

Perfectly Imperfect: How Imprecise Definitions of Child Neglect and Poverty Reinforce Anti-Black Racism in the Child Welfare System

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Abstract

Child neglect reports occur at a consistently higher rate than reports of other types of maltreatment. Black children are overrepresented in child neglect reporting and substantiation, which reflect compounded risk factors of poverty and anti-Black institutional bias in child protection systems. This paper will share the lived experiences of and draw from conversations with child welfare workers who are survivors of “neglect.” In addition, it will examine through literature reviews and research the history and biased legacy of child welfare in America, as well as the vast and vague definitions of neglect, which influence an uneven mandatory reporting system. While there is federal legislation providing minimum standards to states on how to define child neglect, these standards are broad and contribute to states’ varying authority in how to make child neglect determinations, thus giving local authorities room for racial subjectivity in child neglect substantiation and removal of Black children. This paper seeks to identify trends in child neglect legal definitions across the United States and discuss how child neglect laws and language target Black children. Connections to historical anti-Black racism in child neglect are also examined. Additionally included are recommended changes in the language and a challenge to the federal government to more clearly define child neglect, establishing a consistent standard for all states and locales that uphold equitable treatment of Black children in child neglect investigations.

The child welfare system, in its stated intention of protecting children, has served as a system of surveillance for Black families and has used their experiences with poverty as a weapon in family intrusion, family separation, and exclusion in the provision of resources to alleviate economic disadvantage. This paper will explore the lived experiences of professionals in the field who, as a response to personal exposure to the system’s ills, have dedicated their careers to the service of children in child welfare. Further, structural racism in the child welfare system manifests through the definition of child neglect, which falls under a broad classification of child maltreatment, labeling poor Black children and families as “at risk.” Ultimately, Black children and families who the child welfare system engages in due to allegations of neglect suffer harmful outcomes, such as prolonged trauma, oppression, and discrimination. Given the current challenges the child welfare system faces in the engagement of Black children and families, the paper will explore the historical context of race in child welfare, examining both the trends and data on how Black children and families have been engaged in the child welfare system over time. In today’s child welfare system, child neglect is considered a malevolent act by parents and caregivers and is not equally viewed for all, which disproportionately impacts Black Families. It disregards the reality that many Black families in the United States lack the support required to provide for basic needs like food, safety, and nurturance of children. Dismissing the link between poverty and neglect for Black families places the blame



"Waves" by Artist Akil Roper, akilroperart.com

squarely on Black parents and discounts the historical legacy of systemic racism, legal neglect's vague classifications, and the patterns of surveillance of Black families once they are targeted by the system—all of which have produced lingering traumatic impacts on children, which the system professes to protect.¹ If the child welfare system is dedicated to the well-being of children, it must start by engaging Black children with lived

experiences in the child welfare system and using their stories to decolonize and redefine child neglect. This paper will demonstrate the link between neglect's flawed definitions and mandatory reporting's impact on Black children and families.

¹ Roberts, Dorothy. *Shattered Bonds: The Color of Child Welfare*. Civitas Books, 2009, p. 26.

Lived Experience Narratives

Studies detailing risk factors of neglect associated with the incidence of poverty fail to illuminate actual childhood accounts of those with lived experiences in the child welfare system. Feelings of confusion, uncertainty, and fear in individuals who endured the childhood trauma of family separation and/or intrusion at the hands of the child welfare system can only be articulated through their personal stories. Three people of color who are alumni of the child welfare system courageously walked through their journeys, highlighting system biases and the resulting gaps in service, as well as system actions that could have improved their experiences.

Two of the authors conducted a total of three individual semi-structured interviews in 2021 via Zoom and recorded to ensure accuracy, with the participants' verbal and written consent. The interviews lasted between one and a half to two hours, and pseudonyms were given to each participant to preserve anonymity. Participants all currently work within foster care/kinship care on the East Coast and were recruited through one author's professional network. The samples chosen were purposeful (and not randomly selected), as their voices are representative of the harm done to marginalized families, especially racialized minorities. Each participant, as a professional working in the field of child welfare, was fully aware of the purpose and intent of the project. No financial incentives were offered, and the participants were able to approve the final manuscript for the accuracy of their shared lived experiences.

Jackson's Story

Jackson, a Black male, experienced engagement in the child welfare system for six years. Placed with his maternal aunt and other family members with a history of abuse, neglect, and poverty, Jackson spoke of the child welfare system's failure to provide the needed support to his family, which would have alleviated their lingering circumstances and outcomes of neglect.

"Had anyone had a conversation with me or with my family about meeting us where we were or what we needed, I wonder how my mother's service plan would have been different in terms of reunification."

Jackson's personal resilience, despite his family circumstances, would lead him to excel in college and later give back professionally through his work as a child welfare professional and advocate in New York City. Until gaining that access, he had been mostly blind to the details of his own case—and to the system's rampant racial and other biases.

"The people running these agencies didn't look like me. They didn't grow up where I grew up, and they were making decisions based on statistics, and evaluations were being made but not by how well the families were functioning. Everyone in leadership, from the mayor to the commissioners and down, were all white people making decisions for how Black families should operate their homes, with a very, very removal-heavy system. There wasn't family finding; there wasn't a meeting. 'Child safety conferences' were something they did toward the end of my tenure—a mandate that came down from white people based on data, and data not about getting families to a level of functioning, but how many cases were opening and where. There weren't more community centers opening. There was never a question about what my family needed to thrive or what the families I worked with needed to thrive. It's the way the system is created. They're not doing surveys. People in the hood and in the ghetto are not asked questions about how to improve their families' level of functioning. They're the experts in their families. And even when they're not, we don't alter our questioning to get the information we need. We set people up."

The process Jackson regularly witnessed illuminates the limits and harm of racist and culturally ignorant casework, often connected to white supremacist ideology and “disjointing the power associated with our Black family connections.”

“In my experience, we were taught to judge [families], and I’ve been involved in conversations where people were like, ‘They’re all like that.’ And, ‘Oh, that mother’s a user, she’s going to always be a crackhead.’ And these were things leadership said, and some of them were people of color, unfortunately, but this is the language.”

Jackson’s mother returned home from prison—clean—shortly before his aunt succumbed to an illness when he was a teenager. He shared that, yet again, no formal involvement by a caseworker occurred to help facilitate the transitions within his family.

But when he became a father himself years later, Jackson was able to genuinely, and “with open arms and an open heart,” forgive his mother. They have since mended their relationship—not through any support from the child welfare system but through their own desire to heal and bond together.

“We talk about these things that were kind of hard to discuss [as a child], but we find joy and laughter, and it brings closure. She’s in a place to talk about it.”

Are families in comparable situations simply forgotten? Or are they dismissed and devalued from the moment they become “at-risk”? Or are families of color and families in poverty simply dismissed and devalued altogether? As an active dad, Jackson wonders “what tools my mom had that would allow her to be the parent she potentially could have been.”

Today, Jackson has a more knowing perspective built by his professional and personal experiences, understanding that if his family had been equipped with equitable support, resources, and tools, their journey might have been more stable. He suggested child welfare agencies create family advocacy groups, such as a “parent advocate group at the executive level to inform some of the [decisions].”

“Why don’t we put a training in some of these communities to grow and help build parent leaders, so they can take active involvement in the child welfare process and advocate for parents and their needs?”



Jackson and his Dad

Camille's Story

Like Jackson, third-generation foster care alumna Camille—who was separated from her mother and siblings at 12-years-old—has made a career of helping children and families by providing the support her own family once lacked. She knows too well that the system fails to value all families equally. Instead, it ignores the needs of some and takes their children based on caseworkers' varying and subjective views of neglect—then makes decisions for them instead of with them. Curling lines of ink on an intake form can change a family's life forever when, more often than not, they simply need equitable assistance, care, and support, rather than interference from child welfare.

"Foster care has impacted my family for generations. My mom was in care. My grandmother was in care...a lot of times this stuff is generational; it's just not talked about. People are often dumbfounded to know that my mom actually lives with me, and she's an incredible grandparent to my three kids. I firmly believe I wouldn't have ever landed in foster care had she gotten the support she should have had, and even my grandmother before her."

Camille detailed myriad barriers to stability comprising her family's generational trauma within child welfare: mental health, domestic violence, postpartum issues, and even the absence of self-care. Instead of offering support and services that could have helped stabilize their home, the child welfare system made its judgment and chose removal, which only compounded their trauma.

"My mom was in a domestic violence situation, so she was trying her best to get out of that. And the only thing they did was vilify her for her circumstances. There were so many different things having to do with housing, to my parents' separation, and my dad being incarcerated."

Nothing was really coming together at that time, and the assumed safest place for me was to be in care. We actually experienced more stuff with abuse in care than before care. They sent me out into rural Pennsylvania, and it was a major culture shock for me, [as an] inner-city girl. People were also super racist, and my family is super diverse. It was a lot. Being a female going into care is a whole different level of stuff—from people sexualizing me to violence, or the way I was spoken to that was extremely abusive."

What is notable here is Camille's account of her intersectional experiences of racism and sexism, often underreported in the discussions of child neglect's impact on the child welfare system.

Placing Camille with stranger foster parents and far from her birth family—who had unreliable transportation—created additional barriers to visitation. Her mother's failing car could barely make it to Camille's placement, and when this resulted in missed visits, Camille shared that the child welfare workers would simply note her absences and use them against her in court. She added that even smaller-scale support like transportation passes and tokens would have made a significant impact on her case. Yet, again, her mother's need for support was instead viewed as neglect.

In her current work as a child welfare professional, Camille sees programs being implemented that could have helped her family avoid their generational system involvement, family separation, and trauma, but noted there is still much progress to be made.

"Years ago, I sat on the workgroup for [wraparound services] in Pennsylvania, and seeing how that gets implemented, I was like, 'Oh, my goodness. This would have been amazing for my family.' Because you have a clinical worker, a family support worker, and a youth support worker who go into the home. That

would have been incredible, having somebody who connected with me, someone to help my mom navigate all the services and stuff...things are kind of set up to keep people down. A lot of times, you have to be actually on-the-street homeless in order to get housing services. Who are they going to call? They're not going to call [Children and Youth Services] or [the Department of Human Services]. They don't want their kids taken away. They don't want the potential for their kids to be adopted."

Despite experiencing decades of repeated separation and harm, Camille and her family found their own path to healing. She, her mother, and her older sister even challenged one another to attend college, and they graduated together.

"We really planted our feet and dug in and said, 'This isn't going to be our family's legacy anymore. We're going to change generational trauma to generational healing.' So, that's what we've done."

Kelly's Story

Kelly, unlike Jackson and Camille, sees child welfare from the lens of a parent who lost her children yet is linked by similar generational cycles. Kelly's family has a legacy of substance abuse, and for nine years, she and her four children navigated the child welfare system. Each of her children had been exposed to drugs while she was pregnant, but various relatives stepped in to keep them out of strangers' homes by becoming their kinship caregivers, including her grandmother, who cared for them until she passed away.

But what support did Kelly receive? What support did her parents receive to end the cycle of substance abuse Kelly would eventually battle? Early interventions could have provided her support and stability to break free from the generational cycle of poverty. Now clean for 19 years, she has raised her youngest son.

However, due to the child welfare system's harsh scrutiny of potential caregivers with previous system involvement, Kelly was denied the opportunity to raise her grandchild, who currently languishes in foster care in a stranger's home. The child welfare system can be blind to redemption, especially that of birth parents. Kelly knows this personally, of course, but also professionally as a parent-support partner within a child welfare agency. She has witnessed behavior and language that "made my skin crawl," such as the way some caseworkers characterize and vilify birth parents. She has caught them describing birth parents using foul words and felt it was "simply disgraceful."

Understanding two-fold that birth parents fighting to reunify with their children are up against bias, contempt, indifference, shame, and blame, Kelly stated that child welfare professionals must:

Merry Christmas to a perfectly imperfect Mom You've been consistent and you've shown so much strength over the years, you are the definition of persistence, you've shown so much faith and trust in God, that it has translated into reality, you've helped me with so much, with giving me wisdom and advice, you've shown me how God can take a person and just with a little bit of faith turn their whole life around, you've taught me how to be grateful and last but not least you've shown me what it looks like to be covered by God's grace and his mercy because if it wasn't for God, None of this would be possible so I want to thank God for blessing me and giving me the opportunity to witness a great woman of God that has Purpose! Merry Christmas, Love your son

*A letter of love and resiliency of a reunited mom and her son.
(Note: this is a reproduction of the letter for printing purposes).*

“Be allies; have more compassion; have greater respect; listen better to families; be more responsive to families (answer the phone!); surround families with support services; treat birth parents like human beings; put themselves in birth parents’ shoes; understand parental grief; use affirming words when speaking with birth parents; build birth parents’ self-esteem; and have more sympathy and empathy.”

It may not have been a smooth process for Kelly and her children, but they are healing. She revealed a heartfelt letter her son penned during Christmas in 2017. In it, he referred to her as a “perfectly imperfect” mom who showed him “strength,” “consistency,” “wisdom,” and “persistence.”

Imagine how different—how much better—things could be for children and families if only the child welfare system would see what Kelly’s son sees—that there is no such thing as a perfect parent and that a parent’s flaws do not diminish their capacity to love their children.

Historical Overview

As the above narratives make clear, poor families and those of color are and have been neglected by the child welfare system. A loving parent’s lack of income, education, or privilege does not amount to neglect, nor does it erase a parent’s love and devotion. Skin color is not a crime and should not be considered a risk factor. However, legally introduced in colonial times and constitutionally supported since the nation’s founding, white supremacy has been the defining factor in the welfare and treatment of American children. Moreso, the American social-welfare experience has been one of denying or attempting to deny non-white children access to white institutions of social reform.²

By the early 1800s, America changed how it responded to indigent children. The growth of American cities swelled during the Industrial Revolution, calling for social reform to deal with poor white populations³ who were widely stigmatized and condemned to almshouses, known commonly as poorhouses.

In 1838, the Supreme Court decision of *Ex Parte Crouse* established it was the right and obligation of states—not “unsuitable” parents—to determine what was in the best interest of children.⁴ This decision did not pertain to Blacks, who mostly remained the enslaved property of whites.

Though largely removed from a state welfare system, the recognition of their humanity through the 13th Amendment and the Freedman’s Bureau, Lincoln’s final initiative before his death, enabled newly emancipated Blacks to be brought under the auspices of the social welfare system. Sadly, the Freedman’s Bureau was defunded and disbanded, which ended the first government-sponsored care for Blacks.⁵ This meant that as more Blacks began flooding into the north for greater freedoms, they remained vulnerable to poverty.

By the turn of the century, cities became overcrowded with so-called vagrants. Instead of dealing with the structural causes of poverty, “reformers” developed a juvenile-court system to deal with poor children, including youth of color, to decide whether they should be sent to foster homes, orphanages, or prisons.⁶

As society moved into the first few decades of the twentieth century, especially in the wake of the Great Depression, care for impoverished children continued shifting, according to Myers, from charitable society-sponsored child

² Bell, James. “Repairing the Breach: A Brief History of Color in the Justice System.” *W. Haywood Burns Institute for Youth Justice Fairness & Equity*, p. 4, 2016, https://www.njcn.org/uploads/digital-library/Burns-Institute-Repairing-the-Breach-Hist-of-Youth-of-Color-in-JJ_Sept-2015.pdf; Also see Hogan, Patricia T. and Sau-Fong Siu. “Minority Children and the Child Welfare System: A Historical Perspective.” *Social Work*, vol. 33, no. 6, Nov-Dec 1988, pp. 493, <https://www.jstor.org/stable/pdf/23715669.pdf?refreqid=excelsior%3A86f2d-f29e876ecc186affaeed3a59abc>

³ Bourque, Monique. “Populating the Poorhouse: A Re-assessment of Poor Relief in the Antebellum Delaware Valley.” *Pennsylvania History: A Journal of Mid-Atlantic Studies*, vol. 70, no. 4, Autumn 2003, pp. 403, <https://www.jstor.org/stable/pdf/27778573.pdf?refreqid=excelsior%3A4a907a96534d625818ec7b03a2c79dec>

⁴ Bell, “Repairing the Breach,” pp. 5.

⁵ “Freedmen’s Bureau.” *YouTube*, uploaded by NBC News Learn, May 1, 2020, <https://www.youtube.com/watch?v=5B4cpiTYhWk>

⁶ Bell, “Repairing the Breach,” pp. 10.

protective services to government-sponsored child protective services.⁷

How America decided to deal with the poor and marginalized was complicated by the American eugenics movement. In the 1920s and 1930s, this movement's goal was to eliminate undesirable genetic traits in humans through selective breeding, particularly targeting the West Coast's Latino community. Eugenics advocates declared that the "intelligence [for many] was not only hereditary but also directly correlated to morality, crime, and poverty."⁸

Thirty years later, amid school desegregation and civil rights movements, the non-white presence increased in white institutions of reform. Yet again, America tried a different response to deal with child protection and poverty. A seminal medical study by C. Henry Kempe on Battered-Child Syndrome explored child abuse and its social and medical ramifications,⁹ providing the framework for what would become "mandatory reporting," which in its early days obligated medical professionals to report suspected child abuse.

As more states expanded the number of mandatory reporters in the 1980s and 1990s,¹⁰ mandatory reporting was further complicated when crack cocaine debuted in Black and brown communities.¹¹ Rather than treating "the underlying economic motivations and the problems of drug addiction,"¹² the American government adopted a "Tough on Crime" approach, allied with the child protective services approach (i.e., remove or lock up Black children to save them).

The contemporary child welfare system looks too frequently at "rescuing" children from the ills of poverty by stripping them from their parents and cultural kinships and does nothing to address the structural and intersectional roots of poverty. This flawed philosophy has built a system that stacks the deck against poor parents and poor children.¹³

For this philosophy to play out in child protective services, Roberts places the blame on two key factors: institutional bifurcation and viewing poverty as neglect. First, she argues that the system is structured by class into two separate systems. One disadvantages and punishes the poor while the other

privileges and protects wealthier families—mostly by allowing them to opt-out of the punishing child welfare system. In the past, poor children were shuttled to almshouses.¹⁴ Today, impoverished children make up the majority of those whom public welfare departments investigate as being mistreated and placed in care outside their homes.¹⁵

Second, Roberts suggests the public child welfare system equates poverty with neglect. State laws in the late nineteenth century lumped together "dependent" and "neglected" children. They authorized juvenile court judges to commit children to institutions or foster homes if they were either dependent on the public for support or living without proper parental care.¹⁶

⁷ Myers, John E.B. "A Short History of Child Protection in America." *Family Law Quarterly*, vol. 42, no. 3, Fall 2008, pp. 454, <https://www.jstor.org/stable/pdf/25740668.pdf?refreqid=excelsior%3A08274bc98a74a8d-8e4d07bff48d62104>

⁸ Lira, Natalie. "Latinos and the Consequences of Eugenics." PBS: American Experience, 16 Oct. 2018, <https://www.pbs.org/wgbh/americanexperience/features/eugenics-latinos-and-the-consequences-of-eugenics/>; See also Chávez-García, Miroslava. "Intelligence Testing at Whittier School, 1890–1920." *Pacific Historical Review*, vol. 72, no. 2, 2007, pp. 194, <https://www.chicst.ucsb.edu/sites/secure.lsit.ucsb.edu.chic.d7/files/sitefiles/people/chavez-garcia/ChaveGarciaPHR.pdf>

⁹ Brown III, Leonard G. and Kevin Gallagher. "Mandatory Reporting of Abuse: A Historical Perspective on the Evolution of States' Current Mandatory Reporting Laws with a Review of the Laws in the Commonwealth of Pennsylvania." *Villanova Law Review*, vol. 59, iss. 6, 2005, pp. 37, <https://digitalcommons.law.villanova.edu/cgi/viewcontent.cgi?article=3262&context=vlr#:~:text=By%201974%2C%20thirty%2Dfour%20states,required%20police%20officers%20to%20report>

¹⁰ Brown III and Gallagher. "Mandatory Reporting," pp. 37–80.

¹¹ Ladner, Joyce A. "Children in Out-of-Home Placements." *Brookings*, 1 Sept. 2001, <https://www.brookings.edu/research/children-in-out-of-home-placements/>

¹² Sabol, William J., and James Patrick Lynch. "Crime Policy Report: Did Getting Tough on Crime Pay?" Urban Institute, 1997, <https://www.urban.org/research/publication/did-getting-tough-crime-pay/view/full-report>

¹³ Roberts, Dorothy. *Shattered Bonds*, pp. 26; see also Pimentel, David. "Punishing Families for Being Poor: How Child Protection Interventions Threaten the Right to Parent While Impoverished." *Oklahoma Law Review*, vol. 71, 2018, pp. 897, <https://digitalcommons.law.ou.edu/cgi/viewcontent.cgi?article=1362&context=olr>

¹⁴ Schneider, Dona and Susan M. Macey. "Foundlings, Asylums, Almshouses and Orphanages: Early Roots of Child Protection." *Middle States Geographer*, vol. 35, 2002, pp. 92–100, https://msaag.aag.org/wp-content/uploads/2013/05/11_Schneider_Macey.pdf

¹⁵ Roberts, Dorothy. *Shattered Bonds*, pp. 26.

¹⁶ Roberts, Dorothy. *Shattered Bonds*, pp. 27.

These flawed policies opened the door to the problems the impoverished experience today.

Through policing or child protective services, the government removes about 750 children from their parents each day.¹⁷ Approximately 75 percent of those removals are based solely on suspicion and fear that a child may come to harm, rather than on crimes or misconduct committed by parents or harm experienced by a child.¹⁸ Vague child neglect laws conflate poverty and neglect and force already disadvantaged families to face the prospect of being broken up for the putative protection of the children.¹⁹

“Raising children in poverty looks like parental unfitness if you believe that poor people are responsible for their own predicament and are negative role models for their children.”²⁰ This flawed philosophy is especially cruel to families at the intersections of race, class, and gender. If being poor means being unsafe, then Black mothers bear the burden. Being poor and Black and female pushes them into poor, segregated spaces where they face more crime and violence, as well as housing conditions beset with health and safety hazards. Is it neglect to let a child play outside? Is it neglect to let a child reside here if that is what is available?

Too often, in the eyes of biased decision-makers at all levels of the welfare infrastructure, the answer is yes, as these families and their intersections of race, gender, and class mark them as being neglectful.²¹ This means “the lower socioeconomic classes are disproportionately represented among all child abuse and neglect cases known to public agencies, and the vast majority of the families in these cases live in poverty or near-poverty circumstances.”²²

According to Roberts, poverty — not the type or severity of maltreatment — is the single most important predictor of placement in foster care and the amount of time spent there.²³

There is little question that children suffer due to poverty.²⁴ It is not particularly helpful, however, to “rescue” poor children from their impoverished parent(s) and significant cultural kinships. A better policy and philosophy on child well-being should focus on providing public resources that strengthen families, not those that tear them apart.

The reasons poor families are victimized in this way are complicated but start with the conflation of poverty and neglect. Poverty places children at risk, and so does neglect; we must not exacerbate the problem by allowing biases in detection and reporting or parenting stereotypes based on ethnicity and class. Punishing poor families for their poverty and labeling it as actionable “neglect” is not only a flawed philosophy but a cruel one, as well.²⁵

Overview of Federal and State Laws Pertaining to Child Neglect and Mandated Reporting

In the United States, federal and state laws contain definitions of child neglect, and each state sets forth requirements for mandatory and permissive child abuse and neglect reporting. Prior to 1963, only one state (CA) had a criminal statute prohibiting child abuse. In 1963, the Children's Bureau, in conjunction with the American Medical Association, the American Humane Association, and the Council of States Association, advanced model statutes for state legislatures to consider. By 1967, child abuse reporting laws existed in all 50 states. Although there were disparities regarding who was mandated to report abuse and neglect state by state, most adopted the Children's Bureau model requiring only

¹⁷ Adoption and Foster Care Analysis and Reporting System. “The AFCARS Report.” *United States, Department of Health and Human Services, Census Bureau*, no. 24, 20 Oct. 2017, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport24.pdf>

¹⁸ “Child Maltreatment.” *Child Maltreatment 2016 – Welcome to ACF, Children Bureau*, 2016, <https://www.acf.hhs.gov/sites/default/files/cb/cm2016.pdf>

¹⁹ Pimentel, David. “Punishing Families,” pp. 887.

²⁰ Roberts, Dorothy. *Shattered Bonds*, pp. 27.

²¹ Wexler, Richard. *Wounded Innocents: The Real Victims of the War Against Child Abuse*. Prometheus, pp. 49, 1990.

²² Pelton, Leroy H. “Child Abuse and Neglect: The Myth of Classlessness.” *American Journal of Orthopsychiatry*, vol 48, no. 4, 1978, pp. 610, <https://psycnet.apa.org/record/2013-42173-003>

²³ Roberts, Dorothy. *Shattered Bonds*, pp. 81.

²⁴ Brooks-Gunn, Jeanne, and Greg J. Duncan. “The Effects of Poverty on Children.” *The Future of Children*, vol. 7, no. 2, Autumn 1997, pp. 55–71, <https://www.jstor.org/stable/pdf/1602387.pdf>

²⁵ Pimentel, David. “Punishing Families,” pp. 906.

physicians and medical staff to report. Several states went far beyond that classification, mandating all citizens with evidence of abuse or neglect to report. Leading up to 1974, other states that had initially passed laws based on the Children's Bureau model amended them to expand the mandated reporting requirement to all citizens. However, most states limited the scope to certain professionals.

Due in part to the disparity in state definitions of child abuse and neglect, as well as the scope of those laws' mandated reporters, Congress passed the Child Abuse Prevention and Treatment Act of 1974 (CAPTA), as amended by the CAPTA Reauthorization Act of 2010, 42 U.S.C. §5101 et. seq.²⁶ CAPTA funded states to support the prevention, assessment, investigation, prosecution, and treatment for child abuse and neglect, requiring states pass laws mandating the reporting of child abuse and neglect. As a guide, CAPTA set forth a definition of child abuse and neglect and sanctioned states' expansion of the professionals mandated to report.

Not surprisingly, reports of child abuse and neglect dramatically increased, from an estimated 60,000 in 1974 to more than 1,000,000 in 1980 and 2,000,000 in 1990.²⁷ Since that time, in response to incidents including the Jerry Sandusky and clergy abuse scandals, many states have expanded their mandated reporting laws to include teachers, childcare workers, law enforcement, social-services providers, and other personnel with responsibility for the care or supervision of children.

In 2018, Congress passed the Family First Prevention Services Act (FFPSA), which attempted to shift funding toward early prevention of maltreatment and removal and away from foster care and group care by allowing states to use Title IV-E funds for prevention services before removing a child. While its focus on in-home prevention services is important, the FFPSA has been criticized by some who believe it did not address the racial disproportionality of Black families reported for abuse and neglect.²⁸

Definitions of Child Neglect

CAPTA, as amended, defines child abuse and neglect as "Any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse, or exploitation" or "An act or failure to act which presents an imminent risk of serious harm."²⁹ It is important to note that, while CAPTA contains a definition of neglect, it does not mandate states to adopt the same definition.

State definitions generally recognize one or more of the following categories of neglect: physical, medical, emotional, educational, and supervisory. In fact, most states define neglect as the failure of a parent or other person with responsibility for a child to provide the child's necessary food, clothing, and shelter, and in some cases, medical and educational needs. For example, Pennsylvania defines child neglect as: "any of the following when committed by a perpetrator that endangers a child's life or health, threatens a child's well-being, causes bodily injury, or impairs a child's health, development, or functioning; a repeated, prolonged, or egregious failure to supervise a child in a manner that is appropriate and considers the child's developmental age and abilities; the failure to provide a child with adequate essentials of life, including food, shelter, or medical care."³⁰

In some states, including New York and New Jersey, the failure to provide such needs only constitutes neglect if the responsible party is financially able to provide for the needs of the child but fails to do so.³¹ In contrast, Montana's law simply states that the "failure to provide cleanliness and general supervision" is considered neglect.³²

²⁶ *Capta Reauthorization Act of 2010: Report (to Accompany S. 3817)*. Washington, D.C.: U.S. G.P.O., 2010. Print.

²⁷ "Fighting Institutional Racism at the Front End of Child Welfare Systems: A Call to Action." *Children's Rights*, May, pp. 8, 2021, <https://www.childrensrights.org/fighting-institutional-racism-at-the-front-end-of-child-welfare-systems/>

²⁸ "Fighting Institutional Racism," pp. 10.

²⁹ 42 U.S.C. 5106.g

³⁰ 23 Pa.C.S. §6303

³¹ NY Social Services Law §371; see also NJ Ann. Stat. §9:6-8.21

³² Montana Stat. §41-3-102

A number of state laws contain language regarding the failure to provide adequate supervision for the child, which has led to wide interpretation. For example, the law of New Jersey states merely “the failure to provide proper supervision,” while the law in South Carolina provides “the lack of supervision appropriate to the child’s age and development.”³³ Other states define neglect as when a responsible person leaves a child unattended, without qualification for the child’s age or development. Other states define conduct that “subjects the child to harmful behavior that is terrorizing, degrading, painful, or emotionally traumatic.”³⁴ or allows “exposure to drugs, illegal materials, or sexual acts.”³⁵

In practice, these definitions lead to the disparate application of child neglect reporting. For example, Black families are almost twice as likely to be investigated for child abuse or neglect compared to white families and more likely to be reported by educational and medical professionals.³⁶

Additionally, most state laws do not adequately account for issues such as poverty, domestic violence, and substance abuse. United Family Advocates co-founder Diane Redleaf has called for state and local systems to “stop confusing poverty with neglect” and pass the “Family Poverty Is Not Child Neglect” bill proposed by Representative Gwen Moore (D-Wisc.) and endorsed by the Congressional Black Caucus.³⁷ Redleaf also advocates to change laws limiting children’s independent activities to fit within broader social justice, civil rights, and democratic reform movements that resonate across party, race, and class lines.³⁸

The nonprofit group LetGrow compiled a survey of all U.S. states’ criminal and juvenile neglect statutes as they pertain to “child independence” and proposed new model laws based on reform movements in several states.³⁹ These initiatives are believed to address undue “surveillance” of Black families, which results in unnecessary neglect reports.

For example, Oklahoma passed amendments to its child neglect statute in 2021 to provide a specific qualifier to the requirement to provide “supervision or adequate caretakers,” i.e., “to protect the child from harm or threatened

harm of which any reasonable and prudent person responsible for the child’s health, safety or welfare would be aware”; a specific exception from the definition of neglect for children who engage in “independent activities,” such as traveling to or from school or nearby commercial or recreational facilities, engaging in outdoor play, remaining at home unattended for a reasonable amount of time, remaining in a vehicle unattended (providing adequate inside temperatures), and engaging in similar activities with other children.⁴⁰ Progressive terms such as these are believed to be more aligned with cultural norms, while still protective of child safety.

Mandated Reporting Requirements

CAPTA requires states to have policies and procedures in place for the reporting of child neglect, including the maintenance of child abuse and neglect reporting hotlines. All states except Indiana, New Jersey, and Wyoming enumerate specific professional groups as mandated reporters, the list of which continues to expand.⁴¹

The typical reporting standard is when a mandated reporter “knows or has reasonable cause to believe” child neglect is occurring. “Reasonable cause” is meant to be a universal legal standard, suggesting all mandated reporters should make the same decision to

³³ N.J. Ann. Stat. §9:6–8.21; see also SC Ann. Code 63–7–20

³⁴ Nevada Stat. §432B.140

³⁵ Oklahoma Stat. §10A–1–1–105

³⁶ “Fighting Institutional Racism,” pp. 10.

³⁷ Redleaf, Diane L. “Biden’s Child Welfare Focus Should Be Removing Poverty from Neglect.” *The Imprint*, 21 Dec. 2020, <https://imprintnews.org/child-welfare-2/biden-child-welfare-focus-removing-poverty-neglect/50041>.

³⁸ Redleaf, Diane. “Narrowing Neglect Laws Means Ending State-Mandated Helicopter Parenting.” *Americanbar.org*, 11 Sept. 2020, <https://www.americanbar.org/groups/litigation/committees/childrens-rights/articles/2020/fall2020-narrowing-neglect-laws-means-ending-state-mandated-helicopter-parenting/>

³⁹ “State Policy Maps.” *Let Grow*, 1 July 2021, <https://letgrow.org/resources/state-policy-maps>.

⁴⁰ Oklahoma H.B. 2565–2021

⁴¹ “Mandatory Reporters of Child Abuse and Neglect.” *Mandatory Reporters of Child Abuse and Neglect – Child Welfare Information Gateway*, U.S. Department of Health and Human Services, Children’s Bureau, Apr. 2019, <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/mandat>

report child abuse when presented with the same facts, regardless of personal beliefs.⁴² However, a number of states require only that a person "suspects" (OH); "in good faith suspects" (DE); "has reason to believe" (IN, ID, HI MD, MN, NV, OK, SC, UT); "has reason to suspect" (NC, NH, KS, VA, VT); or "has cause to believe" (LA and TX). In addition, only 19 states require a reporter to disclose their identity when reporting, and 44 states protect the disclosure of a reporter's identity.⁴³

Pennsylvania's law has been expanded to require a mandated reporter to make a report when "a person makes a specific disclosure to the mandated reporter that an identifiable child is the victim of child abuse".⁴⁴ This requirement is unqualified, i.e., the mandated reporter need not be able to identify the alleged perpetrator or meet with, or speak to, the child.

Redleaf points out that the availability of child abuse hotlines since 1974 and the increased use of cellular phones have escalated the number of calls. In particular, increased reports have been received regarding school-aged children discovered outside alone or playing with others, running errands, or left in a car for a short time, leading to punitive surveillance of children's independence across race and income levels, with parents unsure what decisions they can make regarding their children's activities, despite their own judgment of safety and appropriateness under the circumstances. Even if determined to be unfounded, a report and investigation is intrusive and leaves a record.⁴⁵

Advocates propose adopting a uniform standard for the mandated reporting of neglect, such as the laws passed in several states: the requirement of "blatant disregard of obvious dangers" (IL); the protection of children's "reasonable independent activities" (UT); and the protection of "reasonable and prudent parents" to "allow independent activities" (CO), excluding from the definition of neglect "independent activities . . . given the child's level of maturity, physical condition or mental abilities" (OK).⁴⁶

Recommendations and Conclusion

African American children, youth, families, and communities are victims of a system based

on imperialism, patriarchy, white supremacy, classism, and capitalism. Since 1619, the fate of African Americans has been viewed through the aforementioned prisms, and the child welfare system is a microcosm of more significant systematic and systemic challenges.

As a nation, there is a dominant perspective of how children should be raised; it is filtered through the gaze of whites and their elusive standards. Yet, this perspective lacks an analysis of historical issues related to slavery, racism, discrimination, and white supremacy culture. If one were to examine each state's report of neglect against the backdrop of its criminal justice standards, one can see a discernable pattern of behavior that supports institutional logic that continuously operates through a lens of surveillance and punishment rather than of culturally centered practices and support.

Examining the laws undergirding the child welfare system, as well as hearing directly from the subject experts who encountered the system as a kinship youth, foster child, and birth parent reveals a necessary overhaul of the child welfare system to prioritize the humanity essential in its work. As supported by the below recommendations, culturally centered practice is needed and should be measured by its effectiveness to create change for the children the child welfare system is intended to support—and must do no harm.

Therefore, it is this paper's specific intent to provide information and strategies to aid child welfare practitioners and policymakers to empower and counteract the inherent disadvantages poor families and families of color experience. This system of surveillance

⁴² Behun, Richard Joseph, Eric W. Owens, and Julie A. Cerrito. "The Amended Child Protective Services Law: New Requirements for Professional Counselors as Mandated Reporters in Pennsylvania." *Journal of the Pennsylvania Counseling Association*, vol. 93, pp. 80, Fall 2015, http://pacounseling.org/aws/PACA/asset_manager/get_file/113401?ver=61

⁴³ "Mandatory Reporters of Child Abuse and Neglect."

⁴⁴ 23 Pa.C.S. 6311(b)(iii)

⁴⁵ Redleaf, "Narrowing Neglect Laws."

⁴⁶ "Definitions of Child Abuse and Neglect." *Definitions of Child Abuse and Neglect – Child Welfare Information Gateway*, U.S. Department of Health and Human Services, Children's Bureau, Mar. 2019, <https://www.childwelfare.gov/topics/systemwide/laws-policies/statutes/define/>.

fails to identify the true risk factors for parents attempting to survive poverty, which hinders their ability not only to parent but also to cope with life stressors while negotiating the impact poverty has on their children.

Consequently, the system's failure and the resulting damage to Black families and children must no longer be tolerated. It is critical that the following strategies and recommendations be implemented across the country to combat the inherent biases in child welfare that continue to disadvantage Black families and result in disparate and negative outcomes that lock families into poverty and generational cycles of child welfare involvement. Our work demands change and calls for a new system of family well-being where all families are valued, and no family is targeted nor receives disparate treatment via racist and classist practices. The strategies and recommendations are:

1. Disaggregate data based on race and the various types of neglect. It is urgent that we examine demographics by race and make this a mandatory requirement as part of AFCARs reporting. If change is to occur, states need to show and account for who the children are who require intervention and support and delineate abuse and neglect demographics to ensure appropriate services are provided for families who require them.
2. Definitions of neglect should not fall under child maltreatment. It should be the responsibility of the federal government to more clearly define child neglect, establishing a consistent standard for all states and locales that uphold equitable treatment of Black children in child neglect investigations. The system fails to examine issues of neglect with consideration of the effects of poverty, community deprivation, and systemic oppression, which consistently lock out certain members of society from upward mobility and economic independence. The intentional action of assessing family well-being versus family risk factors will create a non-judgmental examination of the same. This strategy will forge a new system of family and child well-being to support families rather than punish them for the factors related to poverty

that challenged their ability to provide for and parent their children in alignment with societal parenting standards. This shift will challenge those who work with families to respect and value all families and provide them service without blame.

3. Create a new administrative requirement for placement on neglect cases. Separating neglect from definitions of child maltreatment will require child well-being workers to utilize new ways to assess and determine supportive intervention strategies to ensure families have the support and tools needed to maintain the well-being of children in their care. This recommendation strongly supports the use of a communal intervention strategy. Establish, as an administrative requirement, the use of a review committee, a communal (African-centered) approach before issuing a ruling on neglect. As Jackson, one of the subjects in our case studies, suggests child welfare agencies should create family advocacy groups, such as a "parent advocate group at the executive level to inform some of the [decision-making]." If such advocates are drawn from members of the Black community, who are facing or have faced the consequences of neglect, they can better advise administrators of the challenges and help establish more relevant and culturally and economically competent responses. It is important to understand that African-centered policy promotes the voices of participants and allows for an understanding that policy is not independent of people's lives. Therefore, people who face the consequences of such policies must be engaged in the village of those who shape the policy. This African-centered approach incorporates a family's values, identifies the source of their challenges, and in a collaborative, non-judgmental manner seeks common ground on how the family can increase their well-being indicators to successfully stabilize their home.
4. Overhaul the workforce. The education and training of workers, supervisors, and administrators in the current system have left many families in peril. As revealed by the lived experiences of the participants

interviewed, families are prevented from providing feedback or being considered partners in planning the services needed to ensure well-being. Again, when a system considers neglect as a parent's failure that results in child maltreatment, there is a value loss, and the system passes judgment on the parent as unfit. Consequently, the current system is risk-averse, seeking to assess blame and fostering the system mindset that leans toward removal.

5. Identify and mitigate problematic algorithms. With many states expanding the number of mandatory reporters and a few now adopting artificial intelligence to make reporting more efficient using algorithms, the problem of mandatory reporting will only worsen. As history has shown, the increase in reports has only resulted in racially disparate outcomes in the system—primarily the overrepresentation of youth of color. As states are armed with sophisticated pattern-analysis tools known as predictive-analytics algorithms, the problem will not only increase but be made concrete as it becomes embedded in the formulas of algorithms. While predictive algorithms have been met with more praise than criticism for their efficiency in screening the suitability of parents,⁴⁷ they pose a risk to minorities whereby decisions to investigate families may no longer be based on allegations but on “predictions for what might happen.”⁴⁸ It will be a familiar sight for vulnerable parents to see caseworkers at their doors based on racially biased data for the possibility of neglect and abuse—a sort of algorithmic racial profiling. Already, as Hurley reported in his 2018 article, the data the algorithms collect is racially biased from the over-surveillance of people of color and under-surveillance of white people. Mandatory reporting will soon be a contributing factor to what has become known as algorithmic racism⁴⁹ and, therefore, must account for the racial bias in the information collected.
6. Demonstrate value for families by employing concrete strategies that support their partnership. All prevention efforts and work with parents to prevent

child removal should be incentivized. The lived stories shared in this paper demand that families' voices take a central position in determining what is best for them as it relates to the challenges that have brought them to the attention of the system. Families know what is best for their children, so it is our responsibility to commit to partnering with them to stabilize their homes and prevent any further dismantling of their family systems. It is our commitment to ensure visibility for families who are struggling to parent and provide for their children due to poverty and support them in providing safety, permanency, and well-being for all children.

In summary, the goal of this work is to identify trends in legal child neglect definitions across the United States and discuss how child neglect laws and language target Black children. The authors call you to action: Share the lived experiences of families who were impacted by the child welfare system. Explore the connections to historical anti-Black racism in child neglect and how this has impacted the experience African American families have when interfacing with child welfare systems. Finally, recommend changes in the language of child neglect definitions to ensure policies and practices are consistent, with equitable treatment of all children in child neglect investigations, thus resulting in a new system of family well-being where all families are valued and treated with respect, and where every cultural and racial expression is honored in the intervention and service delivery to the family.

⁴⁷ Hurley, Dan. “Can an Algorithm Tell When Kids Are in Danger?” *The New York Times*, The New York Times, 2 Jan. 2018, <https://www.nytimes.com/2018/01/02/magazine/can-an-algorithm-tell-when-kids-are-in-danger.html>

⁴⁸ Hurley, Dan. “Can an Algorithm Tell.”

⁴⁹ Noble, Safiya Umoja. *Algorithms of Oppression: How Search Engines Reinforce Racism*. New York University Press, 2018.

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