

THE BIG FEATURE

I Have Studied Child Protective Services for Decades. It Needs to Be Abolished.

It's shockingly easy for CPS to destroy poor, Black families.

DOROTHY E. ROBERTS APRIL 5,
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Editor's note: The following is an excerpt, edited and condensed for our website, from *Torn Apart: How the Child Welfare System Destroys Black Families—And How Abolition Can Build a Safer World*, reprinted with permission. Copyright Basic Books.

On a summer day in 2017, a Black family was enjoying a picnic in a park in Aurora, Colorado. Among the dozen or so relatives who gathered there was Vanessa Peoples, a 25-year-old nursing student, and her two sons, Malik and Talib, ages two and four. Vanessa had been undergoing tests to see if she had leukemia. She also suffered from asthma and was prone to seizures, and her illnesses had turned her naturally lanky frame rail thin. Vanessa, the boys (whose names have been changed to protect their privacy), and Vanessa's husband lived with her mother, Patricia Russell, in a modest, single-story brick house on a tree-lined street; all the adults pitched in to care for the rambunctious little boys. That day was supposed to be a relaxing retreat from Vanessa's exhausting schedule of classes, medical tests, and caregiving.

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Instead, the outing led to the most terrifying experience of her life.

One of Vanessa's cousins got up from the group to go to work, and when she was heading toward her car, Malik traipsed behind her. Vanessa grabbed Talib to run after them. Before Vanessa could reach them, a woman who happened to be passing by snatched Malik by the arm, ostensibly worried that he was wandering off. Vanessa could see her talking on her cell phone as she and Talib approached. "Ma'am, that's my son," Vanessa told the stranger holding her child when she caught up to them, only a minute later. But the woman refused to let him go. She had called 911 to report Malik as being unattended. Vanessa was in no shape to physically pull Malik from the woman's arms, so she waited for the police to intervene. But when an officer arrived, he questioned Vanessa and demanded proof that she was Malik's mother. The officer finally let Vanessa take Malik back when relatives gathered around to vouch for her. As the officer was leaving, he handed Vanessa a ticket for child abuse and reckless endangerment.

A month later, on the morning of July 13, 2017, Vanessa had just given Malik and Talib their baths and was cleaning up in the basement. They were alone in the house: Vanessa's husband was at his job as an electrician, and Patricia was at a doctor's appointment. Vanessa didn't hear when a white caseworker from the Adams County Social Services Department, accompanied by a Black female trainee, unexpectedly knocked on the front door, part of a surprise follow up from the citation.

The caseworker noticed Malik, still undressed, peering out an open first-floor window. Worried that no one had come to the door, she called the Aurora Police Department for assistance. Two male officers arrived first, soon followed by a female officer. The caseworker pointed to Malik, who was still standing at the window. "My guess is he's fairly neglected," the caseworker told them, according to body cam footage recorded by one of the officers. When they discovered the front door unlocked, the officers entered the house, without a warrant or permission. "Aurora Police! Anybody here?" one of them shouted. As the officers proceeded down the basement stairs, following the female officer with her gun drawn, they confronted Vanessa at the bottom, wearing blue pajama pants and a pink Betty Boop top. Vanessa explained that she didn't hear the knocking while she was in the basement because she was hard of hearing in one ear. "I'm fine, I can handle my kids," Vanessa told them, indicating they could leave now that they knew she was in the house.

The three officers and the two caseworkers hovered around Vanessa and her children, unwilling to leave without interrogation. "A child hanging out the window and you're not answering the door, you don't think that that's a problem?" an officer asked.

"Let me go, let me go. I got asthma. I can't breathe," Vanessa cried as police shackled her.

Vanessa called Patricia to tell her that police officers and caseworkers were at the house. "Mom, can you get here, I got fucking social services and the goddamn police here," she said in front of the five government agents. "Get here because they're really pissing me off." Two of the officers then engaged Vanessa in an increasingly combative colloquy, the body cam footage shows:

"And we're supposed to know that you're not sick or injured or had maybe a stroke?"

"I am sick. And you guys think you all being here is helping the situation at all?" Vanessa replied.

"Ma'am if you're sick, then you need to figure out a way to get your kids taken care of," a second officer chimed in.

“Excuse me. I have a way to get my kids taken care of. And I don’t need you all in my house.” Vanessa turned to the caseworkers. “And I don’t need you all here either.”

The caseworker in charge tried to interject a more empathetic tone.

“I understand. So, ma’am...”

Vanessa cut her off. “No, you don’t understand, because if you understood you wouldn’t be here.”

While Vanessa continued to argue, the second officer began to walk around the house, recording the condition of each room with his body camera. As he scanned the kitchen, he opened the refrigerator and cabinets to check their contents.

A couple of minutes later, Patricia arrived in a huff. “I don’t need you guys in our lives like that,” she yelled. “Please leave.”

But none of the state agents budged. Patricia took Talib and Malik to their bedroom. A male officer followed close behind. “I don’t need you following me,” Patricia told him. But he insisted, and when Patricia tried to close the bedroom door, he pushed the door open and entered the room.

Meanwhile, in the living room, Vanessa began answering the social worker’s questions about the incident in the park, getting visibly frustrated. She headed to join her mother and children in the bedroom, and she was blocked by yet a fourth officer. “Stand back, stand back, stand back, stand back!” he commanded. Vanessa tried to assert her right to see her children: “No, I don’t have to stand back.”

At that moment, the officer lunged at Vanessa and violently pushed her face down into a large beanbag on the living room floor. The female officer and a fifth officer now on the scene leapt to assist him, pinning down the distraught, skinny woman as she flailed beneath them. Vanessa’s arms were yanked behind her back, her wrists cuffed, her head and shoulders restrained. Two more officers arrived, bringing the count to seven.

Working in unison, the three officers restrained Vanessa with a hobble—hand and ankle cuffs that shackled her wrists behind her back and chained them to her shackled legs. Then they carted her to a police car, her stomach and face toward the ground. The officers’ supervisor, a sergeant, pulled up, joining the police vehicles now lining the block, their lights flashing.

“Let me go, let me go. I got asthma. I can’t breathe,” Vanessa cried over and over while they brought her to the patrol car and lay her across the back seat. The sergeant told the officers to put Vanessa on the grass and loosen the band wrapped too tightly around her waist. Paramedics were called. Vanessa remained restrained on the lawn until the ambulance arrived. She had been hogtied for 30 agonizing minutes.

As the paramedics carried Vanessa, handcuffed and strapped to a stretcher, some of the officers milled around outside discussing next steps. “What are we doing with grandma?” one asked. “Grandma’s just staying in the bedroom for the moment,” another officer replied. “My thing is, if their supervisor wants the kids to go with grandma, let’s arrest grandma,” a third officer said, pointing to the caseworkers. “Cuz I’m tired of that.”

“Well, find out what they want to do,” the sergeant said. “We haven’t lost standing inside yet,” she added, as if referring to a military occupation.

An officer rode in the back of the ambulance as it transported Vanessa to the hospital. There, Vanessa learned that the police had dislocated her shoulder. She was cuffed to the bed while the hospital staff checked her vitals. She was given a sling, a bag of ice, and ibuprofen and hauled off to the Aurora municipal jail. Patricia bailed her out that night.

The police charged Vanessa with a new count of child abuse and obstructing a peace officer. Although the sergeant's report stated that "the house was in fair condition with food," another officer wrote, "while clearing the house I noticed it to be very dirty, with no food in the refrigerator, and very little food in the pantry." On the advice of her public defender, Vanessa pled guilty to child abuse and reckless endangerment of a child to avoid prison and was ordered to take parenting classes and sentenced to one year of probation. Before the incident at the park, Vanessa had never been in trouble with the law. Now she had a record as a child abuser. Vanessa's attorney later obtained a monetary settlement from the Aurora Police Department for their use of excessive force. None of the officers who brutalized her were ever disciplined.



Vanessa may have resolved her criminal case, but she was now ensnared in a giant state machine with the power to destroy her family. With the threat of child removal at its core, the child welfare system regulates a massive number of families. In 2019 alone, CPS agencies investigated the families of 3.5 million children, ultimately finding abuse or neglect only in one-fifth of cases, or for the families of 656,000 children. Yet the families of these children are put through an indefinite period of intensive scrutiny by CPS workers and judges who have the power to keep children apart from their parents for years or even to sever their family ties forever.

Such scrutiny is far from evenly distributed. More than half—53 percent—of Black children in America, like Malik and Talib, will undergo a CPS investigation at some point in their childhoods, compared with less than a third of white children. By the time they reach age 18, one in nine US children will have a state-confirmed maltreatment report; the figure for Black children—one in five—is the highest for any racial group. "Black children are about as likely to have a confirmed report of maltreatment during childhood as they are to complete college," noted Duke sociologist Christopher Wildeman and the team of analysts who calculated these statistics in 2014. Overall, rates of white family involvement are lower, but white children from very impoverished areas, such as rural Appalachia, also experience extreme amounts of state involvement.

More telling are recent data indicating children's chances of landing in foster care at some point while growing up. Every year, state child protection agencies remove about 500,000 children from their homes—half through formal court-supervised processes and half through informal agreements with parents. About 11 percent of Indigenous children and 9 percent of Black children can expect to enter foster care before their eighteenth birthday. The rate for white children, 5 percent, is substantially lower, but still troubling.

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You might be asking yourself: Is this not evidence of excessive child maltreatment? I'll come back to that, but for starters, it indicates that America is doing a poor job of promoting children's welfare. What ties together the families involved in the child welfare system is that they are disfranchised by some aspect of political inequality—whether race, gender, class, disability, or immigration status. The chances of affluent white parents getting on the CPS radar are relatively minuscule. The rare cases of their children being removed from the home are either extremely egregious or challenged by their well-paid attorneys in court as erroneous.

Yes, some parents do abuse their children, and in some relatively rare cases, the only available recourse is to remove children from the home. But the facade of benevolence makes most Americans complacent about a colossal government apparatus that spends billions of dollars annually on surveilling families, breaking them apart, and thrusting children into a foster care system known to cause devastating harms. Even when President Trump’s cruel policy of separating migrant children from their parents at the Mexican border drew national condemnation, hardly anyone connected it to the far more widespread family separation that takes place every day in Black neighborhoods. Besides hiding the trauma inflicted on families, the state’s fictitious compassion serves a crucial political purpose: blaming the most marginalized parents for the impact of race, class, and gender inequalities on their children, obscuring those unequal structures and the need to dismantle them.

We give this brutal regime benevolent titles—child welfare system, child protective services, foster care. But after 25 years of studying family separation as a legal scholar and author, I’m convinced that the mission of CPS agencies is not to care for children or protect their welfare. Rather, they respond inadequately and inhumanely to our society’s abysmal failures. Far from promoting the well-being of children, the state weaponizes children as a way to threaten families, to scapegoat parents for societal harms to their children, and to buttress the racist status quo. “Policing” is the word that captures best what the system does to America’s most disfranchised families. It subjects them to surveillance, coercion, and punishment. It is a family-policing system. And the only way to stop the destruction caused by family policing is to stop policing families—to abolish the system that tears families apart.



Richard A. Chance



In August 2021, Tyron Deneer, a Black man with a beard and dreadlocks, broadcast an Instagram Live video showing armed deputies from the Manatee County Sheriff's Office detaining him, his partner Syesha Mercado (a former American Idol finalist), and their ten-day-old baby girl.

The deputies had pulled the family's car over to the side of a highway to execute a family court judge's order to seize the couple's newborn daughter. The family's nightmare began in February of that year, when Mercado and Deneer took their 13-month-old son to a hospital in St. Petersburg, Florida, to seek medical care. Pregnant at the time, Mercado was having trouble transitioning the toddler from breastfeeding to eating solid foods and was concerned that he was dehydrated. Hospital staff called the child maltreatment hotline to report that the toddler was malnourished and failing to thrive, and the Department of Children and Families (DCF) took him from his parents.

Because Mercado and Deneer were under CPS supervision when their daughter was born six months later, DCF considered the newborn to be at risk. The couple had hired an attorney to advocate for the return of their son and was embroiled in court proceedings; when DCF came to check on the new baby, Mercado and Deneer directed them to contact their attorney. Instead, DCF obtained a judge's "pick up" order that was delivered to the sheriff's office. The video Deneer posted shows Mercado holding the infant wrapped in a pink blanket as she walks slowly from her car toward three white women who worked for DCF, as if she were a condemned convict walking to the gallows.

"Do you not feel anything?" Mercado asks desperately. "You guys, I'm human. This is my baby. My baby is days old and you're taking my baby away from me. You're taking my baby away from me. You have no heart."

As Mercado hands over her daughter, she pleads with the women once more: "My baby is healthy and happy. My baby is breastfeeding from me. What are you going to give my baby?" When the child began to cry, Mercado grows more distraught. "You're traumatizing my baby...You guys have created so much trauma...I'm not a danger to my baby. It's so wrong. It's so wrong." Then she collapses into Deneer's chest, weeping inconsolably. With the help of the viral video, a team of lawyers, and media attention, Mercado and Deneer were reunited with their daughter nine days later while they continued to fight to recover their son.

Although most histories of the US child welfare system start with the charitable organizations founded in the 1800s to rescue poor white children, its true origins trace back to slavery. One of the most awful atrocities inflicted by the slavery regime was the physical separation of enslaved parents from their children. Even when enslaved families remained physically intact, Black parents were denied authority over their children. Slavery law installed the white patriarch as the head of an extended plantation family that included the Black people he enslaved.

"Abrogation of the parental bond was a hallmark of the civil death that United States slavery imposed," writes law professor Peggy Cooper Davis in *Neglected Stories: The Constitution and Family Values*. Slaveholders proclaimed their moral authority by reinforcing the message of parental helplessness, frequently whipping enslaved parents in front of their children. "These messages of parental vulnerability and subordination were repeatedly burned into the consciousness of slave parents and children," Davis explains, "undermining their sense of worth, diminishing the sense of family security and authority, eroding the parents' function as a model of adult agency and independence."

Whereas the forced supervision and dissolution of Black families at the hands of white people is rooted in slavery, the systematic court-ordered displacement of free Black children to strangers' homes finds its origins in Jim Crow apprenticeship. After Emancipation, white planters exploited the apprenticeship laws already in place to wrest custody of Black children from their parents as a source of forced labor. Southern states also included provisions for compelled

apprenticeship of Black children in the Black Codes, passed in 1865 and 1866 to control Black labor by prohibiting freedom of movement, contract, and family life. The Black Code passed by the North Carolina legislature in 1866 to return “lately slaves” to their prior status both restricted the working rights of Black adults and allowed Black children to be “bound to” work for white planters without their parents’ approval. These laws gave judges unfettered discretion to place Black children in the care and service of white people if they found the parents to be unfit, unmarried, or unemployed and if they deemed the displacement “better for the habits and comfort of the child.”

Of 90,000 newly emancipated Black people in Maryland, for example, some 10,000 were reenslaved under apprenticeship laws, typically to their former enslavers. A witness testified in 1867 that in some parts of the state, “the whites, the ex-masters of the slaves, had the children probably of about two-thirds of the families of the freedmen.” Even the Freedmen’s Bureau, established by Congress in March 1865 to provide relief to newly freed Black Americans and white refugees, sometimes chose apprenticeship over attempting to reunite Black families.

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Another essential part of the history is the federal government’s forcible removal of Native children from their families, based on the government’s “kill the Indian and save the man” philosophy. In 1871, Congress had ratified 11 treaties making it compulsory for Native children to attend boarding schools designed to suppress Native identity and language, later authorizing the commissioner of Indian Affairs to withhold rations, clothing, and annuities to parents who failed to send their children to school. Native children were also grabbed by force.

It is against this backdrop that we can now consider the history of welfare agencies that originated to serve white children. The impetus traces back to the Elizabethan Poor Laws of 1601, which provided for state-supported assistance to the needy outside of the church or feudal customs. Public relief in England operated within a dual legal system based on wealth. Poor families were subject to government supervision for the public good; disputes in wealthier families over marriage, inheritance, or child rearing were treated as private matters. “For the poor, state intervention between parent and child was not only permitted but encouraged in order to effectuate a number of public policies, ranging from the provision of relief at minimum cost to the prevention of future crime,” writes legal scholar Judith Areen. “For all others, the state would separate children from their parents only in the most extreme circumstances, and then only when private parties initiated court action.”

In America, this class divide was reinforced by a racial divide between poor white families and poor Black families. Charles Loring Brace may have stirred the elite to action through his founding of the New York Children’s Aid Society in 1853, but orphanages and foster homes established to rescue destitute white children refused to accept Black children. By the time of a 1923 report from the census bureau, 31 northern states reported a total of 1,070 child-caring agencies. Of these agencies, 35 were for Black children only, 264 accepted children of all races, 60 took nonwhite children except Black children, and 711 were reserved for white children. Black families were virtually excluded from child welfare services until the end of World War II.

Black single mothers were also practically excluded from state aid. Administrators either failed to establish programs in locations with large Black populations or distributed benefits according to standards, such as the suitable-home tests, that disqualified Black and unmarried mothers. In 1931, the first national survey of mothers’ pensions broken down by race found that only 3 percent of recipients were Black; 96 percent of welfare recipients were white. Almost half of all Black recipients resided in two states—Pennsylvania and Ohio—while Louisiana and Mississippi had no Black recipients. “The goal of withholding welfare from Black mothers was to keep them in the workforce rather than

home caring for their own children,” writes University of Massachusetts, Amherst, gender studies scholar Laura Briggs, citing a welfare field supervisor in the late 1930s.

It took the midcentury Black freedom struggle to open the welfare system to Black people. But it was a Pyrrhic victory. As more and more Black families began receiving benefits, the image of welfare recipients began to transmute from the worthy white widow to the immoral unwed Black mother.

Policies took a dramatic turn for the worst as southern states waged a backlash against the civil rights rebellion and Black mothers’ claims to public aid. States began to punish poor mothers who failed to meet suitable-home standards by separating them from their children. In 1959 and 1960, respectively, the Florida and Tennessee legislatures enacted new suitable-home statutes that directed welfare workers to pressure mothers who were denied benefits because of their marital status to “voluntarily” relinquish custody of their children to relatives. Mothers who refused were charged with neglect. Briggs writes that a study of the first two years of the Florida program revealed that “state welfare workers challenged the suitability of 13,000 families; of these, only 9 percent were white, even though white families made up 39 percent of the total caseload.”

The federal government also cemented the policy of removing Black children from homes receiving welfare, paving the path to today’s destructive foster care system. In 1961, Arthur Flemming, the head of the Department of Health, Education, and Welfare, directed states that they could not deny aid based on suitable-home tests unless they took steps to rehabilitate the family. But for families that could not be rehabilitated, Flemming allocated federal funds to put the children in foster care. Flemming reasoned that it was “completely inconsistent...to declare a home unsuitable for a child to receive assistance and at the same time permit him to remain in the same home, exposed to the same environment.”

The foster care population mushroomed, with a 30 percent increase in the number of children in foster family homes between 1960 and 1965. The central mission of the child welfare system transformed from providing services to intact white families to taking Black children from theirs.



The day after her arrest, a caseworker returned to Vanessa’s home and told her she would have to permit more random visits from social services. For 30 days, two caseworkers came twice a week to Vanessa’s house to watch her interact with Malik and Talib.

Vanessa complied with every agency requirement and was released from probation several months early. But her arrest and record of child abuse continued to devastate her family. Seeing their mother arrested had lasting effects on Malik and Talib. “I had to watch my children suffer. My children were having nightmares,” Vanessa told me. “Whenever they see a police officer they ask me, ‘Mom, are they coming to take you away from us?’” Vanessa still hadn’t recovered either. “Anytime I leave the house, I’m looking over my shoulder,” she said. “Every time I see the police, I clutch. I’m petrified.”

In addition, being branded a child abuser had collateral consequences for Vanessa’s livelihood. The imposed schedule of court dates, parenting classes, and caseworker visits meant she had to take time off from nursing school. She was fired from her job at a temporary agency when her boss found out about the child endangerment charges. Her listing on the state’s child abuse registry significantly restricts her prospects for employment, barring her from working in many health care positions and child care facilities. She also lost a chance to rent a three-bedroom townhouse. “They

were getting ready to hand me the keys, then they said my application was rejected,” Vanessa recounted. “When I called the office, a man told me, ‘We’re not going to take a chance on a child abuse charge.’”

“People judge me. I’m hurt. I’m financially in a hole. It’s hard. It’s a living nightmare,” Vanessa went on, her voice cracking. “Now I can’t even provide for my children.”



Most reports substantiated by a child welfare investigation are for neglect only. It’s also the reason CPS gives for taking the vast majority of children in its system. But that charge obscures a more complex reality. Most of the families subjected to investigation are poor or low-income and could use help meeting their material needs, though the government agents who investigate them don’t offer them resources. Instead, they brandish a terrifying weapon—the threat of taking their children away. Only 16 percent of children enter foster care because they were physically or sexually abused. The other 84 percent? They’re mostly just poor.

The relationship between poverty and foster care becomes painfully clear with state and federal budget cuts. In Kansas, for example, beginning in 2011, a number of cuts to monetary assistance coincided with a substantial increase in the number of children entering foster care. By 2016, nearly 11,000 Kansas children were spending time in foster care, while less than 3,000 parents were receiving temporary assistance. By 2016, foster kids exceeded the number of children being cared for at home with the support of TANF benefits in at least seven states, reported Shawn Fremstad, a senior fellow at the Center for Economic and Policy Research. In 21 states, for every two children receiving TANF while living with their families, one or more were living in foster care. Moreover, states can and do redirect federal TANF funds to pay for CPS activities, including foster care costs and adoption payments. These developments reflect a basic principle of family policing: as social problems worsen as a result of policies that intensify income and racial inequality while shrinking the welfare safety net, government expands its policing of families who suffer the most.

The conflation of poverty and neglect is written directly into state statutes that define child maltreatment. Many states broadly permit intervention whenever parents fall short of supplying “the proper or necessary support...for a child’s well-being”—a chilling echo of Jim Crow apprenticeship laws. A 2020 analysis of state neglect statutes found that most “are very open-ended, allowing child protective investigators and their supervisors to declare a child neglected based on their own unbounded opinions as to what is ‘proper’ or ‘necessary care.’” Others define child neglect as “the failure or omission to provide...adequate nurturance and affection, food, clothing, shelter, sanitation, hygiene, or appropriate education,” or a similar list of material resources. Neglect can mean living in dilapidated or overcrowded housing, missing school, wearing dirty clothes, going hungry, or being left at home alone when your parents go to work or to the store.

Insecure housing, one of the most common factors associated with accusations of child neglect, provides a vivid illustration of how CPS confuses poverty with neglect. Children are routinely apprehended and kept in foster care because their parents are unable to find decent shelter. As a result of America’s deep income inequality, predatory banking and real estate policies, residential segregation, and dearth of affordable housing, many families live in crowded or decaying homes that CPS workers consider unfit for children.

Just imagine a society where the needs of children and their families are generously met and where the idea of tearing children from their families as the way to care for them is laughable.

When CPS investigators find a family living in a hazardous apartment or homeless shelter, they typically have only one way to address the situation: take the children. CPS workers don't have much authority to provide secure housing for the family, to direct the landlord to fix up the property, or to require the city to guarantee adequate shelter. Once when I took my law students to family court in Chicago, we observed a judge approve the child welfare department's request to keep a Black mother's children in foster care because the family's apartment was infested with mice and cockroaches. After the hearing ended, the judge let my students question him about the proceedings they had witnessed. One asked the judge why he prolonged the children's separation instead of ordering the landlord to provide a habitable property. The judge replied that only the housing court had jurisdiction over the landlord; all he could do as a family court judge with jurisdiction over the children was to keep them out of the unsanitary apartment.

In a piece for the *Imprint*, Vivek Sankaran, a clinical professor at University of Michigan Law School, similarly recounts how one of his clients, a mother trying to regain custody of her children, informed his students that she had been rendered homeless. The students tried to reach the caseworker to help resolve the crisis. "About a week later, they finally received a short message with a list of other community agencies that might be able to assist with housing, which my students had discovered days prior through a simple Google search," Sankaran recalls. "The caseworker ended the email indicating that there was nothing else she could do to help with housing." Zooming out reveals the extent of the problem: Since the mid-'90s, three studies have found that 30 percent of children in foster care could have remained safely at home if their parents had adequate housing.

And being poor necessitates having many more points of contact with professionals who are mandated to report suspicion of child maltreatment. Receiving social services, relying on welfare benefits, living in public housing, and using public clinics all subject parents to an extra layer of surveillance by government workers who can be quick to call a hotline or 911 when they suspect maltreatment or a family's need for services. It's like living in a neighborhood with multiple speed traps while the rest of the town has none. To make matters worse, the calls by mandated reporters don't result in families receiving the material resources they need and can deter struggling parents from seeking help from service providers for fear they will be reported for neglect.

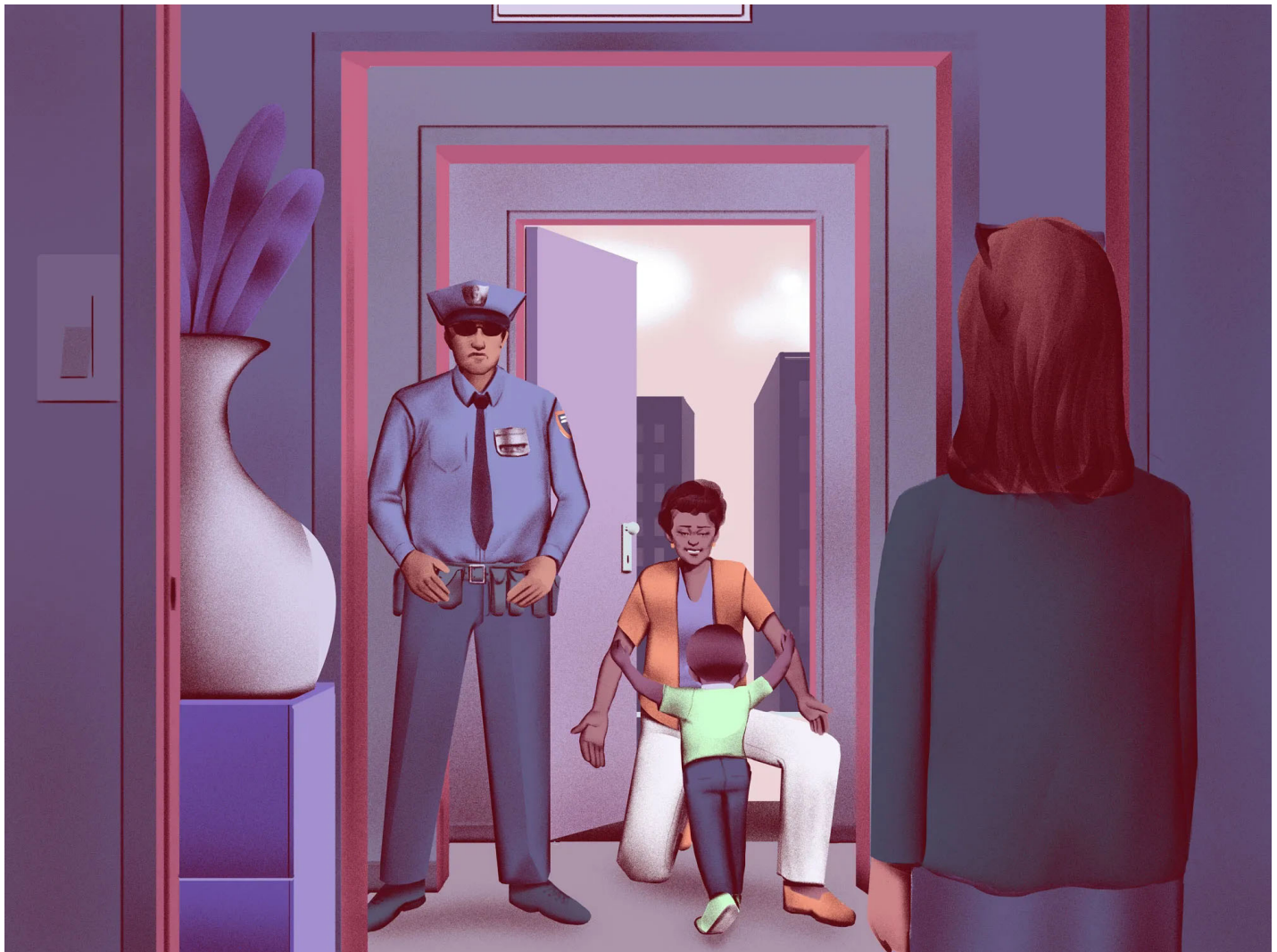
In December 2018, Jazmine Headley, a 23-year-old Black mother, found a space on the floor of the crowded New York City public benefits office where she could sit down with her one-year-old son. She was exhausted from waiting for hours to see a case worker, after her child care benefits had been stopped abruptly. A guard approached her and ordered her to move. She stayed put, eventually asking to speak to a supervisor. The police were called. A video shows guards and officers surrounding Headley—who is lying on the ground—yanking the screaming toddler from her arms. One of the guards threatened to have CPS take her son, according to a lawsuit. Headley was charged with resisting arrest and child endangerment and spent several days in Rikers Island, for this and other unrelated charges, before attorneys were able to get the charges for resisting arrest and child endangerment dropped. The public aid office has become a site for threatening Black mothers with arrest and child removal for the crime of seeking help to raise their children.

I am not the first to point out that something needs to change, that families are being unnecessarily torn apart and that Black families are disproportionately affected. Over the last 30 years, child advocates have sued states across the nation for operating foster care systems that traumatize and endanger children. As a result, the child welfare departments in numerous states are currently governed by court-monitored settlement agreements that require them to make reforms. By 2019, the Illinois Department of Children and Family Services was operating under more than 10 consent decrees and settlement agreements, one of which was the result of a lawsuit filed in 1988. In 2020, nine years

into federal litigation that had determined the Texas foster care system was violating children’s constitutional rights, US District Judge Janis Jack held the state in contempt of court—for a second time—for its “stunning” failure to comply with court-ordered reforms.

Legislators meanwhile have implemented measures to reduce the foster care population and to increase services to families. In 2018, Congress passed the Family First Prevention Services Act to divert a small portion of funds from foster care to time-limited prevention services for children or caregivers of children “who are candidates for foster care.” Similarly, since the 1990s, New York City has drastically reduced the share of ACS-involved families whose children were placed in foster care while increasing the share of families involved in other mandated programs like drug treatment, meetings with caseworkers, and parent training classes.

Yet these measures have proven as futile as class action lawsuits at ending the child welfare system’s destructive policing of families. Indeed, these reforms serve only to increase the numbers of families regulated by child protection agencies and expanded state intrusion into Black communities. From my vantage point, I have come to envision more clearly an abolitionist framework to contest family policing, one that integrates our understanding of police and prisons with the state’s surveillance, control, and demolition of Black families.



Richard A. Chance



The most common objection I hear to abolishing the child welfare system is “How else will we protect children from severe abuse in their homes?”

As I was writing and researching the case for the abolition of family policing, I started tearing out newspaper stories about children who had been killed by their parents. I carefully read the heartbreaking accounts because I wanted to make sure I grappled with them in my commitment to end forced family separation. One that hit me especially hard was the 2016 death of six-year-old Zymere Perkins. In January 2020, a jury found Rysheim Smith, a 45-year-old Black man, guilty of murdering Zymere, the son of his partner, Geraldine Perkins, in their Harlem apartment. At the trial, Perkins, who pleaded guilty to manslaughter and child endangerment, testified over five days about the starvation and beatings Zymere endured at the hands of Smith. Zymere’s school had repeatedly reported injuries to New York’s ACS. Although caseworkers investigated some of the calls, they never removed Zymere from his home. Perkins explained to the jury that she didn’t intervene in the abuse because she was infatuated with Smith, a man twice her age, whom she called her “Prince Charming” for rescuing her and Zymere from a shelter for battered women in 2015.

It is understandable to recoil against such cases of violence against children and to try to prevent them. Political scientist Juliet Gainsborough found that a major child abuse scandal was associated with a significant increase in the passage of child protection legislation, ranging from privatizing the system in Kansas to requiring FBI background checks for relative caregivers in Indiana. Legislators and child welfare authorities are quick to react to a child’s death by shoring up the very system that failed to protect the child in the first place.

The city responded to Zymere Perkins’s death with a foster care panic. The number of investigations into abuse or neglect rose from 56,800 in 2016 to 59,400 in 2017—the highest in the period between 2015 and 2019; a law enforcement official cited in the *New York Times* also said that police investigations into child abuse had increased, with the Bronx alone seeing a 41 percent increase in cases between September 26, 2016, the day Zymere was killed, and December 21, 2016, compared to the same period in 2015. Paradoxically, the flood of investigations may have contributed to ACS’s failure to prevent the death of six-week-old Kaseem Watkins. His father, Teshawn Watkins, was arrested in 2020 for smothering the boy in their Bronx apartment. (The trial is still ongoing.) According to the *New York Times*, the 27-old Black man had been arrested twice for assaulting Kaseem’s mother, Celicia Reyes, and city authorities had investigated him four times over child abuse allegations. The previous allegations had begun in 2016, during the period of escalating reports of child maltreatment to city authorities following Zymere’s death. When Ms. Reyes’s mother called 911 on December 28, 2016, out of concern for her grandsons’ safety, “the police were already swamped.”

Overloading the system with children who could remain safely with their parents means that caseworkers have less time and money to find and follow the children truly in danger of severe abuse and neglect. The costs of foster care drain government budgets of funds that could be used to support families, only worsening the conditions that can lead to serious maltreatment. Overzealous CPS authorities scare away families who might have sought help for domestic violence and other problems before they spiraled into deadly situations. This is why tragic cases of child abuse continue to appear even under the watch of the toughest child protection regimes. Children fall through the cracks not because child welfare agencies are devoting too many resources to family support, but because agencies are devoting too many resources to investigations and child removal.

“Abolition need not be a fantasy; New York City already made it, for a moment, a reality.”

The stories of children killed by their parents despite being “known to the system” may seem to send the message that more children could be saved if agencies worked harder at policing families. But ratcheting up investigations and removals has failed to reduce family violence. Texas CPS investigates a greater-than-average proportion of the referrals it receives, yet Texas has one of the highest child abuse fatality rates in the nation. A study of child abuse deaths in the state concluded, “Surprisingly, the statistical analysis shows no relationship between a state’s intervention with a family, as measured by its reporting rate, service rate, or removal rate, and its child abuse and neglect death rate.” The report recommended reducing poverty and expanding access to proven violence-prevention programs as more effective at protecting children from lethal abuse than surveilling and separating families.

Something is drastically wrong with a child protection approach that both breaks up families where children are safe and misses families where children are in grave danger. The problem isn’t that there are too few people mandated to report their suspicions, too few caseworkers patrolling neighborhoods, or too few children taken from their homes. The problem is that intensifying surveillance and separation only intensifies their bad outcomes. The deaths of children known to the system don’t prove that we need more family policing. They prove that family policing doesn’t keep children safe.



Just imagine a society where the needs of children and their families are generously met and where the idea of tearing children from their families as the way to care for them is laughable. Ignited by Black mothers who have been separated from their children, a burgeoning movement is working to dismantle the family policing system and replace it with a radically reimagined way of caring for children, meeting families’ needs, and preventing domestic violence.

On Martin Luther King Jr. Day in January 2021, about a hundred people dressed in winter jackets gathered on 125th Street in Harlem. The crowd stood on the sidewalk and sat in folding chairs beneath a newly installed billboard that proclaimed, “Some cops are called caseworkers. #AbolishNYCACs,” referring to New York City’s Administration for Children’s Services. The woman leading the effort was Joyce McMillan, a veteran organizer of parents who have experienced ACS investigations. Over the last several years, she has led influential grassroots campaigns to dismantle New York’s child welfare system, and the MLK Day protest was nothing new. In September 2019, she spoke alongside members of the city council’s progressive caucus at a rally on the steps of city hall in Manhattan to support a legislative package that would impose greater oversight of ACS and give more rights to the parents it polices. In 2020, *Mother Jones* first reported on McMillan’s efforts.

McMillan became a leader in an emerging movement to abolish the child welfare system after fighting to recover her own children from ACS. In 1999, when she gave birth to her second daughter, an anonymous caller to the hotline reported her, and ACS opened an investigation, directing McMillan to undergo a drug test. McMillan, who had no prior experience with child protective services, complied. “When they came into my life, I cooperated, not knowing who they were and what they did,” McMillan told me. She assumed the caseworkers would close the investigation as soon as they saw that she only used drugs recreationally and her children were safe and well cared for. Instead, when

the test results came back positive, “they immediately snatched the kids.” McMillan’s nine-year-old daughter went to live with the father. Her three-month-old baby was placed in a stranger’s foster home.

The tide turned when McMillan was able to get savvy and zealous representation from Lauren Shapiro, the managing director of the Family Defense Practice at Brooklyn Defender Services. Shapiro persuaded a judge to rule that McMillan could recover her children if she remained substance free for a year, dismissing ACS’s insistence that completing a prescribed drug treatment program should be a prerequisite.

In 2014, McMillan decided to investigate the agency that was so intent on ruining her family. She vividly recalls coming across statistics on the race of the children ACS took from their homes, listed by borough and neighborhood. What she found was a “major, eye-opening, shocking disparity” between predominantly Black neighborhoods, like Bed-Stuy, and predominantly white ones, like Bensonhurst.

McMillan exemplifies a growing number of Black mothers across the nation who have felt the brunt of family policing and are fighting back. They have formed small, grassroots organizations that advocate for radical change in our nation’s approach to child welfare. They’re demanding that the system be dismantled and working to replace it with concrete, community-based resources for children and their families. This vision of a safer society without family policing is not a pipe dream, an academic pie in the sky fantasy, or a revolutionary utopia. We can imagine confidently a society that has no need for family policing because we’ve seen it happen.

Anna Arons, an acting assistant law professor at New York University, stumbled across the unintended abolition of the child welfare system in New York City. When the city shut down in mid-March 2020, so did its family-policing apparatus. “This system shrunk in almost every conceivable way as mandated reporters retreated, caseworkers adopted less intrusive investigatory tactics, and family courts constrained their operations,” notes Arons. “Reports fell, the number of cases filed in court fell, and the number of children separated from their parents fell.” At the time, city officials and the media speculated, with no evidence to back them up, that the pandemic put children at risk of abuse because they were “trapped” in their homes outside the watchful gaze of social workers, teachers, and other mandated reporters.

But ACS data showed precisely the opposite. The forced experiment in abolition didn’t endanger children; it arguably kept them safer. Reports of physical or sexual abuse in New York City decreased dramatically. ACS investigations related to child fatalities—which were required despite the lockdown—dropped by 25 percent between February 2019 and June 2019 and the same period in 2020. When the city bounced back (temporarily at least) in fall 2020, there was no deluge of child abuse cases that had gone unreported during the pandemic. ACS commissioner David Hansell told the city council that the rates of substantiated allegations were the same during the shutdown as they were when family policing was in full effect. “ACS’s data from the fall reveal that children stayed as safe with less surveillance, less government intrusion, and less family separation,” Arons observes.

New York City’s children remained safe without ACS intervention because the pandemic generated more caring and effective ways to support families. Community-based groups sprang into action. By the end of July 2020, more than 50 mutual aid networks throughout the city were providing essential items like groceries and diapers and offering services like child care and mental health care. “The rapid expansion of mutual aid projects was breathtaking,” writes Arons. Brooklyn-based Bed Stuy Strong built a network of 2,700 volunteers within a month, and Crown Heights Mutual Aid “made 1,300 grocery deliveries between mid-March and mid-May alone,” Arons notes.

The federal government also played a major role. In March 2020, Congress passed the CARES Act, which provided a one-time payment of \$1,200 for adults earning less than \$75,000 a year, with an additional \$500 payment for each child under the age of 17 as well as hugely enhanced unemployment benefits, through the end of July 2020. It was the largest distribution of direct aid to families in US history. The checks went directly to parents without strings attached, foregoing the investigation, surveillance, and regulation entailed in child protection services.

“Though unintentional, this brief experiment shows that the typical outsized and reactionary family regulation system that New York built up prior to the pandemic is not necessary to protect children,” Arons concludes. “Abolition need not be a fantasy; New York City already made it, for a moment, a reality.”

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