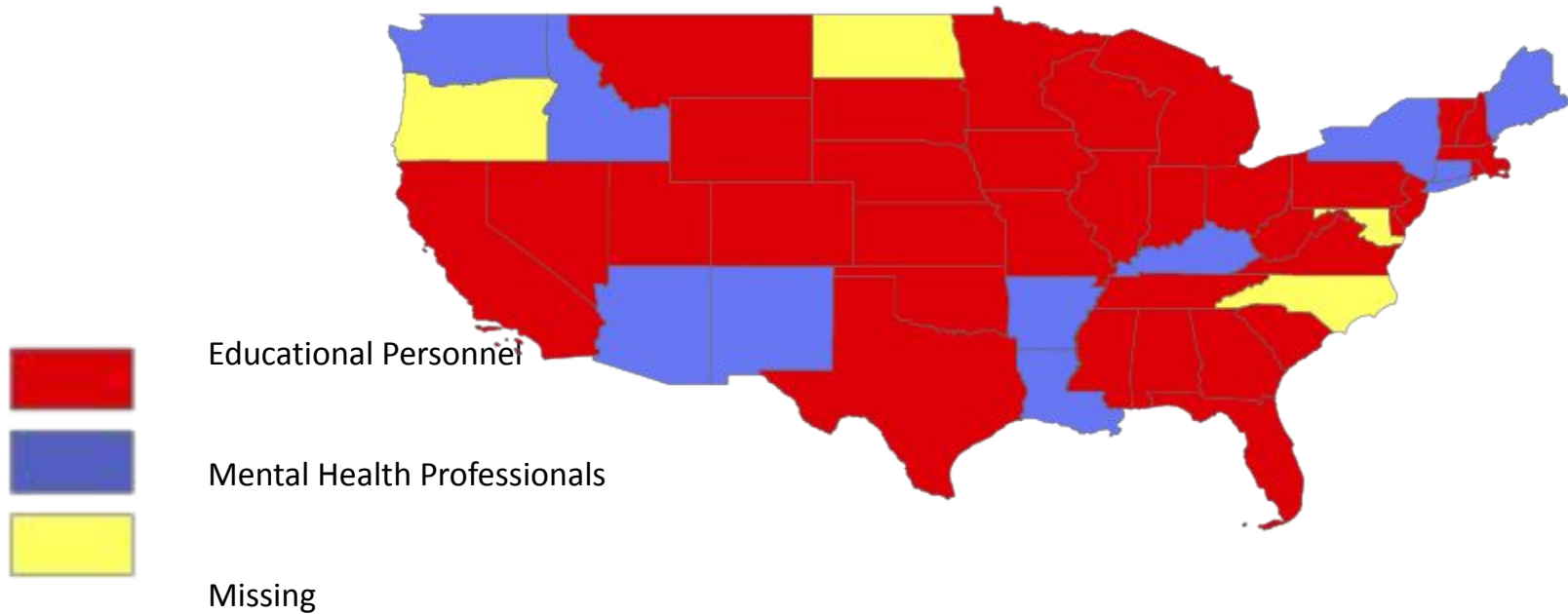
Report Sources by State:

Lowest Rate of Substantiation



Report Sources by State:

Lowest Sub. Rate by Prof. Reporters



Current State of CPS Reporting

- Highlighting disproportionate impacts
 - Socioeconomic status
 - CPS report databases & economic/employment
 - Community level factors
 - Racial disproportionality
 - Quasi-criminalization
 - Impact on Asian American/Pacific Islander/Hawaiian communities
 - Impact on American Indian/Native American/Indigenous Peoples
 - Impacts on Latinx/Hispanic communities
 - ***Impacts on Black/African-American communities***

Racial Disparity Today in the US

- ❖ 11% White children have an indicated report
- ❖ 21% of Black children have an indicated report
Wildeman, et al., JAMA Pediatrics (2014)
- ❖ 53% of Black children's parents are investigated
Kim, et al., American Journal of Public Health (2017)
- ❖ Black and Hispanic children with minor head trauma are 2-4 times more likely to be evaluated and reported for suspected abusive head trauma
Hymel, et al., The Journal of Pediatrics (2018)
- ❖ Black mothers are more likely to be reported by hospitals when there is a positive drug test during labor and delivery Chasnoff, et al., The New England Journal of Medicine (1990)

Racial Disparity in NYS

Black families are:

- ❖ 7 times more likely than white families to be reported to CPS
- ❖ 8 times more likely than white families to have a case indicated
- ❖ 11 times more likely than white families to be separated

Source: OCFS (2019)

Racial Disproportionality:

Difference by Report Source

Racial Disproportionality

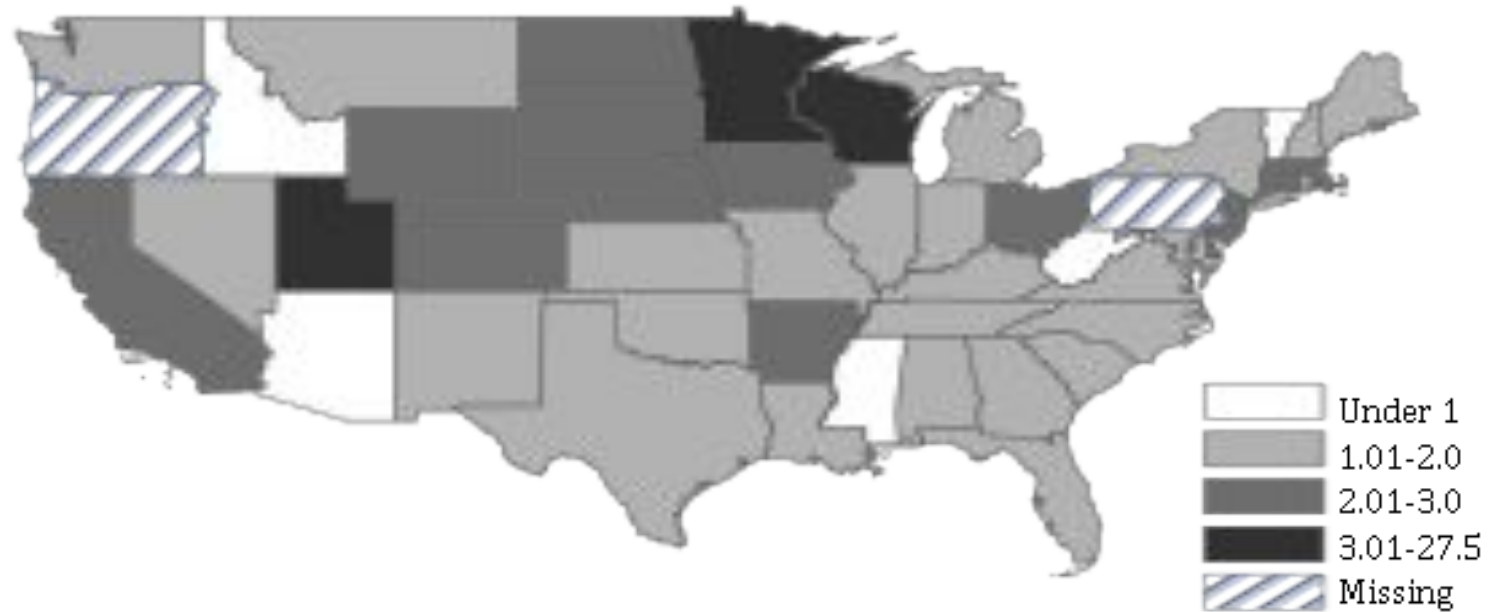
- Underrepresentation/overrepresentation of a racial/ethnic group compared to that group's percentage/representation in the total population
- *Disproportionality Representation Index (DRI)*
 - 1+, Black/AA children are over-represented

Racial Disparity

- The unequal outcomes of one racial or ethnic group as compared to outcomes for another
- *Disparity Index (DI)*
 - 1+, Black/AA children are more likely than White children to be reported

Under 1
1.0-1.9
2.0-2.99
3.0-3.67
Missing

Disparity Index (DI) for All Report Sources



Comparing Report Sources in the US: Exploring Racial Disproportionality & Disparity

When looking at individual states, DRI & DI generally higher for professional vs. non-professional report sources

Report Source	Percentage of Reports (%)	DRI	DI
Law Enforcement	16.1	1.60	1.75
Educational Personnel	15.6	1.57	1.88
Social Services Personnel	10.6	2.00	2.22
Medical Personnel	7.0	1.76	2.07
Mental Health	4.4	1.26	1.45
Day Care Providers	0.7	2.00	2.22
Substitute Care Providers	0.4	1.76	2.07
Alleged Victims	0.4	1.26	1.45
Parents of Alleged Victims	6.7	1.60	1.75
Other Relatives of Alleged Victims	7.0	1.57	1.88
Friends/Neighbors	4.8	1.48	1.42
Alleged Perpetrators	<.01	1.76	1.75
Anonymous Reporters	9.8	1.54	1.66
ALL REPORTS		1.59	1.71

DRI/DI in Reports from NYS Schools: County Level Comparison

Disproportionality prevalent only in certain areas

- Often urban areas with largest percentages of African-American children living in poverty
 - However greatest in very RURAL areas
- Racial disproportionality not present in ALL counties with large percentages of African-American poverty
- Local examination is warranted

In some rural counties disproportionality not identified

- Very small proportion of population is African-American

Theories to Explain Racially Disproportionate Reporting

- 1) Black/AA children are more likely to be abused or neglected than other children
- 2) Race serves as a proxy for other risk factors of abuse and neglect, like poverty & single parent families
 - When social and demographic factors controlled for, race still has significant impact on likelihood of report... but not of actual incidence
- 3) Different types of bias influence reports of suspected child abuse and neglect
 - Visibility Bias
 - Racial Bias

American Academy of Pediatrics (2021)

“Systemic racism and implicit bias play key roles in who faces a child protective services investigation and exacerbates inequities. It is clear that these factors cause significant harm, both by over-investigating families of color and by over-burdening the child protective services system in ways that undermine its ability to appropriately identify and respond to situations where children face credible risk of injury and fatality.”

Exploring through Ecological Systems Theory

Macro Level:

- Treatment of Indigenous Children & Families
- Forced Sterilization
- Civil Rights Movement
- Neo-liberalism
- Political Systems (Federal vs. State vs. Local)

Exploring through Ecological Systems Theory

Mezzo Level:

- Community resources
- Community connections

Exploring through Ecological Systems Theory

Micro Level:

- Professionalism
- Personal lens

Framework for “Just” (as in “Justice”) Reporting

- ❖ How can YOU make sure YOU are not contributing to disproportionality & disparity?
- ❖ How can YOU help make sure the SYSTEM(s) you are a part of are not...?
- ❖ How can YOU challenge others and others' systems...?

Framework for “Just” Reporting:

Micro Level

- Legal responsibility to report
 - When suspicions are required to be reported & when they are not
- Evaluating influence of personal lenses to reporting decision
 - As a child/ As a parent
- Questions to ask yourself before making a report:
 - Do I have the requisite level of suspicion?
 - Is it actually abuse or neglect that I’m suspicious about?
 - Is there anything I can do to mitigate risk of harm to a child, in cases where harm has not yet occurred
- Ethical responsibility for just practice
 - Ethical responsibilities when report is made
 - Informing families?
 - Ethical responsibilities when report is not made

Framework for “Just” Reporting: Mezzo Level

- Evaluating agency policy
 - Infusing Implicit Bias Awareness
- Evaluating agency practice
- Evaluating impact on the community your agency serves
- Recommendations from RISE
 - <https://www.risemagazine.org/2020/03/rise-recommendations-schools-over-reporting/>

Framework for “Just” Reporting: Macro Level

- Challenging Others
 - HAVE DIFFICULT CONVERSATIONS
- Challenging legal requirements
 - Professional autonomy
 - Eliminating Anonymous Reporting
 - Abolition movement

Questions?

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