

## **Distinguishing Poverty Experienced by Families from Child Neglect**

### **Abstract**

Many practitioners, policymakers, decision-makers, and systems of care operate in a manner that conflates poverty and neglect. A family's inability to feed, clothe, or house their children is often perceived as child neglect, even though this inability may be a result of the family experiencing poverty due to systemic factors. The purpose of this report is to address the need to distinguish between poverty and neglect. If poverty is mistaken for neglect, it can contribute to the high rates of child neglect cases and result in child welfare and court involvement including the removal of children, the termination of parental rights, and reunification requirements that discriminate against parents experiencing poverty. In other words, when poverty is mistaken for neglect, in effect, the result is blaming and punishing families for their circumstances and ultimately harming the very children and families they are supposed to help. Addressing the underlying issue of poverty can help to decrease the likelihood of child neglect, avoid unnecessary child removal, and promote children's and families' healthy development and well-being.

This report is one in a five-part series about improving outcomes for youth involved in systems of care. The titles in the series are:

1. Promoting the Well-Being of Black, Native, Latinx, and Asian Youth Involved in Systems of Care
2. Protective Factors for Youth Involved in Systems of Care
3. Shifting the Perception and Treatment of Black, Native, and Latinx Youth in Systems of Care
4. Distinguishing Poverty Experienced by Families from Child Neglect

# Distinguishing Poverty Experienced by Families from Child Neglect

*“Poverty is a risk factor for neglect, but poverty does not equate to neglect. The presence of poverty alone does not mean a child is unsafe, unloved, or that a parent lacks the capacity to care for his or her child.”<sup>1</sup>*

Jerry Milner, Former Associate Commissioner of the Children’s Bureau  
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Child neglect is defined by both Federal and State laws. Although the definitions may vary, “neglect is defined in Federal law 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. Some State laws include the failure of a parent or other person with responsibility for the child to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child’s health, safety, and well-being are threatened with harm.”<sup>2,3</sup> Twelve states and the District of Columbia indicate in their reporting laws that financial inability to provide for a child—that is, poverty—should not be included in the determination of neglect.<sup>4,5</sup> The importance of considering financial ability or inability also is acknowledged in the Children’s Bureau annual data report series *Child Maltreatment*. “Neglect or deprivation of necessities” is defined as “the failure by the caregiver to provide needed, age-appropriate care although financially able to do so or offered financial or other means to do so.”<sup>6</sup> Nonetheless, many practitioners, policymakers, decision-makers, and systems of care operate in a manner that fails to properly distinguish between poverty and neglect, thereby unfairly punishing families experiencing poverty—in particular families of color—and ultimately harming the very children and families they are supposed to help.<sup>7</sup> Thus, there is a continuing need to distinguish between poverty and neglect and clarify how they intersect.<sup>8,9</sup>

## Scope of Child Neglect

The following are summary data about the scope of child neglect and child poverty in the United States. A report from Child Trends underscored the importance of interpreting such data in a larger context:

Many factors contribute to the number (and experiences) of children involved with the child welfare system in a given state, including state- and community-level factors; systemic racism, discrimination, and bias in the child welfare system; agency policies, practices, and legal definitions; variation in services available to support children and families, and variations in thresholds for

entering and exiting care; and changing policies and practices in child welfare. We encourage stakeholders to consider these factors... when interpreting and using child welfare data.<sup>10</sup>

The Children's Bureau annually publishes a report based on data submissions by state child protective services (CPS) agencies to the National Child Abuse and Neglect Data System (NCANDS). These data identify in the aggregate the number of children who received a CPS investigation response or alternative response that resulted in a disposition of substantiated (i.e., credible evidence that abuse or neglect occurred) or indicated (i.e., some evidence but not enough to substantiate) by the CPS response.<sup>11,12</sup> Consistently over the years, neglect has accounted for the majority of confirmed cases of child maltreatment in the United States, far exceeding physical or sexual abuse.<sup>13</sup> According to the most recent available data detailed in the Children's Bureau *Child Maltreatment 2019* report:

- 656,000 (rounded) children were victims of child abuse and neglect;
- 61 percent (approximately 400,000) were victims of neglect only; and
- 74.9 percent (approximately 492,000) were victims of neglect only plus neglect and other forms of maltreatment.<sup>14</sup>

In addition, data from the Adoption and Foster Care Analysis and Reporting System (AFCARS) for FY2019, showed that child neglect was the highest reason (64%) for entry into foster care.<sup>15</sup> Black, Latinx, and Native children are overrepresented in the child welfare system relative to their representation in the general population.<sup>16,17,18</sup> Studies have shown that a contributing factor to the disproportionate representation of children of color in the child welfare system is the higher rate of these populations' experience living in poverty.<sup>19</sup> However, studies have also shown that the majority of families experiencing poverty never come to the attention of the child welfare system, and many families who abuse or neglect their children are not poor.<sup>20,21</sup> Interpreting child neglect data in the context of poverty must be done with caution to avoid conflating neglect and poverty. A report in the *Oklahoma Law Review* indicated:

Every day, the government, through law enforcement and child protective services, removes approximately 750 children from their homes. Approximately seventy-five percent of those removals are based not on any crime committed by the parents or harm received by the child, but solely on suspicion and fear that the child may come to harm in the future. Vague child neglect laws conflate poverty and neglect so that families that are already disadvantaged face the prospect of being forcibly broken up for the putative protection of the children, but for the actual protection and, indeed, the actual benefit, of no one.

Overwhelmingly, poor families are singled out not because of their conduct, but because of their socioeconomic status.<sup>22</sup>

## **Child Poverty**

The most recent report from the Children’s Defense Fund—*The State of America’s Children 2021*—provides data from 2019, prior to the COVID-19 pandemic. The following selected data refer to child demographics and child poverty:<sup>23,24</sup>

- 74 million children lived in the United States (U.S.) in 2019
- 50 percent of the total U.S. children were Children of Color: 14 percent were Black; 26 percent were Latinx; 5 percent were Asian/Native Hawaiian/Other Pacific Islander; and less than 1 percent were American Indian/Alaska Native
- The median income for White families with children was \$95,700 compared with \$52,300 for Latinx families with children, and \$43,900 for Black families with children
- 14 percent of children (approximately 10.5 million) were in families experiencing poverty; that is, the annual family income was less than \$26,172 for a family of four
- 71 percent of children in poverty were Children of Color
- Poverty disproportionately affected Children of Color: 27 percent of children in poverty were Black, 21 percent were Latinx, 21 percent were American Indian/Alaska Native, and 8 percent were White
- 6 percent of children experienced extreme poverty; that is, their family had income below half of the poverty threshold (below \$13,086 for a family of four).
- 15 percent of children under 6 were in families experiencing poverty

These data suggest that child poverty in the United States is persistent and structural in that historical and contemporary systemic inequalities—such as under-resourced schools and disinvested neighborhoods—contribute to disproportionate rates of poverty for Children of Color.<sup>25,26</sup> According to a report from the Center for American Progress, “joblessness, caregiving responsibilities, single parenthood, and other common life events only put children at risk of economic insecurity because U.S. policies have allowed that reality.”<sup>27</sup>

## **Poverty Does Not Equate to Neglect**

A family’s inability to feed, clothe, or house their children is often perceived as child neglect, even though this inability may be a result of the family experiencing poverty due to systemic factors.<sup>28,29</sup> When poverty is mistaken for neglect it can result in child

welfare and court involvement including the removal of children, the termination of parental rights, and reunification requirements that discriminate against parents experiencing poverty.<sup>30</sup> Mistaking poverty for neglect contributes to the high rates of child neglect cases and child welfare involvement for families experiencing poverty.<sup>31</sup> This is particularly the case with families and children of color. A report from the American Public Human Services Association indicated that a parent of color who is experiencing poverty “is more likely to be reported for abuse or neglect than their White counterpart, that report is more likely to be substantiated, and that child of color is more likely to enter the foster care system than his or her White counterpart. While Black children make up 13.7 percent of the population, they make up 23 percent of children in foster care.”<sup>32</sup> In addition, mistaking poverty for neglect can result in child welfare agencies failing to provide families experiencing poverty with the services and resources designed to address poverty and other systemic factors as root causes of neglect.

## Recommendations

Reconsidering the link between poverty and child neglect can help to prevent the unnecessary removal of children, provide concrete supports to protect children and strengthen families who are experiencing poverty, promote the healthy development and well-being of children and their parents, and improve systems of care that serve families in need.<sup>33,34,35</sup> The following is a list of policy, systems, and practice recommendations that are necessary to achieve these goals. Policy and systems changes help to create upstream supports that address root causes of poverty and support families before they ever come to the attention of the child welfare system. Practice changes are necessary to better support families and prioritize children staying with their families.

- 1. Revise the Federal definition of neglect to include a poverty exemption in the statutory definition.** To this end, Federal policy has been introduced—*H.R. 573, Family Poverty is Not Child Neglect Act*—the purpose of which is “to amend the Child Abuse Prevention and Treatment Act (CAPTA) to ensure that child protective services systems do not permit the separation of children from parents on the basis of poverty, and for other purposes.”<sup>36</sup> It proposes to strike the stand alone word “neglect” in paragraph one of the Act and replace it with the phrase “neglect, ensuring that reports concerning a child’s living arrangements or subsistence needs are addressed through services and benefits and that no child is separated from the child’s parent for reasons of poverty.”
- 2. Prohibit the termination of parental rights due to poverty alone and eliminate policies using arbitrary timelines to terminate parental rights.** Terminating

parental rights causes trauma to children and families; policies must prioritize keeping families together.<sup>37</sup> To this end, *H.R. 573, Family Poverty is Not Child Neglect Act* also proposes to strike the single word “response” in paragraph four of CAPTA and insert the phrase “response, except that such system, tools, and protocols shall not authorize the separation of any child from the child’s parent or guardian on the basis of poverty.”<sup>38,39</sup>

3. **Develop and fund comprehensive supports *in the community* that help to support families and reduce the likelihood of foster care placement.** Ensure families have access to available supports that have been found to reduce child welfare involvement such as childcare, housing and rental assistance, cash assistance, health care, and paid leave.<sup>40,41</sup>
4. **Counter the surveillance of Black, Native, and poor children by creating an alternative or multiple response model that ensures that families can access and use supports without becoming connected to the child welfare agency.** This response would make services voluntary and not another system of surveillance that leads families back to the child welfare system. It would divert families to another source for financial and social support. Families who want or need to access supports and services should be able to do so without fear that it will be tied to child welfare involvement or removal of their children.
5. **Revise the role of mandated reporters, investigators, caseworkers, and judges** so that reporting families to child welfare agencies due to issues of poverty is not the first course of action and, ultimately, becomes unnecessary.<sup>42,43</sup> States including Virginia, Connecticut, Maryland, and Washington, DC all preface their mandated reporting sites that poverty is not neglect and make recommendations that calls about poverty not be reported.
6. **Implement fundamental rights for families in the investigative stages of child welfare procedures.** Parents do not have the same rights in child welfare cases as in criminal cases.<sup>44</sup> In New York, legislation has been introduced that would require oral and written communication of parental rights at the start of a child protective services investigation including, for example:
  - the right to decline CPS representatives to enter their home unless under court order;
  - the right to be informed of the allegations being investigated;
  - the right to decline to speak with the CPS representative unless under court order; and
  - the right to seek advice from an attorney.<sup>45</sup>

7. **Ensure high quality legal representation for all parents and children.** Legal assistance during the investigation stage and throughout court involvement are important to prioritize keeping families together and identify root causes that could be bringing families to the attention of the child welfare system. Legal assistance is associated with better access to services, less time spent in foster care, and faster reunification.<sup>46,47,48</sup>
8. **Ensure all mandated services are:** free of cost to families; not tied to issues of poverty; accessible by public transportation, and if not provide transportation; and evaluated by families and communities.
9. **Require investigators and permanency staff to make contact with mandated services,** beyond simply making referrals, so families are able to more easily connect with and navigate the services they need.
10. **Create mechanisms of accountability** so that families and communities can evaluate the quality of services and supports they receive.
11. **Require judges to be trained and evaluated** on being stronger gatekeepers to prevent removal of children in cases where poverty is the root cause of child welfare involvement. Child welfare intervention and family separation causes additional harm and trauma to families already struggling with issues of poverty. Prioritizing access to supports rather than removal is key to disentangling poverty from neglect and keeping families out of systems.
12. **Train judges, caseworkers, investigators, and mandated** reporters on distinguishing between poverty and neglect and understanding how they intersect.

## **Conclusion**

Child poverty and child neglect are linked but that does not mean that most families who experience poverty neglect their children. Within and across systems of care, practitioners, policymakers, and decision-makers must make concerted efforts to prevent poverty from being mistaken as child neglect and unjustly punishing families who experience poverty. Addressing the underlying issue of poverty—for example, through increased financial support and expanded basic needs programs—can help to decrease the likelihood of child neglect, avoid unnecessary child removal, and promote children’s and families’ healthy development and well-being.

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- <sup>1</sup> Milner, J. & Kelly, D. (December 2019/January 2020). [It's time to stop confusing poverty with neglect](#). *Children's Bureau Express*, 20(10).
- <sup>2</sup> Child Welfare Information Gateway. (2018). [Acts of omission: An overview of child neglect](#). U.S. Department of Health and Human Services, Children's Bureau.
- <sup>3</sup> Child Welfare Information Gateway. (2019). [Definitions of child abuse and neglect](#). U.S. Department of Health and Human Services, Children's Bureau.
- <sup>4</sup> Child Welfare Information Gateway. (2018). [Acts of omission: An overview of child neglect](#). U.S. Department of Health and Human Services, Children's Bureau.
- <sup>5</sup> Child Welfare Information Gateway. (2019). [Definitions of child abuse and neglect](#). U.S. Department of Health and Human Services, Children's Bureau.
- <sup>6</sup> U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2021). [Child Maltreatment 2019](#).
- <sup>7</sup> Levison-Johnson, L. (2021, May 21). [Poverty and neglect are not the same: It's time to realign our response](#).
- <sup>8</sup> Dale, M. K. (2014, April 10). [Addressing the underlying issue of poverty in child-neglect cases](#). American Bar Association.
- <sup>9</sup> Milner, J. & Kelly, D. (December 2019/January 2020). [It's time to stop confusing poverty with neglect](#). *Children's Bureau Express*, 20(10).
- <sup>10</sup> Child Trends. (2020, October). [State-level data for understanding child welfare in the United States: Companion guide](#).
- <sup>11</sup> U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2021). [Child Maltreatment 2019](#).
- <sup>12</sup> Capacity Building Center for States. (2018). [Child protective services: A guide for caseworkers](#). Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services.
- <sup>13</sup> Child Welfare Information Gateway. (2018). [Acts of omission: An overview of child neglect](#). U.S. Department of Health and Human Services, Children's Bureau.
- <sup>14</sup> Child Welfare Information Gateway. (2021). [Child Maltreatment 2019: Summary of key findings](#). U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau.
- <sup>15</sup> Child Trends. (2020, October). [State-level data for understanding child welfare in the United States: Companion guide](#).
- <sup>16</sup> Cénat, J. M., McIntee, S., Mukunzi, J. N., & Noorishad, P. (2020). [Overrepresentation of Black children in the child welfare system: A systematic review to understand and better act](#). *Children and Youth Services Review*, 120, 105714.
- <sup>17</sup> National Indian Child Welfare Association. (2019). [Disproportionality in child welfare](#).
- <sup>18</sup> Annie E. Casey Foundation's Kids Count Data Center. (2018). [Children in foster care by race and Hispanic origin in the United States](#).
- <sup>19</sup> Child Welfare Information Gateway. (2021, April). [Child welfare practice to address racial disproportionality and disparity](#). U.S. Department of Health and Human Services, Administration for Children and Families, Children's Bureau.
- <sup>20</sup> Martin, M. & Citrin, A. (2014, August). [Prevent, protect & provide: How child welfare can better support low-income families](#). State Policy Advocacy and Reform Center, First Focus, and Center for the Study of Social Policy.
- <sup>21</sup> Houshyar, S. (2014, January 27). [Poverty and child neglect: What we know and what we need to do](#). First Focus on Children.
- <sup>22</sup> Pimentel, D. (2019). [Punishing families for being poor: How child protection interventions threaten the right to parent while impoverished](#). *Oklahoma Law Review*, 71(3).
- <sup>23</sup> Children's Defense Fund. (2021). [The state of America's children, 2021: Factsheet](#).
- <sup>24</sup> Children's Defense Fund. (2021). [The state of America's children, 2021](#).
- <sup>25</sup> Haider, A. (2021, January 12). [The basic facts about children in poverty](#). Center for American Progress.
- <sup>26</sup> Children's Defense Fund. (2021). [The state of America's children, 2021](#).
- <sup>27</sup> Haider, A. (2021, January 12). [The basic facts about children in poverty](#). Center for American Progress.



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- <sup>28</sup> Dale, M. K. (2014, April 10). [Addressing the underlying issue of poverty in child-neglect cases](#). American Bar Association.
- <sup>29</sup> Eamon, M. K., Kopels, S. (2004). [“For reasons of poverty”: Court challenges to child welfare practices and mandated programs](#). *Children and Youth Services Review*, 26(9), 821-836.
- <sup>30</sup> Dale, M. K. (2014, April 10). [Addressing the underlying issue of poverty in child-neglect cases](#). American Bar Association.
- <sup>31</sup> Id.
- <sup>32</sup> Levison-Johnson, L. (2021, May 21). [Poverty and neglect are not the same: It’s time to realign our response](#). American Public Services Association.
- <sup>33</sup> Martin, M. & Citrin, A. (August 2014). [Prevent, protect & provide: How child welfare can better support low-income families](#). First Focus on Children.
- <sup>34</sup> Levison-Johnson, L. (2021, May 21). [Poverty and neglect are not the same: It’s time to realign our response](#).
- <sup>35</sup> Haider, A. (2021, January 12). [The basic facts about children in poverty](#). Center for American Progress.
- <sup>36</sup> [Family Poverty is Not Child Neglect Act](#), H.R. 573, 117<sup>th</sup> Congress. (2021).
- <sup>37</sup> Center for the Study of Social Policy. (2020, June 29). [What does it mean to abolish the child welfare system as we know it?](#)
- <sup>38</sup> Dale, M. K. (April 2019). [Addressing the underlying issue of poverty in child-neglect cases](#). American Bar Association.
- <sup>39</sup> [Family Poverty is Not Child Neglect Act](#), H.R. 573, 117<sup>th</sup> Cong. (2021).
- <sup>40</sup> Minoff, E., Houshyar, S., Citrin, A., Martínez, V., & Martin, M. (2020, December). [What we owe young children: An anti-racist policy platform for early childhood](#). Center for the Study of Social Policy.
- <sup>41</sup> Hirsch, S., Rose-Waters, M., Tracy, N., & Wittek, C. (2021, June). [Economic supports can prevent child abuse & neglect in North Carolina](#). Prevent Child Abuse NC.
- <sup>42</sup> Martin, M. & Citrin, A. (August 2014). [Prevent, protect & provide: How child welfare can better support low-income families](#). First Focus on Children.
- <sup>43</sup> Weiner, D., Heaton, L., Stiehl, M., Chor, B., Kim, K., Foltz, R., Farrell, A., & Heisler, K. (2020). [COVID-19 and child welfare: Using data to understand trends in maltreatment and response](#). Chapin Hall.
- <sup>44</sup> Movement for Black Lives. [End the war on Black women](#).
- <sup>45</sup> S7553A, 2021-2022 [Legislative Session: S5484](#), (New York).
- <sup>46</sup> ABA Center on Children and the Law & National Council of Juvenile and Family Court Judges. (2021, March). [Supporting early legal advocacy before court involvement in child welfare cases](#)
- <sup>47</sup> Casey Family Programs. (2019, August). [How does high-quality legal representation for parents support better outcomes?](#)
- <sup>48</sup> American Bar Association Center on Children and the Law & National Council of Juvenile and Family Court Judges. (2020, July). [Ensuring high-quality legal representation for parents and children](#).

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