

REIMAGINE CHILD SAFETY

**A SET OF DEMANDS AND POLICY RECOMMENDATIONS
TO HELP END STATE SANCTIONED KIDNAPPING
THROUGH THE RIPPING APART OF FAMILIES
UNDER THE GUISE OF CHILD SAFETY**

Developed by the Reimagine Child Safety Coalition

May 2022



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REIMAGINE CHILD SAFETY



On November 16, 2021, the Reimagine Child Safety Coalition presented a list of demands, calling on the Los Angeles County Board of Supervisors to reimagine child safety and hold the Los Angeles County Department of Children & Family Services (DCFS) accountable for meeting the needs of children and families across the county. We urged the Board of Supervisors to review and revise its policies and take action relating to DCFS and associated agencies accordingly. Since that time, our coalition has met with each supervisor's office to discuss our demands and share preliminary policy recommendations. As of May 16, 2022, exactly six months after our initial outreach, minimal action has been taken and no substantive changes have been made.

The family regulation system¹—still perceived by many to function to protect children—typically has the opposite impact. Instead of increasing child safety, removing children from their families often produces devastating outcomes, including exceedingly low graduation rates, high incarceration rates, poor health outcomes, and high rates of physical and sexual violence experienced while in foster care. The family regulation system is rooted in centuries of violence, white supremacy, and attempted cultural genocide. As the largest locally-run, so-called “child welfare” agency in the nation, the Los Angeles County Department of Children & Family Services is a key player in this racist system, causing irreparable harm and trauma by needlessly ripping apart thousands of families annually.

In an effort to expedite relief for families, our coalition has developed policy recommendations to accompany each of our demands. These recommendations offer a plan to address some of DCFS's most inequitable policies and practices, and identify proven strategies that can keep children safe while simultaneously preventing families from being ripped apart.

Our families cannot wait! We urge the Los Angeles County Board of Supervisors to act with urgency on behalf of families and implement our recommendations now!

¹We use the term “family regulation system” to refer to the “child welfare system” because it more accurately describes a system meant to “regulate and punish Black and other marginalized people.” Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, *The Imprint* (2020) at <https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480>. See also Nancy D. Polikoff and Jane M. Spinak, *Forward - Strengthening Bonds: Abolishing the Child Welfare System and Re-Envisioning Child Well-Being*, 11 *COLUM. J. RACE & LAW* 427, 431 (2021) at <https://journals.library.columbia.edu/index.php/cjrl/issue/view/789/188>.



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ABOUT THE REIMAGINE CHILD SAFETY COALITION

The Reimagine Child Safety Coalition is a group of advocates, organizations, and impacted families united to raise awareness about the harms of the family regulation system. Our coalition, which includes more than 40 organizations,² along with individuals and families that have been directly impacted by the family regulation system, aims to break down the family regulation policies in Los Angeles that target and harm Black and Indigenous families, as well as low-income and other families of color.

WHAT WE BELIEVE

We believe that...

- 1 the so-called child welfare system is operating exactly as it was designed, which is as a racist family policing system;
- 2 children, especially Black and Indigenous children, are being needlessly ripped from their families and harmed by a system that claims to exist to protect them, but in fact creates worse outcomes for children;
- 3 the family policing system creates intergenerational trauma that undermines the fabric of entire communities;
- 4 the family policing system is irreparably rooted in white supremacy;
- 5 the family policing system conspires with other fundamentally white supremacist systems including the criminal legal system, education, healthcare, housing, and others;
- 6 we must build a network of community-based resources accessible to families wholly apart from the family policing system;
- 7 we must center the voices of families and communities with lived experience and expertise in our work;
- 8 we must fundamentally reimagine child safety.

OUR VISION

We envision a world in which all communities and families have the resources and support that they need to thrive; a world in which the safety of children is not determined by the economic status of their families, and parents are not deemed “unsafe” or “unfit” based on the color of their skin. In our reimagined world:

- Children’s inalienable rights to their parents are not stripped from them. In our current world, that is most likely to happen to Black and Indigenous children.
- Financial and other resources are equitably distributed to communities so that those who are systematically disadvantaged by institutionalized racism receive the greatest investments and are able to determine for themselves the allocation of those resources.
- Families that have been ripped apart by the current racist family policing system receive reparations for the harm caused and resources for ongoing support to address the trauma and irreparable damage they’ve suffered.

² For a full list of our members, visit <https://www.reimaginechildssafety.org/our-partners>

OUR DEMANDS

We are reimagining child safety, and our plan for sustainable, systemic change starts with demanding that the Los Angeles County Board of Supervisors take immediate action to prevent children and families from becoming involved with the system and end the practice of family separation by:

- 1 Ending law enforcement “partnerships” with social workers, including but not limited to placing a moratorium on Multi Agency Response Teams (MART) and enhancing proper protocols with emergency response social workers. Law enforcement should halt the practice of referring children to DCFS because their parent or guardian has experienced domestic violence.
- 2 Placing a moratorium on detentions related to:
 - a. general neglect as defined by DCFS
 - b. children whose parent or guardian has experienced domestic violence
 - c. children or parents who test positive for drugs during pregnancy or at birth
- 3 Providing counsel to parents at the beginning of any DCFS investigation.
- 4 Granting parents the right to record all interviews and conversations to ensure accuracy and integrity of the information gathered and presented in their cases.
- 5 Mandating that social workers advise parents of the above rights (demands #3 and 4) at first interaction with DCFS. Evidence taken in violation of these rights may not be used in court.
- 6 Requiring DCFS to properly and adequately inform all parents (including properly identifying United States veterans, incarcerated parents, and others), and connecting them to all available services, and pay for all court-ordered services.
- 7 Prioritizing relative/kinship foster care placements and removing any and all barriers for family members who want to care for children who have been removed from their parents. This includes updating policies and legislative priorities related to denial of potential kinship caregivers with criminal backgrounds (including anyone who has been included in the gang database) or who do not meet rules about space requirements. Utilize county funds or child specific placements to assist families who do not meet Resource Family Approval requirements.
- 8 Eliminating drug testing by DCFS and by hospital staff for pregnant, laboring, and postnatal people, and infants in hospitals.
- 9 Establishing an independent civilian oversight committee led by parents/people with lived experience. The oversight committee shall have authority to allocate funding to community-based-and-run family preservation-oriented programs that support parents’ ability to best care for their own families and avoid involvement in the system (including raising awareness about Prevention and Aftercare Networks, connecting them to housing, legal aid, employment opportunities, and economic resources).
- 10 Upholding the rights of incarcerated parents and their children in foster care by ensuring consistent communication and visitation; providing education and resources to parents on their rights; and addressing issues faced by incarcerated parents who miss key deadlines when they are transferred to new facilities.
- 11 Guaranteeing basic income for all families.



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WHAT IS THE SCOPE OF THE RELATIONSHIP BETWEEN DCFS AND LAW ENFORCEMENT AGENCIES?

Community variation in law enforcement partnerships with child welfare agencies plays a large role in determining how law enforcement and child welfare agencies work together and become involved in each other's cases.¹ The relationships among Los Angeles County-based law enforcement agencies and DCFS are understudied, but some publicly available information exists about these collaborations and is listed below:

- In California, police are mandated reporters—i.e., they shall make reports of suspected child abuse or neglect to child welfare agencies.²
- DCFS workers are required to cooperate with law enforcement agencies any time police are concurrently investigating cases of child abuse. Their collaboration includes interviewing alleged victims of abuse and assisting in the gathering of evidence.³ This includes interrogating children without their parents' knowledge or permission.
- Emergency DCFS workers have the discretion to call police anytime they are investigating a referral or when they decide to remove a child from their home.⁴
- DCFS has executed Memorandums of Understanding (MOUs) with all law enforcement agencies in Los Angeles County.
 - DCFS has executed a Memorandum of Understanding (MOU) with a number of law enforcement agencies to collaborate on Multi-Agency Response Teams (MART). MARTs are a partnership between police, DCFS and the Department of Mental Health (DMH) that conducts raids on families with children where someone in the household is suspected of drug use, gang involvement, or trafficking.⁵ MART teams are also called upon by government agencies to aid in abatement efforts that may result in families being evicted from their homes.⁶
 - DCFS has also executed MOUs with certain law enforcement agencies and the Probation Department to collaborate as part of the Commercially Sexually Exploited Children (CSEC) Unit. This is a partnership between police, DCFS, and Probation to investigate missing youth or youth who have run away from placement.
- The Interagency Council on Child Abuse and Neglect (ICAN) is a partnership between DCFS, the LA County Sheriff's Department, LA County District Attorney, LA Community Child Abuse Councils, and First 5 LA. Through ICAN, these agencies share information about children and their families who have had criminal justice or DCFS contact, identifying these families as "at risk for abuse or neglect."⁷



WHY LAW ENFORCEMENT PARTNERSHIPS WITH THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES (DCFS) ARE HARMFUL



Law enforcement and DCFS collaborations do not keep our children or families safe. Law enforcement is systemically rooted in criminalization, racism, and anti-Black beliefs.⁸ The Los Angeles County Board of Supervisors has also recognized that DCFS must confront and address its own foundations in racism and systemic inequality.⁹ Encouraging collaborations between law enforcement agencies and DCFS creates lasting harms to children and families, especially in Black, Brown, and Indigenous communities where violence and family separation have been historically perpetuated by police and DCFS. Recent high-profile news stories about members of our community exemplify why removing children from their families expose children to danger and¹⁰show that law enforcement's connections with DCFS can endanger families.¹¹

DCFS's collaboration with law enforcement can dissuade people from reporting incidences of abuse or neglect, and collaboration between police and child welfare agencies is more likely to result in the allegations being substantiated by a court.¹² This is concerning because California law provides few protections to families who are contesting police statements in dependency court. Although police reports may become part of the official court record of the parents they interact with, there is no accountability for what they say, do, and write in the reports.¹³ Hearsay rules do not apply to police officers in dependency court and therefore, police cannot be called as witnesses and cross-examined to determine if there are credibility issues or to challenge anything written in the reports.¹⁴

Racist policing tactics are infused into DCFS practices and court hearings. During MART raids, police and DCFS interrogate and remove all children from the household, even if the children are with someone else whose presence in the house was not the initial basis for the raid. Those parents are presumed guilty of child abuse or neglect by association. Attorneys representing parents whose children were taken during MART raids report that when social workers and judges see MART in the court filings, it's automatically assumed that the parents are guilty. Additionally, police and DCFS technologies work hand-in-hand to surveil families. The ICAN partnership contributes to biased database analytics that use classist, ableist, and racist lenses to "predict" harm.¹⁵

WE NEED TO END DCFS'S PARTNERSHIPS WITH LAW ENFORCEMENT AGENCIES IN LOS ANGELES COUNTY. DECOUPLING LAW ENFORCEMENT FROM DCFS WILL CREATE FEWER OPPORTUNITIES FOR FAMILIES TO BE CAUGHT UP IN THE FAMILY REGULATION AND POLICING SYSTEMS.

WE ARE ASKING THE BOARD OF SUPERVISORS TO:

- End any existing MOUs and data sharing protocols between DCFS and all law enforcement agencies, including the Los Angeles County Sheriff's (LASD) and Probation Departments.
- Amend DCFS policies to end the requirement that law enforcement and DCFS conduct concurrent investigations in any instances of domestic or family violence.
- Require LASD to draft a new mandated reporting policy that states deputies will not make mandated reports to DCFS unless a child is a victim of physical or sexual abuse, or being intentionally deprived of food, clothing, shelter, medical care or supervision.
- End DCFS's discretion to enter into agreements with law enforcement to conduct concurrent investigations, and limit emergency workers' discretion to call police when they decide to remove a child from their home.
- Divert any County funds that were used to fund partnerships between DCFS and law enforcement agencies away from the criminalization of our families and toward community-based organizations that provide prevention and family preservation services, prioritizing resources to communities and individuals impacted by domestic violence, racial discrimination, and poverty.

IN ORDER TO END THESE PARTNERSHIPS WITH DCFS, THE BOARD SHOULD TAKE THE FOLLOWING STEPS:

- Conduct further investigation to accurately capture the full extent of the partnerships between DCFS and law enforcement agencies in Los Angeles County, which should include:
 - Cataloging all MOUs between DCFS, LASD, Probation, and any other law enforcement agencies.
 - Requesting and obtaining all data and information sharing protocols between DCFS, LASD, Probation, and/or conducted via ICAN.
- The Board should also ensure public access to all documents and data that are discovered in this process.



REFERENCES

- 1 Theodore P. Cross et al., *Criminal Investigations in Child Protective Services Cases: An Empirical Analysis*, 20(2) *Child Maltreatment* 104-14 (2014). This community variation rests on a number of different factors, including: (1) statutes and policies on the definition of child neglect or abuse, cross-reporting, and joint investigations; (2) the quality of the interpersonal relationships between child welfare staff and law enforcement in a given community; (3) the discretion evicted child welfare staff and law enforcement exercise in collaborating on individual cases of alleged child abuse or neglect; and (4) whether law enforcement and the child welfare agency have a formalized relationship via MOU. This suggests that research about law enforcement relationships with child welfare agencies are complex, highly individualized, and regional in scope.
- 2 Cal. Penal Code §§ 11165.7, 11165.9.
- 3 Los Angeles Cty. Dep't of Children & Family Servs., *Emergency Response Referrals Alleging Abuse In Out-of-Home Care Regarding Children Who Are Under DCFS Supervision 0070-548.05*, in *Child Welfare Policy Manual* (2021), 0070-548.05; Los Angeles Cty. Dep't of Children & Family Servs., *Concurrent Investigations with Law Enforcement 0070-547.13*, in *Child Welfare Policy Manual* (2014), 0070-547.13.
- 4 See *Concurrent Investigation*, *supra* note 3.
- 5 Los Angeles Cty. Dep't of Children & Family Servs., *Specialized Programs*, <https://dcfs.lacounty.gov/about/what-we-do/dcfs-specialized-programs/> (last visited Dec. 15, 2021).
- 6 Los Angeles Cty. Dep't of Children & Family Servs., *Multi-Agency Response Team (MART) Referrals 0070-548.09*, in *Child Welfare Policy Manual* (2021), 0070-548.13.
- 7 Inter-Agency Council on Child Abuse & Neglect, *Family and Children's Index*, <https://www.ican4kids.org/family-and-children-s-index-fci> (last visited Dec. 15, 2021).
- 8 See, e.g., [this example](#); [this example](#); [this example](#).
- 9 See *Reimagining Safety Health and Human Services for the County's Children and Families*, L.A. Bd. of Supervisors (Nov. 24, 2020) (Motion of Hahn & Ridley-Thomas) <http://file.lacounty.gov/SDSInter/bos/supdocs/150797.pdf>; *Toward a Color-Blind Child Welfare System: Pilot Program for Safeguarding Against Racial Bias*, L.A. Bd. of Supervisors (July 13, 2021) (Motion of Holly J. Mitchell) <http://file.lacounty.gov/SDSInter/bos/supdocs/159902.pdf>
See *Reimagining Safety Health and Human Services for the County's Children and Families*, L.A. Bd. of Supervisors (Nov. 24, 2020) (Motion of Hahn & Ridley-Thomas) <http://file.lacounty.gov/SDSInter/bos/supdocs/150797.pdf>; *Toward a Color-Blind Child Welfare System: Pilot Program for Safeguarding Against Racial Bias*, L.A. Bd. of Supervisors (July 13, 2021) (Motion of Holly J. Mitchell) <http://file.lacounty.gov/SDSInter/bos/supdocs/159902.pdf>
- 10 Jaclyn Cosgrove, *L.A. County to Investigate Alleged Abuse of 4-Year-Old By His Foster Mother*, L.A. Times, Nov. 17, 2021, <https://www.latimes.com/california/story/2021-11-17/l-a-county-to-investigate-alleged-abuse-of-4-year-old-by-his-foster-mother>
- 11 *Black Lives Matter - Los Angeles, This is Not A Drill: Reimagine Child Safety*, at 1:02:08-1:37:34 (Dec. 4, 2021 at 8:03AM) <https://www.facebook.com/blmla/videos/722406582057685/> (description by Kayla Love and Khari Jones of an incident where a social worker and law enforcement officers entered their home, drew a gun, brought a battering ram, and detained Jones on the day of the birth of their child).
- 12 Frank Edwards, *Family Surveillance: Police and the Reporting of Child Abuse and Neglect*, 5 *Russell Sage Found. J. of the Soc. Scis.*, 50, 56 (2019).
- 13 See, Cal. R. Ct. 5.546(b) (providing that petitioners must disclose police, arrest, and crime reports as part of discovery in dependency court)
- 14 See Cal. Welf. & Inst. § 355(c)(1)(C) (providing that hearsay from a police officer contained in a social worker's report can be the basis of a dependency court's jurisdiction).
- 15 See *Stop LAPD Spying Coalition, Abolishing the Surveillance of Families 6* (2020) <https://stoplapdspying.org/wp-content/uploads/2020/10/LA-County-DCFS-Information-Sharing-Surveillance-Oct-2020.pdf> (“[T]he Office of Child Protection utilizes racist, classist, and discriminatory algorithms to determine the risk of a family who interacts with DCFS of being re-reported for abuse, entering the foster care system, or dying at the hands of their caregivers.”)



PLACE A MORATORIUM ON REMOVING CHILDREN FOR ALLEGATIONS OF NEGLECT

WE DEMAND THAT THE LOS ANGELES COUNTY BOARD OF SUPERVISORS END THE DETENTION OF CHILDREN BY LOS ANGELES DEPARTMENT OF CHILDREN AND FAMILY SERVICES BASED ON:

- **ALLEGATIONS OF "GENERAL NEGLECT"**
- **A PARENT OR GUARDIAN'S EXPERIENCE OF DOMESTIC VIOLENCE**
- **POSITIVE DRUG TESTS OF PARENTS OR CHILDREN DURING PREGNANCY OR AT BIRTH**

Detentions of children based on general neglect allegations, domestic violence, and/or pregnancy-related drug testing do not support families or protect children. Instead, they create an overbroad net that harms families by trapping them into the system. The Reimagine Child Safety Coalition demands the Los Angeles Department of Children and Family Services (DCFS) stop such detentions.

There is much evidence to show that there is serious trauma associated with family separation and being placed in foster care.¹ Of all of the adverse childhood experiences (ACEs) that interfere with children's relationships with their caretakers, forced separation is "the most significant independent predictor of risk for emotional and behavioral problems in childhood."² In fact, the harm of separation is so widely recognized that it led Congress to pass the Family First Prevention Services Act (FFPSA), which was specifically enacted in 2018 to turn the focus of the current child welfare system toward keeping children safely with their families to avoid the trauma that results when children are placed in foster care.³

WE ARE ASKING THE BOARD OF SUPERVISORS TO:

- Direct DCFS to stop detentions of children based solely on allegations of general neglect in Los Angeles County to keep more families together. The Board should instead shift resources to positive, community-based supports for families that address root causes of "general neglect" and ensure free voluntary support services and/or appropriate resources are offered directly and in a timely manner.
- Direct DCFS to stop detentions of children based solely on a parent or guardian's experience of domestic violence in Los Angeles County.⁴
- Direct DCFS to stop detentions based solely on a positive drug test result in a pregnant or birthing parent or newborn child.
- Implement a family support network that exists separate and apart from DCFS, where in lieu of DCFS involvement, community organizations will conduct outreach to families who may be experiencing domestic violence and provide resources and services directly to the family in order to alleviate system-involved trauma and poverty-related trauma, and to enable survivors of domestic violence to access safety. Families should be able to access this system directly without a referral from DCFS.
- Decrease funding currently associated with large caseloads of general neglect allegations and invest in prevention services geared towards stemming the root causes of general neglect. For example, the county should explore providing more resources at mutual aid centers in public community-centered locations such as parks, recreation centers, and libraries.
- Ensure resources available address families in a trauma-informed, holistic way to alleviate both system-involved trauma and poverty-related trauma.

Provide Universal Basic Income to impacted families and connect them to services- see related Reimagine Child Safety Demands number 6 and 11.



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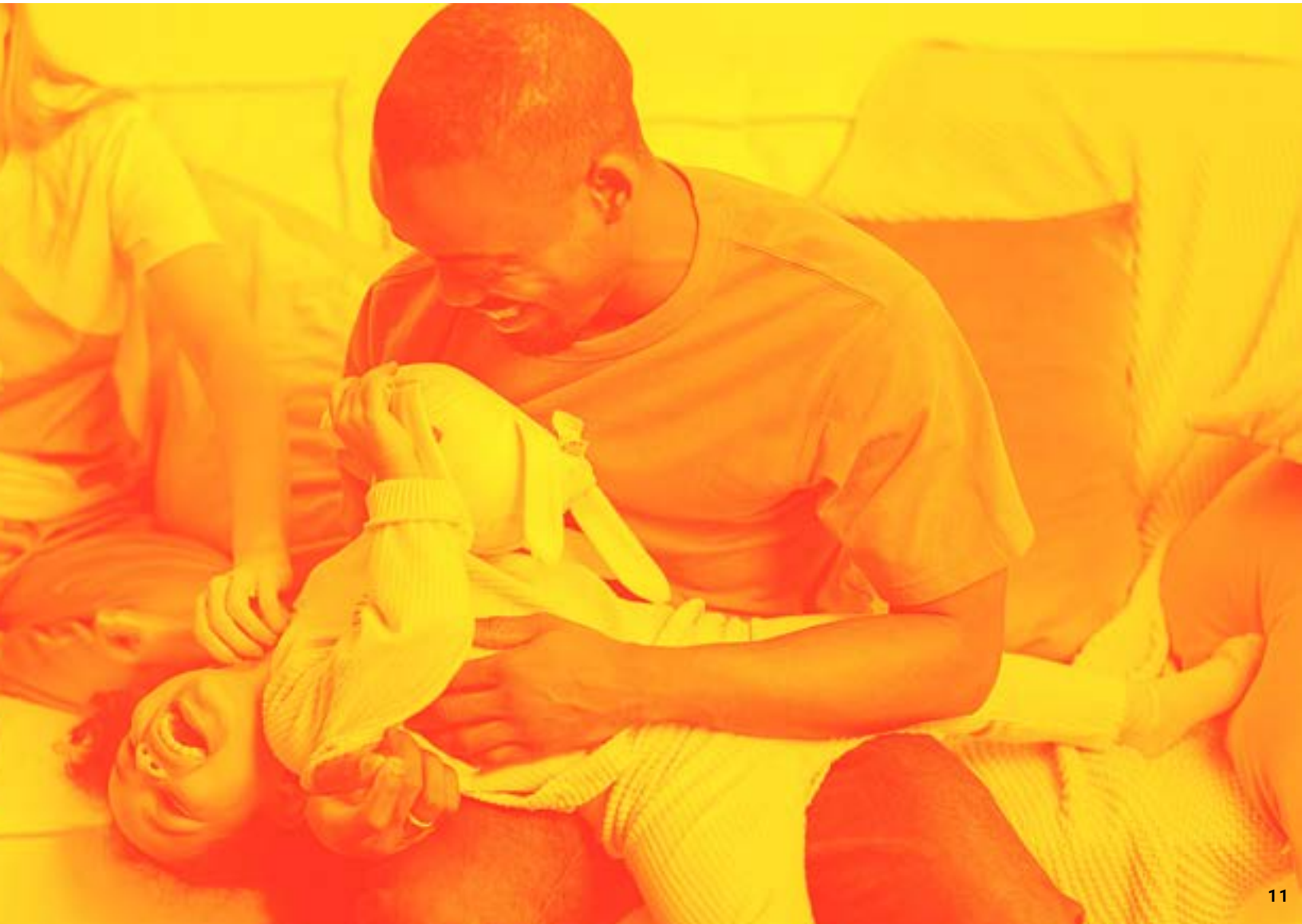


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- 1 Children’s Rts. Litig. Comm. of the A.B.A. Section of Litig., *Trauma Caused by Separation of Children from Parents: A Tool to Help Lawyers*, A.B.A. (Jan. 2020) <https://www.americanbar.org/groups/litigation/committees/childrens-rights/trauma-caused-by-separation-of-children-from-parents/>; UCLA Pritzker Ctr. for Strengthening Child. & Fam., *supra* note 5, at 6-7.
- 2 UCLA Pritzker Ctr. for Strengthening Child. & Fam., *supra* note 5, at 7 (citing Kristen R. Choi et. al., *The Impact of Attachment–Disrupting Adverse Childhood Experiences on Child Behavioral Health*, 221 *J. Pediatrics* 224 (2020)).
- 3 *Child Welfare Info. Gateway, Family First Prevention Services Act*, <https://www.childwelfare.gov/topics/systemwide/laws-policies/federal/family-first/> (last visited Feb. 9, 2022).
- 4 Related to this policy change, we are also asking the Board to end law enforcement partnerships with DCFS, in part by amending DCFS and Los Angeles County Sheriff’s Department (LASD) policies that cause families dealing with domestic violence issues to be funneled into the system. Those demands include calls to:
 - Amend DCFS policy to end the requirement that law enforcement and DCFS conduct concurrent investigations in any instances of domestic or family violence.
 - Require LASD to draft a new mandated reporting policy that states deputies will not make mandated reports to DCFS unless a child is a victim of physical or sexual abuse, or being intentionally deprived of food, clothing, shelter, medical care or supervision.



END DETENTIONS OF CHILDREN BASED ON ALLEGATIONS OF NEGLECT



WHY IT MATTERS

Detentions related to “general neglect” harm families by separating them rather than addressing the root causes of poverty and lack of access to resources. DCFS must end the practice of removing children based on allegations of “general neglect” and instead provide meaningful access to resources families want and/or need.

WHAT DOES IT MEAN TO REMOVE A CHILD FOR “GENERAL NEGLECT”?

Under California law, “general neglect” is broadly defined as “the negligent failure of a person having the care or custody of a child to provide adequate food, clothing, shelter, medical care, or supervision where no physical injury to the child has occurred.”⁵

General neglect does not include situations that are otherwise considered “severe neglect.” The law defines severe neglect as situations where a person willfully causes or permits a child to be in a situation that endangers their health, including intentionally failing to provide adequate food, clothing, shelter, or medical care.⁶

As a result of this broad definition, general neglect often serves as a proxy for poverty and results in the reporting of a wide array of situations that could otherwise be addressed by providing resources to families. For example, a child attending school in dirty clothes or who has not washed because they are living in a car might trigger a referral for general neglect. Despite poverty and lack of resources being the clear root of such issues, general neglect continues to make up the primary reason for removing children and incentivizes DCFS to surveil and punish families based on their socio-economic status. Several studies have found that family income, rather than severity of abuse, is the most predictive factor of a child being placed in foster care.⁷

WHY IS IT HARMFUL TO REMOVE A CHILD FOR “GENERAL NEGLECT”?

It is extremely harmful to both children and their families to remove children from their homes for general neglect. Instead of providing resources directly to families to allow them to stay together, DCFS sends children to strangers and facilities who are paid to care for them. Separating children from their families based on their socio-economic circumstances, even for short periods of time, results in irreparable harm and trauma to families. Studies show that keeping children with their families reduces trauma.⁸ Providing resources to families experiencing poverty instead of removing children therefore not only alleviates the traumatic effects associated with system-involvement, but also serves to reduce poverty-related trauma overall.

In addition to over-investigating low-income families, investigations for general neglect are also used to disproportionately target Black and Indigenous families. Eighty-nine percent of all children involved with DCFS are children of color.⁹ A lack of cultural competency and the subjective and overbroad nature of what constitutes general neglect feeds this pipeline.¹⁰

For these reasons, both parent and child advocates alike support limiting removals on the basis of “neglect.”



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HOW MANY CHILDREN ARE BEING REMOVED FROM THEIR FAMILIES FOR GENERAL NEGLECT?

There is currently an epidemic of children being removed from their homes for general neglect. In fact, general neglect cases make up the majority of child welfare cases:

- From 2016-2018, nearly 90 percent of first entries into foster care in California were due to neglect allegations.¹¹
- One-third of children referred to Los Angeles DCFS in 2021, or 644,771 children, were referred for general neglect.¹²
- In Los Angeles, more than 5,000 children were removed by DCFS in 2021 because of general neglect.¹³

By ending detentions based on general neglect, the number of child welfare cases in Los Angeles would reduce significantly, freeing up resources to focus on providing prevention services and other alternative community resources that families need. The California Legislative Analyst's Office recently published a report questioning removals based on neglect and encouraging law makers to rethink the definition of neglect.¹⁴



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- 5 Cal. Penal Code Section 11165.2(b); see also Welfare and Institutions Code 300(b)(1).
- 6 Cal. Penal Code Section 11165.2(b); see also Welfare and Institutions Code 300(b)(1).
- 7 Andrea Charlow, *Race, Poverty, and Neglect*, 28 Wm. Mitchell L. Rev. 763, 784 (2001).
- 8 See e.g., Thomas E. Keller et. al. "Competencies and problem behaviors of children in family foster care: variations by kinship placement status and race," 23 Child. Youth Serv. Rev. 12 (Dec. 2001) (finding children in non-relative foster care experienced higher rates of problems compared to children in kin care), available at [https://doi.org/10.1016/S0190-7409\(01\)00175-X](https://doi.org/10.1016/S0190-7409(01)00175-X).
- 9 County of Los Angeles, Department of Children and Family Services, [Child Welfare Services Data Fact Sheet](#), 2021
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- 12 County of Los Angeles, Department of Children and Family Services, [Child Welfare Services Data Fact Sheet](#), 2021.
- 13 California Child Welfare Indicators Project, California Child Welfare Indicators Project, "Entries to Foster Care", available at <https://ccwip.berkeley.edu/childwelfare/reports/Entries/MTSG/r/ab636/s>.
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END DETENTIONS OF CHILDREN BASED ON ALLEGATIONS OF DOMESTIC VIOLENCE

THE DEPARTMENT OF CHILDREN AND FAMILY SERVICES (DCFS) ROUTINELY SEPARATES CHILDREN FROM PARENTS OR GUARDIANS EXPERIENCING DOMESTIC VIOLENCE

Los Angeles County's Department of Children and Family Services (DCFS) has the power to remove children from their home when a parent fails to, or is "unable" to, adequately supervise and protect their child and the child therefore suffers, or is at substantial risk of suffering, serious physical harm or illness.¹⁵ Under this definition, domestic violence is grounds for the separation of families.

Domestic violence, or intimate partner violence, can be defined as a pattern of abusive behavior used to gain or maintain power and control over an intimate partner.¹⁶ Abuse includes, but is not limited to, physical, sexual, emotional, economic or psychological actions or threats of actions.¹⁷ In cases where domestic violence is alleged, DCFS justifies the removal of a child by charging the parent experiencing domestic violence with "failing to protect" their child because the child is living in a household where domestic abuse is present.¹⁸ DCFS removes children from their parents' care even if the parent experiencing abuse takes affirmative steps to keep themselves and their children safe, for example, leaving the home or seeking a restraining order from the parent who caused harm.

As of September 2020, over half of all DCFS open cases involving allegations of domestic violence result in children being removed from their family home;¹⁹ this is not the case in other child protection departments across the country, which do not remove children for these types of allegations.



SEPARATING CHILDREN FROM A PARENT OR GUARDIAN WHO IS A VICTIM/SURVIVOR IS HARMFUL

Harm to Children

The intersection between domestic violence and the welfare of a child is more complex than how DCFS currently handles these cases. DCFS removes children from parents and guardians on the sole basis of "failure to protect" due to the child witnessing domestic violence, despite the absence of enough research to support witnessing domestic violence as causing more significant and lasting mental or emotional harm to children than family separation.²⁰ This policy is so arbitrary in practice that DCFS has been found to remove children from their parents without any substantial evidence that domestic violence occurred in their presence or that they were in serious danger of physical harm.²¹

Harm to Public Safety

While California's response to domestic violence is underfunded and incomplete, there are some services available to victims/survivors largely provided by nonprofit organizations.²² Nonetheless, data shows that victims/survivors of domestic violence are less likely to reach out to these resources because they fear help will result in them losing their child.²³ Even if a victim/survivor wants to reach out for support, the current status of California mandated reporting laws in practice are a disincentive for them to do so. Many of the entities that victims/survivors access for assistance report domestic violence to DCFS without any domestic violence training, including educators, health care professionals, counselors, and law enforcement.²⁴ Until mandated reporting laws are changed, Los Angeles must adopt local policies that support and encourage survivors to seek help, not punish them for reaching out.



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DCFS's removal of children from a parent who is a victim/survivor of domestic violence on the basis that they "failed to protect" that child fundamentally misconstrues the dynamics of domestic violence.

It fails to consider that victims of domestic violence are often forced to stay in abusive relationships because, amongst many reasons, a well founded fear of greater harm, the control exercised against them, lack of economic resources,²⁵ and an "underfunded and administratively fragmented" response to domestic violence on behalf of the state of California²⁶ At least one other jurisdiction has considered this issue and held that parents cannot be found responsible for neglect simply because they have been the victim of domestic violence and their child has been exposed to that violence.²⁷

Separating children from their caretaker solely because of the caretaker's status as a victim or survivor of domestic violence is the opposite of promoting child welfare and public safety.



SUPPORTING FAMILIES INSTEAD OF SEPARATING THEM HAS BEEN SHOWN TO BE BENEFICIAL TO CHILDREN

Currently, DCFS's policy on handling domestic violence cases is limited to guidance on assessment of the case and providing information and referrals to the victim/survivor.²⁸ These referrals are provided in the form of a list; the policy does not include assistance in connecting families to the services, or assistance paying for these services. This is not enough. Families thrive when they are provided with a community-based system of care that promotes their development and decreases their susceptibility to negative influences.²⁹ Los Angeles needs a community-based model where families can directly access supportive services, without the fear of separation or criminalization.

Financial and emotional support give parents more resources to protect their family from high levels of stress.³⁰ Data shows that the highest rate of economic returns comes from the earliest investments in prenatal care³¹ as well as child care and early childhood education.³² Victims and survivors of domestic violence need employment support and economic assistance to succeed³³ as well as an increase in free or affordable resources- such as legal aid, medical and mental health treatment, counseling, and access to housing.

Connecting families to community-based organizations independent of the child welfare system help victims and survivors feel more comfortable, and as such, increase the connection of immediate and appropriate services.³⁴ Los Angeles County houses a number of community-based organizations that already provide domestic violence service, mental health service, counseling, etc. Communities must invest in those services and ensure that families have access to them free of charge, in their neighborhoods, and without the risk of separation.

WE MUST STOP DETENTIONS BASED PURELY ON ALLEGATIONS OF DOMESTIC VIOLENCE AGAINST A PARENT OR GUARDIAN AND SHIFT RESOURCES TO POSITIVE, COMMUNITY-BASED SUPPORTS FOR FAMILIES THAT ADDRESS ROOT CAUSES.

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END DETENTIONS OF CHILDREN BASED ON PREGNANCY-RELATED DRUG TESTING

DRUG TESTS ARE NOT PREDICTORS OF CHILD ABUSE



A drug test is not a parenting test. State law supports that a newborn testing positive for drugs “is not in and of itself a sufficient basis for reporting child abuse or neglect.”³⁵ Yet attorneys who represent parents report that pregnant parents or their infants who test positive for certain substances are routinely referred to DCFS. This is so even though no study has demonstrated a causal link between drug use and child abuse.³⁶ Nor has research isolated the effects of prenatal drug exposure from other factors such as poverty or poor nutrition that may have a far larger role in developmental outcomes. Indeed, removing children from their families and placing them in foster care “is more toxic to children, parents and families than the alleged effects of drug use on pregnancy and parenting.”³⁸

The American College of Obstetricians and Gynecologists has taken the stand that seeking prenatal care should not expose a person to criminal or civil penalties, like the loss of custody.³⁹ Punitive policies for substance-using pregnant people can actually lead to increases in low birthweight or preterm birth babies.⁴⁰ Requiring health care providers to drug test and report pregnant people turns providers into arms of the police state,⁴¹ erodes providers’ relationships with their patients, and interferes with the provision of effective care.

The systematic removal of children from parents who use drugs has its roots in the failed “war on drugs.” Concurrent with the mass incarceration of Black and Brown people that resulted from the war on drugs was a similar increase in the number of families under surveillance by the family regulation system.⁴² Huge funding streams reimbursed states for removing children from their parents and placing them in foster care or adopting them, with no similar investment in drug treatment, health care, housing or childcare for families in the system.⁴³

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CURRENT PRACTICE WITH PARENT COUNSEL DURING DCFS INVESTIGATIONS

Currently, DCFS conducts an initial investigation before parents' counsel is appointed. In many cases, the child has already been removed from a parent's custody before a parent has a chance to talk with a lawyer. Parent counsel is appointed at the first hearing, when the judge determines whether a child should be removed from the custody of their parent or guardian and taken into custody of DCFS, or, if that's already happened, if removal should continue.¹ At this point, social workers have already conducted an investigation and written their reports.^{2 3}

Many days may pass between the opening of an investigation and the first court hearing. During that time period, families do not have any representation and are often unaware of the allegations made against them. Oftentimes, they do not see the extensive, complex paperwork explaining the allegations until minutes before the hearing. Compounding the problem for many parents, this paperwork is provided only in English. At the courthouse, parents have just a few minutes to discuss the details of their case with their court-appointed attorney before coming before a judge.

PRE-PETITION INTERDISCIPLINARY REPRESENTATION AS AN ALTERNATIVE TO CURRENT PRACTICE

While parents can seek court-appointed counsel at the initial dependency hearing, parents would greatly benefit from high-quality, pre-petition, interdisciplinary legal representation from the first moment of a DCFS investigation. This type of representation is pre-petition because it would begin from the initiation of DCFS contact with a family, rather than as a case is filed in court. It is interdisciplinary because it would involve attorneys working alongside social workers, housing advocates, mental health clinicians, and other providers to ensure that families can begin to meet their most urgent needs and avoid having their children removed. In contrast with current representation models, these teams would carry a small enough caseload that they could devote adequate time and attention to each family's needs.

Providing counsel to parents during the early stages of the family regulation process helps ensure parents understand the allegations against them, their due process rights, and know what to expect as the investigation unfolds. Further, when attorneys (with specific expertise in dependency proceedings) partner with social workers and parent advocates, this interdisciplinary team can help identify and address the issues that may have led to the family's contact with the system, such as needs related to housing, healthcare, or government benefits. Parents also would know to bring people who can speak up on their behalf, and they would have time to prepare family members to step up as caregivers in the event that the child is placed or remains in foster care.



The pre-petition interdisciplinary representation model has shown great promise in jurisdictions outside California.⁴ In an evaluation of a pilot program in Detroit, none of the 110 children who received services during the evaluation period entered foster care, and none of their families experienced a subsequent abuse or neglect investigation.⁵ New Jersey has achieved comparable results.⁶ A study looking at more than 9,500 system-impacted families in New York City (where this model is used in 90 percent of cases) found that the children of those families receiving interdisciplinary representation spent, on average, 118 fewer days in foster care.⁷

Importantly, in all eligible Title IV-E cases, the federal government will now reimburse half the cost of representation for parents and children. As such, it is likely that the provision of pre-petition, interdisciplinary representation would either be cost-neutral or save the County and state money because fewer children would end up in foster care or spend extended periods of time in care.

WE ARE ASKING THE BOARD OF SUPERVISORS TO:

ABANDON CURRENT PARENT COUNSEL PRACTICE AND ADOPT A PRE-PETITION INTERDISCIPLINARY MODEL THAT SUPPORTS AND STRENGTHENS RATHER THAN PUNISHES AND HARMS FAMILIES.

As the examples cited above make clear, pre-petition interdisciplinary representation can safely keep families together, avoiding the enormous trauma of needless placement with no compromise of safety. This model recognizes that parents who are reported to DCFS are often in need of support to strengthen their families, not punitive measures that rip them apart. Providing parents with legal counsel at the beginning of a DCFS investigation helps ensure that they are aware of their rights and can potentially provide insight that leads to support and services that help keep families together.

The Board of Supervisors should adopt this model and provide sufficient resources to make it available for all dependency cases in Los Angeles County.

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GRANTING PARENTS THE RIGHT TO RECORD ALL INTERVIEWS AND CONVERSATIONS TO ENSURE ACCURACY AND INTEGRITY OF THE INFORMATION GATHERED AND PRESENTED IN THEIR CASES

CURRENT PRACTICE

Children and parents are interviewed daily by Child Protective Services (CPS) to investigate child abuse or neglect. Such interviews are often conducted spontaneously with no witnesses or only the parent or guardian present. Currently, parents and guardians in California do not have the right to record interviews and conversations with a CPS worker unless the worker grants permission. There is currently no way to ensure the accuracy or integrity of the information gathered by CPS workers and presented in subsequent hearings, where judges often give great weight to worker testimony.

Expressly authorizing a parent or legal guardian to make video or audio recordings of their interview or interactions with a CPS social worker will promote accuracy and veracity of information gathered and equip parents with evidence they may need if a CPS social worker makes an error in their investigation. As with police body cameras, the presence of recorders alone may reduce worker error or intentional falsehoods.

WHY PARENTS NEED TO CREATE A RECORD OF INTERACTIONS WITH CPS SOCIAL WORKERS

Parents need the right to create a record of interactions with CPS because social workers can make serious errors in their investigations. There are many case examples that point to these errors or intentional falsehoods. In 2007, a lawsuit was filed in Orange County for damages caused by two CPS social workers – one of whom threatened a local mother to “submit” to the worker’s will or she would take her daughters from her.¹ The mother alleged that she was coerced into signing self-incriminating statements by threats to take her children away. The mother prevailed in her case. However, she and her children suffered unlawful trauma at the hands of a CPS social worker and may have avoided both the trauma and a lawsuit had the interaction been recorded.

In 2020, a Pennsylvania court found that a parent has a First Amendment right to record a CPS investigation.¹ In *In re Y.W.-B.*, the court found that a mother should have had the right to record child welfare officials conducting a home visit. The trial court had issued an order prohibiting the mother from recording child welfare workers during a home visit. The reviewing court analogized the facts to case granting free speech protections for individuals recording police officers in public spaces.³ Even though *Y.W.-B* involved the child welfare agency’s actions within the mother’s home, rather than police actions in the public, the court held that the First Amendment protects “the stock of information from which members of the public may draw” when discussing public issues.⁴

In 2021, Texas passed a law that mandates CPS investigators to verbally remind parents under investigation that they have the right to record interactions and appeal investigation results⁵. The bill was inspired by cases like a 2018 suit where a mother was able to prove through her recording of CPS that workers had knowingly lied, falsified documents, and omitted notations.



In the past several years, there has been a significant growth in the number of police officers using body-worn cameras in response to increased criticism after several controversial police incidents.⁷ Body-worn cameras for police help address issues of community trust, increase police accountability, and if needed, collect evidence. The results of a controlled study analyzing police interactions with civilians both with and without body-worn cameras suggests placement of body-worn cameras reduced complaints and use of force reports about police officers relative to officers not wearing body-worn cameras.

Child welfare workers play a role of “family police,” yet their interactions are not similarly recorded. Giving parents and guardians the right to record their interactions with CPS would have analogous benefits that body-worn cameras have had for law enforcement and the communities they police. Recordings could prevent inaccurate reports and deter improper social worker behavior. State legislation in California to create a right to record CPS workers was unsuccessfully attempted in 2014.⁸

PARENTS SHOULD HAVE THE RIGHT TO RECORD DCFS SOCIAL WORKERS DURING INVESTIGATIONS AND BE INFORMED OF THAT RIGHT

Parents and guardians should have the right to record interactions with CPS social workers. This right would not create any burden on social workers, as it is parents who would have the responsibility of recording. Recording CPS interactions would be discretionary, not mandatory. Helping parents create a record of their interactions with CPS can further accountability and transparency in an opaque system. Recordings will reduce social worker error, and result in keeping more families together, avoiding the enormous trauma of unneeded placement and separation.

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MANDATE THAT ALL PARENTS UNDER INVESTIGATION BE ADVISED OF THEIR RIGHT TO REMAIN SILENT

THE BOARD OF SUPERVISORS SHOULD MANDATE THAT SOCIAL WORKERS ADVISE PARENTS WHO ARE THE SUBJECT OF A DCFS INVESTIGATION OF THE RIGHT TO REMAIN SILENT, RIGHT TO RECORD AND THE RIGHT TO HAVE A FREE ATTORNEY, AND A WARNING THAT ANY STATEMENT THE PARENT MAKES CAN BE USED AGAINST THEM IN A COURT OF LAW. THIS ADVISEMENT MUST BE BOTH IN WRITING AND GIVEN ORALLY DURING THE PARENTS' FIRST INTERACTION WITH DCFS. STATEMENTS TAKEN IN VIOLATION OF THESE RIGHTS MAY NOT BE USED IN COURT.

CURRENT PRACTICE WITH DCFS INVESTIGATIONS

DCFS investigations initiate an adversarial process, one that can result in the permanent legal separation of a family. Families involved in DCFS investigations face a stark power imbalance between themselves and the government agencies investigating them. At the same time, parents are often unaware of a social worker's role, or of the rights they have as parents in investigations. Removing a child from their parents constitutes a traumatic experience, and the terror it invokes often results in parents feeling compelled to do or say things that they would not otherwise say or do.

Currently, there are no policies in the Welfare and Institutions Code requiring social workers to inform parents of their rights before questioning them, and no resources are allocated towards informing parents of their rights in these cases. As a result, parents are subjected to DCFS investigations without being advised that (a) the DCFS social worker is an adverse party against them; (b) DCFS social workers are required by law (mandated reporters) to report any statements made by a parent(s) that they subjectively believe rise to the level of actual or "substantial" risk of "abuse" or "neglect" (i.e. their statements will be used against them in a court of law); (c) they have a right to an attorney before and during questioning by DCFS or law enforcement; and (d) if they cannot afford an attorney, one will be appointed to represent them.

Under current policies, social workers can use parents' silence against them, making the claim that the parent was not cooperating with DCFS by choosing not to share information. This alleged "lack of cooperation" can then convince judges to make rulings against the parents. Conversely, parents may volunteer information in interrogations with social workers without being aware that it can be used against them in court.

Moreover, during investigations as well as throughout the pendency of a family regulation case, current policies exclude attorneys from DCFS interviews with parents. As a result of this policy, parents are coerced into speaking to DCFS or law enforcement officials without the presence of an attorney, despite the fact that DCFS social workers are able to receive support and advice from County Counsel throughout the investigative process.

Further, due to the lack of Miranda-like protections for parents, parents are often not given the opportunity to understand the allegations against them and are unaware that they have the right to dispute those allegations. DCFS policies give them and other law enforcement unfettered discretion to ask parents questions outside of the initial allegations against them, (under the guise of assessing the whole family situation rather than just the initial allegations) resulting in many DCFS petitions, piling on additional allegations beyond those made initially.



Finally, parents are not permitted to review statements attributed to them in DCFS investigators' "social study reports," which are used as evidence in these cases. As a result, parents' statements, which judges rely upon to justify detention or removal, are repeatedly misrepresented.

All of this makes it far more likely that everyone involved, from the frontline worker to a judge, will have an inaccurate picture of what is truly happening with a family. This can lead to children experiencing traumatic and unnecessary surveillance and/or removal from their homes, and for families who need referrals to concrete supports failing to obtain them.



MANDATED MIRANDA-LIKE PROTECTIONS AS AN ALTERNATIVE TO CURRENT PRACTICE



To be able to exercise their due process rights, including the right to remain silent and to have an attorney present, parents must be informed of these rights, the nature of DCFS investigations, and the allegations against them. Before initiating an investigation, DCFS social workers should be required to provide both a written and verbal Miranda-like warning to parents stating the following:


"This is an investigation of allegations of [state specific allegations] against you. I, as a DCFS social worker, may have interests in this matter that are adverse to your interests as a parent. I am a mandated reporter. If you say anything to me and I believe it rises to abuse or neglect or that your child is at substantial risk of abuse or neglect, I am required by law to substantiate the allegation against you. This may lead to supervision by the court and/or removal of the children from your home. You have the right to remain silent. Anything you say can and will be used against you in a court of law. It is possible that additional allegations could be brought against you, that your children could be removed from you based on what you say. Additionally, you should know that a possible outcome of any court case brought as a result of this investigation is the termination of your parental rights and the placement of your children for adoption. Your statements and other evidence I collect during this investigation will affect whether such a court case is brought. You have the right to an attorney, and that attorney can be present during any questioning by DCFS. If you cannot afford an attorney, an attorney will be appointed to represent you."²

In addition to verbally Mirandizing parents, social workers should provide parents with a written document explaining these rights. Parents should sign these documents to acknowledge that they have been informed of their rights in a DCFS investigation.

Implementing Miranda-like protections will ensure that, from the moment an investigation is initiated, parents are aware that social workers are adversarial to their interests as parents in DCFS investigations and will seek evidence that provides a basis to separate their children from them, even sometimes reframing neutral evidence so that it provides this basis and disregarding evidence that demonstrates a family's strengths. This will hopefully allow parents to use greater discretion when deciding whether to speak to social workers and what information to share, as well as ensuring that DCFS could not use parents' silence against them in court to claim that they are non-cooperative and take parents' children away from them.

Informing parents of their rights will also encourage more parents to exercise their due process rights and have attorneys present during questioning, preventing parents from being coerced into providing statements to DCFS.

As discussed above, parents should have the opportunity to review and sign social study reports before they can be used in court. In addition to the provision of Miranda-like protections, parents should be permitted to review any statements that will be attributed to them in the report before they can be relied upon by a judge to justify detention or removal of a child at a Dispositional hearing.



In addition to safeguarding parents’ due process rights, this policy will free up financial resources that can be used to directly help families and reduce the number of families in the system. Parents could hear Miranda-like warnings and still decide to make voluntary statements to social workers—this often happens in criminal court—but this practice could potentially shrink the number of families in the system. Moreover, DCFS and judges will no longer have the power to remove children simply because the parents exercised their right not to speak to the government.

Right now in New York, families are fighting for similar rights. See NY State Senate Bill S5484A, which provides that “parents who are the subject of a child protective service investigation with the ability to have their rights communicated to them at the inception of said investigation.³ These include the right to remain silent, speak to a lawyer, and not permit entry into their home.”⁴

Here, like New York, families are realizing that “There’s a level of fear and intimidation that a parent feels during an investigation, and if they don’t know what their rights are...” then they have no way of asserting them.⁵ Though the bill failed last year, it could be reintroduced this year.

OUR REQUEST TO THE BOARD OF SUPERVISORS

As established above, providing Miranda-like warnings to parents in DCFS investigations can ensure that parents are aware of their rights when facing the potential removal of their child, an extremely violent, highly punitive and ultimately traumatic act that the government inflicts on families.⁶

Therefore, the Board of Supervisors should adopt this policy and mandate it for social workers in Los Angeles County.

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- ¹ Note that under current law, *WIC 317(b)* provides that parents “shall” or must be appointed an attorney if they cannot afford one only in situations where the child has been removed or DCFS recommends removal. In other cases, the Court “may” appoint an attorney if the parent cannot afford one. See *WIC 317 (a)*. Our position is that the Court should be required to appoint an attorney *whenever* a new case arises, as removal is essentially always a possibility in Children’s Court.
- ² Refer to footnote one for information on when a parent is currently entitled to an attorney.
- ³ See NY State Senate Bill S5484B <https://www.nysenate.gov/legislation/bills/2021/s5484>
- ⁴ <https://jmacforfamilies.org/active-campaigns>
- ⁵ Quote from New York City Council Member Stephen Levin <https://imprintnews.org/top-stories/miranda-warning-style-bill-for-parents-fails-in-new-york-city-council/61243>.
- ⁶ Dorothy Roberts: “A Veneer of Benevolence,” April 29, 2022



**LOS ANGELES COUNTY'S FAILURE TO IDENTIFY ALL AVAILABLE SERVICES,
AND INFORM AND CONNECT ALL PARENTS, INCLUDING VETERANS,
INCARCERATED PARENTS, AND OTHERS, TO THESE SERVICES, IS HARMFUL**

Parents have the constitutional right to care for and raise their children as they choose, and to make decisions on their behalf.¹ If the state removes a child from their family because of alleged abuse or neglect, the Department of Children and Family Services (DCFS) must make "reasonable efforts"² to provide services to families to prevent removal of their children and to support a parent's reunification with their child.³ The reasonable efforts legal standard is intended as a means for the juvenile court to provide oversight of DCFS's delivery of services. However, courts have failed to consistently enforce the reasonable efforts standard, and regardless, child protective agencies generally do not make any efforts to provide reasonable services to families.⁴

This is par for the course in Los Angeles County, which is the only county in California that does not pay for reunification services for parents, and actually requires some parents to pay for their children's stay in foster care in addition to their own services.⁵ In a typical DCFS case, the Children's Social Worker (CSW) will provide a parent with a list of services, placing the burden on the parent to follow up with each provider in order to find an available resource.⁶ The array of services included in a parent's case plan may include parenting classes, drug counseling, domestic violence services, individual counseling, Alcoholics and/or Narcotics Anonymous, and/or anger management. Not only are these services costly, they also require a significant time investment in order to comply with the case plan's requirements. Often, DCFS does not connect or refer families to the available free or income-scaled supports in the community, and does not make services easily accessible to guardians.⁷ Free services often have long waiting lists, are hard to contact, provide fewer resources, and may be located far from a guardian's residence. DCFS also does not provide transportation for parents every time it is needed.

The County's failure to identify all available services, pay for, and provide connection to those services, creates the most barriers to reunification for low-income guardians of color, veterans, those who are incarcerated, and other guardians who cannot easily access services.



SPECIAL POPULATIONS

Many parents who fall into certain categories, like veterans, people who are incarcerated, immigrants, people of color, low-income folks, and others cannot access or do not have access to services that are individually tailored to meet their specific needs. As a starting point, DCFS should identify whether a parent who is court-ordered to complete services falls into one of these categories, or some other, in order to identify and connect parents to the services that are best suited to help them reunify with their children. Some of the specific issues these populations face are detailed below.



VETERAN PARENTS

Currently, there is no relationship between the Veterans Administration (VA) and DCFS, which is a significant oversight considering how many programs and supports are available for veteran parents. The federal government provides programs and services to veterans through the VA, Veterans Family Wellness Centers, U.S. Vets, and Vet Centers. These centers offer free parenting classes and other supports for veteran parents, which could be counted toward completion of a parent's dependency court case plan. However, DCFS currently does not accept completion of the courses the VA offers as counting toward completion of the case plan. Parents have also reported that emergency response social workers and assigned CSWs do not screen them to determine if they are a military veteran at first contact, during an investigation, or after dependency court proceedings begin. This lack of VA connection and support, creation of financial hardship, and loss of children compounds issues that veterans may already be experiencing.⁸

INCARCERATED PARENTS

Incarcerated parents face unique struggles to complete their case plan requirements, including lack of regular contact with their CSWs, inability to have regular visits with their children, and unavailable or inaccessible programs required by the case plan. Parents report that DCFS does not credit relevant courses completed in prison. Incarcerated parents can also be "bypassed" by the dependency court, meaning that if the length of incarceration exceeds the time they would be allowed to complete a case plan, they could be denied the opportunity to reunify before the court moves towards another permanent plan (adoption or guardianship) for the children.⁹ The separation of children from their parents who are incarcerated is only exacerbated by the dependency court system, which creates insurmountable barriers to maintaining parent-child relationships, is then used against the parent after incarceration when the ability to prove the strength of their bond with the children becomes a factor in reunification determinations, and also leads to profoundly negative effects on children's mental and physical well-being.

IMMIGRANT PARENTS

Dependency court actors, like attorneys, judges, and CSWs, are often unfamiliar with the impacts of immigration law and policy on immigrant parents. CSWs may be unaware of available resources for immigrant parents or may fail to refer them to appropriate services that could support reunification. For example, a parent who is an undocumented domestic violence survivor may not report their abuse to law enforcement authorities, and have their child removed from their care for "failure to protect" them. The parent may qualify for immigration relief, such as a U-Visa or Violence Against Women Act (VAWA), but unless the CSW is aware of those options and the qualification criteria, the parent may not be referred.

In addition, an immigrant parent may have trouble accessing services because of language or cultural barriers. It is difficult for many U.S.-born parents to understand and navigate the dependency court system, and that difficulty is significantly compounded for parents from countries with different legal and cultural systems. Some immigrant parents are detained or deported during the dependency case and cannot access DCFS-approved services in the detention center or in their home country. For obvious reasons, these parents also will not be able to have access to their children for regular visits.

An immigrant parent may be undocumented, which presents additional hardships. Parents' attorneys have reported that undocumented parents are very afraid to come to court and to cooperate with DCFS, because they are concerned they will be reported to immigration authorities. Without language access, culturally appropriate course offerings, education about the court system, and support in connecting to court-ordered services, immigrant parents are denied meaningful opportunities to reunify with their children.



Los Angeles County must recognize the negative impacts its failure to provide services for families who want to reunify with their children has caused. The County must identify, and inform and connect all families who are entangled in the family policing system to these services.

WE ARE ASKING THE BOARD OF SUPERVISORS TO:

- Immediately require DCFS to pay for ALL court-ordered services for parents and families.
- Bring on a consultant to identify all available County services, and implement a plan that informs and connects all parents, including veterans, incarcerated parents, and others, to these services.
 - Bring on a consultant with expertise in preventive child welfare services to conduct a countywide survey of all community based organizations that currently provide services to families impacted by DCFS, as well as community based organizations that generally provide family support services
 - Include scans of the VA system, services available in prisons and jails, services accessible to immigrants, services for low-income families, and services that are specifically tailored to the cultural experiences of families of color, including Black, Latine/x, and Indigenous families.
 - The consultant should also conduct focus groups and surveys of parents impacted by the family policing system, to obtain and implement their input on the types of services needed, accessibility issues, and other support parents need in order to successfully complete their case plan requirements
 - The County must immediately move to implement any findings and recommendations the consultant provides

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- 3 *For purposes of brevity, the term “parents” will be used throughout this policy paper to refer broadly to parents and others who have custody of a child that is removed by DCFS for alleged child abuse or neglect.*
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- 8 See generally L.A. Cnty. Veteran Advisory Comm’n, *Veterans and Families in the LA County Court Systems* (2021) (describing lack of partnership between the VA and DCFS).
- 9 Welf. & Inst. Code § 361.5.

CHILDREN HAVE A RIGHT TO THEIR FAMILY. LOS ANGELES COUNTY MUST PRIORITIZE RELATIVE/KINSHIP FOSTER CARE PLACEMENTS AND REMOVE ALL BARRIERS FOR FAMILY MEMBERS WHO WANT TO CARE FOR CHILDREN WHO HAVE BEEN REMOVED FROM THEIR PARENTS. THE COUNTY MUST ALSO WORK TO MINIMIZE THE SEVERING OF FAMILY TIES BY ENSURING THAT SIBLINGS REMAIN CONNECTED TO ONE ANOTHER AND THEIR EXTENDED FAMILY.

Children who are separated from their parents and placed in foster care, even for a short period of time, experience trauma¹. The very act of removing a child from the adults they know and love, regardless of the circumstances that led to their removal, is traumatizing. Furthermore, when siblings are separated and placed in different foster homes, their trauma is compounded as their lives are disrupted, their connections are severed, and they are ripped apart from everything and everyone they know and love. While the County's primary aim should be to prevent children from coming into contact with the family regulation system in the first place, for children who are removed from their parents' care, kinship care and joint sibling placements should be a priority.

When children are ripped from their families and placed with strangers, there is an increased likelihood that they will lose connection to their culture, self identity, background, traditions and values. Even if they are fortunate enough to return to their family, the time away with strangers can make it difficult to readjust to life with their family, their culture and the people they love. Some of the trauma of being separated from one's parents can be mitigated by ensuring that children who are taken from their parents' care are placed in the care of relatives rather than being forced to live with strangers. That trauma can also be mitigated through ensuring that siblings are kept together.

BENEFITS OF KINSHIP CARE & JOINT SIBLING PLACEMENTS

The benefits of kinship care and joint sibling placements are well documented. Children who are placed with relatives rather than strangers experience "increased stability and safety as well as the ability to maintain family connections and cultural traditions."² Similarly, siblings who remain together in foster care have better outcomes and stronger familial connections than those who are separated.³

REMOVING BARRIERS TO KINSHIP CARE

In theory, California Law recognizes the importance of placing children with relatives after removal from their parents, as Welfare and Institutions Code 361.3 indicates a general preference for relative placement⁴. However, in practice, this section of the Code is vague and ambiguous enough to enable DCFS to interpret it in a manner that allows them to unnecessarily place the children with strangers over relatives.⁵ For example, social workers and the court must consider "the best interests of the child" before placing them with relatives. But the term, "best interests," is vague and ambiguous enough to essentially allow DCFS to come up with any number of reasons why a relative is simply not good enough.

As explained in more detail below, these arguments often include criminal history for even minor and/or very old criminal offenses, or economic barriers; things like the relative's house being too small or not having enough beds.



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It should be noted that in recent years, Los Angeles County has made efforts to increase kinship placements.⁶ Pilot programs that increase efforts to place children with relatives have proven effective and are being implemented department wide.⁷ Despite these efforts, less than 60% of the children currently under the surveillance of DCFS are placed with relative caregivers⁸ - an indication that more needs to be done to ensure that children who come into contact with the family regulation system remain connected to their families, and not placed with strangers. The barriers to kinship care placement are numerous, inequitable, often rooted in bias, and must be removed swiftly so that trauma is minimized in cases when detention is imminent.

ECONOMIC BARRIERS

Studies show that when they have the financial means to do so, most relatives are willing to step up as caregivers.⁹ Unfortunately, some relatives cannot afford to take on the responsibilities of temporarily caring for a child without financial support. If Los Angeles County compensated relative caregivers at the same rate it compensates strangers to be foster parents, the economic barriers that prevent some relatives from being financially stable enough to serve as caregivers would be eliminated. Currently, Kentucky, Ohio, Tennessee, and Michigan compensate relatives and “fictive kin” at the same rate as strangers and are seeing positive results.¹⁰ Two additional potential options for removing economic barriers to increase relative care placements that the County should consider include immediately enrolling relative caregivers in the County’s EBT program and providing them with guaranteed basic income.¹¹

BIAS & DISCRIMINATION

Bias and discrimination are other common barriers that many family members face when attempting to become caregivers. Judge Michael Nash had this to say when describing some of the biases relatives encounter, “Too many places take the attitude of ‘Well, the apple doesn’t fall far from the tree – the parents have issues, so relatives must have those issues, too.’”¹² Relatives report that these biases are often racially motivated, go unchecked, and cause further harm by needlessly severing ties between family members. The extent of the harm caused by this type of bias and discrimination is unclear, which is one of the reasons why the Reimagine Child Safety Coalition recommends that the county create a civilian oversight committee that has the authority to investigate the innerworkings of DCFS.¹³

CRIMINAL BACKGROUNDS

In addition to the biases previously listed, relatives are often discriminated against if they, or someone living with them, has a criminal history. The Welfare and Institutions Code instructs courts to consider the “good moral character” of the relative and other adults in the home, including (but not limited to) any history of violent criminal acts or child abuse.¹⁴ However, the language of this section of the Code is so vague and ambiguous that it can be interpreted to deny relative placement to relatives who have no history of violent criminal offenses or child abuse. In practice, no matter what the charge or how long ago the offense in question may have occurred, many capable relatives are barred from taking on the role of caregiver to children they love and want to be supportive of during one of the most traumatic and painful experiences of their lives - being ripped apart from their parents. In an effort to reduce discrimination based on criminal history and remove this barrier for relatives who do not pose any safety threat to children, LA County must thoroughly examine its policy and consider adopting model licensing standards, as recommended by the American Bar Association and Generations United.¹⁵ These standards, which are supported by alumni of the foster care,¹⁶ prioritize children’s safety while offering reasonable guidelines for criminal background checks that do not result in the overwhelming elimination of otherwise capable and loving adults from consideration for relative placements.

HOME STUDIES & LICENSES

Even if a relative or kinship caregiver is financially stable and has no criminal record, they may face barriers in the home studies and license requirements set by the Resource Family Approval (RFA) process.¹⁷ The RFA process can pose significant barriers to family members who are looking to provide safety and refuge for a child who has been removed from their parents' care.¹⁸ For example, if a relative's home is deemed too small, or they don't have enough bedrooms for all of the children as determined by RFA requirements, then DCFS decides that it would be better for the child to live with strangers than to live in a safe and loving home with people who know and care about them. In these cases, biased and arbitrary standards are prioritized over the best interest of the children. Los Angeles County can and should eliminate requirements for relatives caregivers to meet non-safety related RFA requirements and make every effort to provide relative caregivers with the resources they need to provide a healthy home for their kin. Coupling the elimination of these non-safety requirements with the financial support previously recommended will significantly reduce barriers for relatives and increase the number of kinship placements, which will in turn produce more positive outcomes for children who would have otherwise been unnecessarily subjected to stranger care.

MAINTAINING SIBLING CONNECTIONS

Roughly 70% of children in foster care have at least one sibling, and more than 70% of those children are separated from their sibling(s) while in foster care.²⁰ The best way to maintain sibling connections is to keep families together. However, when children are separated from their parents, the next best alternative is to place siblings, no matter how many, together with a relative caregiver - eliminating RFA minimum space requirements and providing relative caregivers with financial resources to move into larger homes, as needed, can help ensure that larger families with multiple siblings can stay together. If staying together in one home is not a viable option, the County should do everything possible to place siblings with relatives who are committed to maintaining those sibling connections and providing those relatives with the financial means to do so. In taking these steps, the County can ensure that it is operating within the legislative intent of Welfare and Institutions Code Section 16002(a)(1), which is to generally ensure that siblings are placed together when removed from their parents.²¹

WHAT THE BOARD OF SUPERVISORS CAN DO TO KEEP CHILDREN WITH FAMILY

Children deserve to be with their families. DCFS's current removal and placement practices deny children the right to their families by severing their connections to, and breaking their bonds with the people they know and love. We urge the Board of Supervisors to implement the following recommendations to invest resources in practices that will strengthen family ties and minimize trauma inflicted on children who come in contact with DCFS:

- Provide monetary resources such as EBT and guaranteed basic income to relatives who face financial barriers to becoming caregivers
- Establish a Civilian Oversight Committee with the authority to investigate, hold DCFS accountable for, and make recommendations to eliminate institutionalized biases that create barriers for relative caregivers
- Update policies and legislative priorities related to denial of potential kinship caregivers with criminal backgrounds (including anyone who has been included in the gang database)
- Amend the RFA process to eliminate non-safety related requirements and utilize county funds or child specific placements to assist families who do not meet RFA requirements
- Actively work to place siblings, no matter how many, together to maintain their connection to one another and their family

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ELIMINATE DRUG TESTING FOR SUBSTANCE USE SCREENING OF PREGNANT PERSONS AND NEWBORNS

WHY DRUG TESTING OF PREGNANT PEOPLE IS HARMFUL

Drug testing of pregnant people in a health care setting can dissuade people from seeking prenatal care or in seeking treatment for a substance use disorder. Drug testing at hospitals can also unfairly target poor women and pregnant people of color.¹ Anecdotal evidence from hospitals in Los Angeles indicates that county hospitals that serve low income pregnant people routinely test them for drugs, while private hospitals that serve wealthier and white patients do not, even though substance use occurs in all socio-economic groups. Bias and racism can influence which patients are tested and which are reported to child welfare agencies.² Black mothers and their infants are 1.5 times more likely to be tested for drugs than nonblack mothers and no more likely to test positive.³ Combined with reporting of pregnant persons who test positive to child welfare agencies, drug testing can lead to removal of newborns from their mother and ongoing family surveillance. Drug testing of pregnant women creates a “womb to foster care pipeline.”⁴

The American College of Obstetricians and Gynecologists has taken the stand that seeking prenatal care should not expose a person to criminal or civil penalties, like the loss of custody.⁵ Policies like drug testing of pregnant people can actually lead to increases in low birthweight or preterm birth babies.⁶ Requiring health care providers to drug test and report pregnant people turns providers into arms of the police state.⁷ Drug testing in a health care setting erodes providers’ relationships with their patients, and interferes with the provision of effective care. Pregnant patients should be given the ultimate decision making over what testing they receive. The American College of Obstetricians and Gynecologists affirms the “[p]regnancy is not an exception to the principle that a decisionally capable patient has the right to refuse treatment...”⁸ The Society for Maternal-Fetal Medicine has also recommended that biologic drug testing be undertaken only with the patient’s informed consent, and only “when its benefits outweigh any potential harms, which include those related to mandatory state reporting laws.”⁹

HOSPITALS ARE NOT REQUIRED TO DRUG TEST PREGNANT PEOPLE

Hospitals are not required to test pregnant women for drugs. The federal Child Abuse and Prevention Act requires states to have policies to “notify” child welfare agencies when babies are “affected by substance abuse” including alcohol use disorder and suffering withdrawal symptoms from prenatal exposure.¹⁰ These notifications are not equivalent to child abuse reports. Nothing in CAPTA requires that pregnant people or newborns be tested for drugs. State law does not require drug testing pregnant people. Indeed, Penal Code section 11165.13 makes clear that a newborn testing positive for drugs “is not in and of itself a sufficient basis for reporting child abuse or neglect.”

State law does require that every county develop protocols between county health and welfare departments, and all public and private hospitals in the county, for assessing the needs, and referring a substance exposed infant to child welfare. Los Angeles County is out of compliance with this law as it has yet to develop any such policy, although currently working with stakeholders to develop a policy. The policy should clarify that pregnant women and newborns should not be drug tested in health care settings unless medically indicated and consented to by the pregnant person.



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OTHER JURISDICTIONS ARE EXPLORING LIMITS ON DRUG TESTING

Senate Bill 4821, pending in New York State, prohibits drug and alcohol testing of pregnant and perinatal people and newborns without informed consent. The bill prevents any health care worker from performing a drug or alcohol test or screen on a pregnant person unless the person gives written and verbal consent to the test and the test is within the scope of medical care being provided to such pregnant person. Similarly, health care providers cannot drug or alcohol test or screen a newborn unless the person authorized to consent to their medical treatment gives written and verbal consent.

The bill permits health care providers to test without consent if necessary for medical treatment and delaying treatment to obtain consent would increase the risk to the person's life or health.

PROPOSAL FOR LOS ANGELES COUNTY

Los Angeles County should prohibit health care facilities from drug testing pregnant people and their newborns, except in limited circumstances where it is medically indicated and informed consent is provided by the pregnant person or the parent/guardian of the newborn, or when done in the context of clinical treatment for substance use. The provider must document the reason for the test. A refusal to give consent to a drug test shall not be the basis of a referral to child protective services.

Hospitals shall make public each month the number of pregnant people and the number of infants they test for substances, the demographics of those persons, and any reports required under CAPTA. Hospitals shall analyze the data to identify any trends relating to race/ethnicity and/or socio-economic status that result in biases in which patients hospital staff target for drug testing.

Hospital staff shall receive training annually on Los Angeles' Safe Care Plan, Penal Code section 11165.13, and supporting substance-using pregnant people. Consistent with California Health and Safety Code section 123630.3, the training shall cover implicit bias in drug testing decisions.

Hospitals should employ staff that reflect the communities they serve, in order to reduce bias in how patients are treated and tested.

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THE DEPARTMENT OF CHILDREN & FAMILY SERVICES NEEDS COMMUNITY OVERSIGHT

We demand that the Los Angeles County Board of Supervisors take immediate action to prevent children and families from becoming involved with the Department of Children & Family Services (DCFS), and end the practice of family separation by establishing an independent civilian oversight committee in the form of a County Oversight Commission led by people, namely parents and caregivers, who have lived experience with DCFS.

The DCFS Oversight Commission shall have authority to allocate funding to community-based-and-run family preservation-oriented programs that support parents' ability to best care for their own families and avoid involvement in the system (including raising awareness about Prevention and Aftercare Networks, connecting them to housing, legal aid, employment opportunities and economic resources). This commission will differ from existing commissions, such as the Commission for Children & Families, in that the body of commissioners will be composed solely of individuals who have been directly impacted by DCFS, including parents and caregivers.

WHAT IS A CIVILIAN OVERSIGHT COMMITTEE?

A Civilian Oversight Committee is an investigatory body that is independent of local government and instead made up of local community members with the power to oversee a government agency. For example, the Los Angeles Board of Supervisors has previously created the Sheriff Civilian Oversight Commission, as well as the Probation Oversight Commission.¹

Such committees can have a range of different oversight authority such as investigatory powers, the ability to make policy changes, the power to allocate funding, and the ability to take other actions to ensure government transparency and accountability. Oftentimes, government officials, their staff, or government agency personnel are not permitted to sit on a Civilian Oversight Committee.

WHY IS A CIVILIAN OVERSIGHT COMMITTEE NEEDED TO OVERSEE THE LOS ANGELES DEPARTMENT OF CHILDREN AND FAMILY SERVICES?

A Civilian Oversight Committee is necessary to provide independent oversight for the Los Angeles Department of Children and Family Services (DCFS) and to ensure families are being heard and protected in Los Angeles county. There are tens of thousands of children under the surveillance of DCFS, and data shows that Black families are disproportionately targeted by the system.² While only 7.5% of Los Angeles County's population, Black children are 27.8% of those young people in the custody of DCFS.³ Recent data also indicates that over 58% of Black children in Los Angeles will be subjects of a DCFS investigation before they are 18.⁴

Currently, there are few ways for families impacted by this system and the public to ensure transparency and accountability. Many parents absorbed into the system are not informed of their rights and no effective complaint process exists against social workers, their supervisors, or their Area Regional Administrators. Rather, existing processes either permit DCFS to investigate itself or involve other conflicts of interest. For example, the Dependency Investigator works closely with the social workers they are also tasked with investigating. Such conflicts lead to lack of accountability for social worker misconduct such as false reporting. There is also no centralized system for determining whether a social worker has had complaints filed against them in the past.



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There is also little room for impacted families and the public to advocate for those resources families need most. Currently, the majority of children in the system are under DCFS custody because of their family's socioeconomic status and inability to access resources. Rather than punish families for being poor, the system should provide them with the resources they need to stay together such as access to housing, food, and other services families may need. An oversight committee would assist with ensuring families have true access to community-based services if they want them.

WHAT SHOULD A CIVILIAN OVERSIGHT COMMITTEE OVERSEEING THE LOS ANGELES DEPARTMENT OF CHILDREN AND FAMILY SERVICES DO?

A Civilian Oversight Committee would oversee DCFS, hold it responsible for its actions, and ensure families are truly supported. Such a committee should also have authority to oversee DCFS in relation to how its policies and decisions intersect with Children's Court and/or Family Court. Such a Committee's responsibilities and powers should include, but not be limited to:

Accountability & Transparency

- A Civilian Oversight Committee should be a completely independent body housed outside DCFS led by people who have lived experience within the system. Such lived experience backgrounds should include parents, youth, relative caregivers, survivors of domestic violence and intimate partner violence, and Black and Indigenous people.
- A Civilian Oversight Committee should receive regular mandatory reports from DCFS senior management and decision-makers, have the power to ask questions and have access to both confidential and non-confidential information relating to the running of the department.
- A Civilian Oversight Committee should have the independent power to investigate any issues brought to its attention by the public or within DCFS itself as it chooses. Such power should include the right to subpoena witnesses, access records, and to request data.
- A Civilian Oversight Committee should oversee an independent complaint process. Such a process should handle and investigate complaints from the public and/or DCFS employees, related to government services for children and families. The Committee should have the power to hire an independent investigator when necessary.
- A Civilian Oversight Committee business and meetings should be accessible to the general public.

Support Families

- A Civilian Oversight Committee should have authority to adopt and change policies and procedures overseeing DCFS in order to protect the interests and rights of children and families, to stop the targeting of Black and Indigenous families, and to end the welfare-to-prison pipeline.
- A Civilian Oversight Committee should have authority to create programs that provide alternative and more direct community-based resources to families, such as affordable housing, universal basic income, access to fresh food, utility assistance, free childcare, and other similar resources.
- A Civilian Oversight Committee should also have the authority to review DCFS spending and allocate funding to community-based and community-run family preservation- oriented programs that support parents' ability to best care for their families and avoid involvement in the system (including, e.g., raising awareness about prevention and aftercare networks, connecting to housing, legal aid, employment opportunities, and economic resources).
- A Civilian Oversight Committee should have the authority to commission research or studies, including for example to identify resources for families and children impacted by the system, and initiate pilot programs.
- A primary goal of a Civilian Oversight Committee should be to create stronger communities and heal generational trauma resulting from being impacted by this system.



WE ARE ASKING THE BOARD OF SUPERVISORS TO:

Create a Civilian Oversight Committee to oversee the Los Angeles Department of Children and Family Services. Such a Committee must be represented by people with lived experience in the “child welfare” and foster care system, who are paid for their time and expertise. The mission of such a Civilian Oversight Commission is to provide oversight and transparency for DCFS and to identify and implement alternatives to better serve families and the community of Los Angeles. Such a commission must have:

- **Investigatory authority**
- **Access to regular reports from DCFS**
- **An independent complaint process**
- **Public meetings accessible to the community**
- **Policymaking authority**
- **The ability to review and allocate DCFS funding**
- **The power to initiate research and studies**

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UPHOLD THE RIGHTS OF INCARCERATED PARENTS & THEIR CHILDREN

CHILDREN & PARENTS NEED CONTINUED CONTACT AFTER PARENTAL INCARCERATION

LOS ANGELES COUNTY MUST UPHOLD THE RIGHTS OF INCARCERATED PARENTS AND THEIR CHILDREN IN FOSTER CARE BY ENSURING CONSISTENT COMMUNICATION AND VISITATION; PROVIDING EDUCATION AND RESOURCES TO PARENTS ON THEIR RIGHTS; AND ADDRESSING ISSUES FACED BY INCARCERATED PARENTS WHO MISS KEY DEADLINES WHEN THEY ARE TRANSFERRED TO NEW FACILITIES.

CHILDREN & PARENTS ARE HARMED WHEN THEY ARE SEPARATED BY PARENTAL INCARCERATION

The criminal justice system effectively ensures family separation when a parent is arrested; throughout their incarceration, and after release. Police officers who arrest a parent are not required to allow the parent to arrange for a caregiver to pick up a child¹. Rather, the police have discretion either to allow the parent to seek a caregiver's help or to involve Child Protective Services ("CPS")². If the child is detained by CPS on an emergency basis, the incarcerated parent may be allowed a mere 48 hours to find a caregiver that is deemed accepted by CPS. If a caregiver is found, a parent may also be expected to enter a power-of-attorney, Caregivers Authorization Affidavit, or other written agreement in this limited timeframe³. If the parent is unable to do so, CPS will file court papers to make the child a dependent of the court⁴. In either situation, the time allotted is not enough for parents to arrange long-term care, especially given the communication limits imposed by the jail facilities.

In studies conducted by the Marshall Project it was discovered, mothers and fathers who have a child placed in foster care because they are incarcerated but who have not been accused of child abuse, neglect, endangerment, or even drug or alcohol use are more likely to have their parental rights terminated than those who physically or sexually assault their kids.

The incarceration of a parent is not sufficient grounds for denying Family Reunification (FR) Services. The Reunification time limitations are as follows:

- For children aged three (3) or older at the time of initial removal, services are to be provided for 12 months, unless the child is returned home.
- For children under the age of three (3), services are to be provided for 6 months, unless the child is returned home.⁵

When a parent is incarcerated in a state prison, the California Rehabilitation Center, a county jail, or a Division of Juvenile facility, the court must issue a removal order 15 days before the hearing for a parent to be released from the facility to attend court hearings for the following two purposes:

- The adjudication of their child as a dependent of the court; and
- A WIC 366.26 hearing to terminate their parental rights⁶.

For hearings where the incarcerated parent does not have a statutory right to appear, social workers are required to send notice to the parents of all appearance hearings, as well as copies of the court reports. If a parent wishes to attend a hearing other than the adjudicatory hearing or the WIC 366.26 hearing to terminate parental rights, the social worker is to notify the court of this preference and should direct the parent to contact their attorney. If the parent does not have an attorney, the social worker may submit a request for a removal order so that an attorney may be appointed.



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Even though an incarcerated parent legally retains parental rights to a child who stays with a relative caregiver or enters the foster care system, the DCFS, prisons/jails and the court system often limit the meaningful exercise of this right. For example, a parent who seeks reunification upon release from incarceration needs to prove, in part, they have a strong bond with their child.

Prisons and jails create and enforce their own visitation policies, but the problem stems primarily from the fact that incarcerated parents do not have a right to visitation. These facilities view visitation as a privilege that can be revoked and withheld to punish the incarcerated. Additionally, most prisons like CDCR require visitors to complete an exhaustive application. CDCR requires visitors to disclose every encounter with a law enforcement officer—an impossible task, especially, for example, if the visitor had encounters with officers that were not documented or did not result in a citation. Prisons may also subject visitors to automobile searches and deny visitors based on the contents of their automobile. For children, prisons may require guardians to bring proof of relation, as evidenced through birth certificates and other governmental documentation. Certainly, in our digital age this vetting process could be more efficient.



For children in foster care, social workers by their own choice may assist or frustrate the visitation and reunification processes. The best way to support the child-parent relationship after the parent has been incarcerated is to create opportunities for contact. It is the responsibility of the child welfare system to provide services to support the reunification of families. Those services must include parental visitation. Child social workers are required to provide reasonable services to an incarcerated parent. At a minimum, social workers must:

- Inform the incarcerated parent of the service plan objectives and activities;
- Contact the facility and determine what programs are available and how the parent can enroll;
- Request a change in the parent/guardian's prison housing if services are only available in a different portion of the facility;
- Inform the parent/guardian of the programs that are available and how to enroll;
- Maintain monthly contact with the parent/guardian and monitor their progress;
- Ensure visitation and contact is maintained as ordered;
- Upon request, provide the parent/guardian with literature on subjects related to the reunification plan, such as parenting or drug abuse
- Counsel the parent/guardian on their progress;
- Advise the parent/guardian to contact the child social worker and enroll in DCFS-approved programs upon release from incarceration.⁷

There is an impression among some involved in the child welfare system that incarcerated parents do not deserve to have a family. Courts often schedule hearings to suit their calendars without ensuring DCFS notices the parent of the hearing, nor do they ensure the parent's appearance. In dependency court, parents are brought in for their child's hearing only to be sent back before the case is called, because transportation leaves at noon.

The situation worsens for parents in probate court. Unlike in dependency court, the probate court does not appoint counsel for parents in probate court and may waive notice to parents upon a showing of good cause. This means parents may be completely unaware that an action has been filed to suspend their rights and they may miss a court date that results in them forfeiting their right to maintain custody of their child.

Removing children from their families is a destructive act for parents and children -- the most devastating possible collateral consequence of a criminal conviction. Prison time alone should not be grounds for severing the bond between parent and child, which can lead to profound negative effects on children's mental and physical health.⁸



The dichotomy between what is best for parents and what is best for kids is false. Along with siblings and other relatives, the child welfare system must help incarcerated parents stay in their children's lives. Even without reunification goals, it is important to recognize the existence and significance of the child-parent relationship. It is important to recognize the positive impact planned contact with an incarcerated parent can have on the emotional well-being of the child as they are developing strengths to handle a myriad of life challenges.

Dorothy Roberts, sociologist, law professor, social justice advocate, and author of *Shattered Bonds* and *Torn Apart* says the underlying problems in the child-welfare system are caused by bias against poor parents, especially incarcerated mothers of color. The right thing to do as a society, she says, is to better support families with affordable housing, food assistance, drug treatment and childcare, especially services in prisons. In a recent twitter post, Dr. Roberts said, "Instead of actually responding to the struggles of poor families ... we've decided that it's simpler to take their children away..."⁹

PROPOSAL FOR LOS ANGELES COUNTY

VISITATION AS A RIGHT

Los Angeles County should create a presumptive right to phone calls and visitation or family bonding time for children with incarcerated parents that all county agencies must follow. This right will help parents in their reunification efforts and help mitigate the effects of family separation on the whole family. Parents will be more involved in their dependency court cases and for actively planning for their children's daily care while they are not available to provide that care themselves and may be more likely to reunify with their children upon release.

TRANSPORTATION FOR VISITATION

California allocated millions of dollars to CDCR to help families receive transportation for visitation, but CDCR has not effectuated a transportation program.¹⁰ Community-based organizations can help advocate for CDCR to partner with local "get on the bus" and "family express" programs to transport family members to the prison for visitation. Los Angeles County should ensure transportation for children in Los Angeles to be able to visit their parents in jail or prison.

MANDATORY PHONE CALLS FOR ARRESTEES

New York passed a law requiring police officers to allow arrested parents to arrange for child care.¹¹ Los Angeles County should create a countywide requirement to do the same, and should support any statewide efforts to enact legislation creating a law similar to New York's. Los Angeles County should also provide the necessary support to parents to obtain a power-of-attorney, Caregiver's Authorization Affidavit, or other legal document to help arrestees place their children in the care of safe caregivers until they can return to their care.

ADVOCATE FOR FAMILY REUNIFICATION CLINICS AND VISITATION PROGRAMS

Los Angeles County should fund community-based reentry organizations to provide family reunification clinics and visitation programs within jails and prisons. The reunification clinics could (1) help parents understand the processes in family, probate, and dependency court, (2) help ensure parents are connected to social services to support eventual reunification, and (2) help incarcerated parents enter into formal agreements with their child's caregivers, such as caregiver affidavits that may be necessary to avoid DCFS oversight. The visitation programs would involve the organization's social workers / visitation monitors troubleshooting visitation issues with DCFS social workers, foster parents / guardians, and children and serving as neutral third-party monitors during the regularly scheduled visitation program. The organization would ensure social workers' denial of reunification services is not arbitrary or discriminatory, and their social worker / visitation monitors could better document the quality of the visits between parents and their children by preparing declarations to provide to DCFS social workers and to use in support of reunification after incarceration.

SUPPORT FOR CONTINUED CHEST/BREASTFEEDING

As with regular visitation, maintaining an established chest/breastfeeding relationship between mothers and their children helps to mitigate the negative impact of forced separation due to incarceration and aids in the reunification process. California Penal Code § 4002.5 requires county jails to develop and implement an infant and toddler breast milk feeding policy for people who are lactating and detained in or sentenced to county jail. DCFS must assist with the regular transfer of human milk to children whose parents are expressing and storing milk for them while incarcerated, as well as education for caregivers, both kinship and nonkinship, on the benefits of human milk feeding and proper storage and handling. Visitation policies also need to include support for incarcerated individuals to feed their child/ren directly at the chest/breast when desired.

RIGHT TO COUNSEL

The court should appoint parents in probate court, and particularly parents who have had contact with DCFS, with counsel to ensure parents are not forced to represent themselves or assume the monetary responsibility for counsel.

While legal counsel is appointed for every parent in Los Angeles County who has a dependency case, to ensure these attorneys can aggressively advocate for their clients and report case updates to bench officers, appointed counsel must have caseloads, far fewer than the 3-digit case counts they currently manage. Additionally, they must be provided with comprehensive resources necessary to address the families' many psycho-social-educational-vocational needs.

SUMMARY

If Los Angeles County is committed to the mandate of family reunification, court appointed counsel and DCFS social workers must be allowed to work collaboratively for the good of the family; a relationship developed and encouraged in almost every jurisdiction nationwide.

There must be flexibility added to the reunification time limits, incarcerated parents must be informed about and present for their child welfare court hearings, especially during the critical, albeit short, family reunification period. Case plan services must be funded and accessible. All-important visitation opportunities for incarcerated parents with their children must be implemented.¹²

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GUARANTEE BASIC INCOME FOR ALL FAMILIES

THE COUNTY CAN BETTER PROTECT CHILDREN BY PROVIDING THEIR FAMILIES WITH THE FINANCIAL MEANS TO PROVIDE FOR THEIR CHILDREN, INSTEAD OF REMOVING CHILDREN FROM THEIR HOMES BECAUSE OF "NEGLECT."

The Los Angeles County Department of Children and Family Services (DCFS) receives more referrals for "general neglect" than for any other category. Many indications of neglect are plainly the direct result of parents' inability to provide basic necessities for their children because of poverty. Neglect is defined by the California Welfare and Institutions Code, section 300(b), as "a substantial risk" that the child will suffer serious physical harm or illness as result of the failure of their parent or guardian to provide adequate:

1. supervision of, or protection for the child;
2. food, shelter, or medical treatment; or
3. care due to mental illness, developmental disability, or substance abuse.²

Los Angeles County has one of the highest child poverty rates in California with nearly 23% of children in Los Angeles County living in poverty.³ Black, immigrant, and Latino households experience higher rates of poverty.⁴ These families are therefore at increased risk of coming into contact with DCFS solely on the basis of poverty labeled as "neglect."⁵ This disparity is reflected in the overrepresentation of Black and Latino children under DCFS' surveillance.⁶

Providing low-income families with a Guaranteed Basic Income (GBI) would help prevent the conditions of poverty that are characterized as general neglect. This proposal is especially timely because impoverished families in cities like Los Angeles are increasingly burdened by the rapidly increasing cost of basic necessities including food and housing.⁷

There is reliable data that GBI programs "alleviate poverty and improve health and education outcomes..."⁸ Many GBI programs were developed as pilot programs to explore the efficacy of a Universal Basic Income (UBI), a related concept that dates back centuries.⁹ In a UBI program, the government provides periodic cash assistance to all adult members of a society – regardless of their means – to ensure everyone a standard of living above the poverty line.¹⁰ GBI programs are more targeted than UBI programs because 1) assistance is provided to set group of recipients and 2) the assistance provided might not ensure income above the poverty line.¹¹

THE COUNTY CAN PREVENT NEGLECT BY PROVIDING FAMILIES WITH A GUARANTEED BASIC INCOME.

Child abuse and child neglect are often conflated but they are different, have different causes, and can be addressed by different methods.¹² "Abuse" encompasses physical and sexual abuse, which are "non-accidental" acts.¹³ Neglect, in contrast, is "not intentional" conduct.¹⁴ Neglect is considered a parent's failure to provide for the child.¹⁵ The child welfare system's perception of neglect often also reflects cultural and racial biases and contributes to the overrepresentation of youth and families of color in the child welfare system.¹⁶ Significantly, rates of child abuse have been steadily declining in recent decades, but rates of what family policing systems label "child neglect" remain steady and high.¹⁷

Research shows that poverty both can be a risk factor for child neglect and, as noted above poverty itself can be confused with "neglect."¹⁸ Although there are no studies to date that specifically analyze the role of UBI or GBI programs in reducing neglect, there is strong evidence that addressing poverty through cash assistance directly to families/caregivers has the impact of reducing what family policing agencies label as neglect.¹⁹



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THE COUNTY SHOULD FUND GBI TO KEEP FAMILIES INTACT RATHER THAN SUPPORT OUT OF HOME PLACEMENTS

When a child is placed in out of home foster care, DCFS pays resource families a base rate of \$1,037 to support the child placed in their care.²⁰ The Board of Supervisors' recommended budget in FY 2021-22 allocates \$21 million solely for raising placement rates and to address the anticipated increase of children in out of home placements.²¹

Existing GBI pilots in Los Angeles offer similar amounts of funding directly to families rather than inflicting the trauma of removing the child and directing government funds to out of home placements. GBI pilot programs in Los Angeles County and City of Los Angeles each offer \$1,000 to needy households to assist families with meeting their basic needs.²²

When provided unrestricted GBI funds, recipients use the money to meet their families' basic needs and remedy common indicators of child neglect. In a GBI pilot in Stockton, California, participants used their unrestricted funds to primarily purchase food; material goods such as clothing and school supplies; and to cover automobile costs.²³ Unconditional access to cash assistance also enabled recipients to find full-time employment and recipients became healthier, even exhibiting less symptoms of depression and anxiety.²⁴



THE BOARD OF SUPERVISORS SHOULD IMPLEMENT A GBI PROGRAM FOR FAMILIES INVESTIGATED FOR NEGLECT OR AT RISK FOR DCFS INVOLVEMENT

The program should be developed by and administered in partnership with a Los Angeles-based university team of child welfare experts and researchers. Such a program will provide critical data to support future GBI programmatic expansion and can serve as a model in other jurisdictions.

If the Board is unwilling to commit to implementing such a program at this time, it can instead incorporate appropriate measures into the forthcoming "Breathe: LA County's Guaranteed Income Program" that would help evaluate the impact of GBI-style cash assistance to families who might otherwise be indicated for child neglect.²⁵

The County should prioritize GBI to keep struggling families intact and support parents before contact with DCFS is necessary. The County should collaborate with child welfare practitioners and experts to determine what amount of GBI funding can assist families with meeting their basic needs.

The County should ensure GBI funds are exempt from inclusion in eligibility calculations for other vital benefit programs such as CalWORKS and CalFRESH.²⁶



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- 21 BOS budget recommendation includes \$21 million "primarily for projected caseload growth and placement rate increases." *Bos FY 2021-22 Budget Recommendations, Vol 1, p. 8* <https://ceo.lacounty.gov/wp-content/uploads/2021/04/2021-22-Recommended-Budget-Book-Volume-One-Final-Online-Version.pdf>
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- 23 SEED – Stockton Economic Empowerment Demonstration, Preliminary Analysis of SEED's First Year: https://static1.squarespace.com/static/6039d612b17d055cac14070f/t/603ef1194c474b329f33c329/1614737690661/SEED_Preliminary+Analysis-SEEDs+First+Year_Final+Report_Individual+Pages+-2.pdf
- 24 SEED Employment - <https://www.stocktondemonstration.org/employment>; SEED wellbeing - <https://www.stocktondemonstration.org/health-and-wellbeing>
- 25 Breathe LA County GBI Program Homepage, <https://ceo.lacounty.gov/pai/breathe/>
- 26 CA DSS implemented a demonstration project to exempt guaranteed income program funds from CalWORKS and CalFRESH eligibility calculations, <https://www.cdss.ca.gov/inforesources/guaranteed-income-exemption-requests> (last accessed April 7, 2022)



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