

# The “Benevolent Terror” of the Child Welfare System

The system’s roots aren’t in rescuing children, but in the policing of Black, Indigenous, and poor families.

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There are few institutions as culturally sacrosanct and legally violated as the American family. Each year child welfare authorities separate half a million children from their parents. The system disproportionately affects Black families. More than one in ten Black children in the United States will be forcibly separated from their parents and placed in foster care before they reach adulthood. Most of these removals are not motivated by allegations of violence or abuse, but by charges of neglect, which could be anything from children not having enough food to them being left at home alone. Insecure housing is one of the primary reason parents are accused of child neglect. But child welfare agencies don’t help families find housing or provide material resources to children. Rather, they threaten families with the trauma of separation and often exacerbate the very problems they claim to solve.

For more than two decades, legal scholar Dorothy Roberts has been studying the U.S. child welfare system and how it punishes parents—poor Black and Native parents especially—for exposing their children to the harms of inequality. In her new book, *Torn Apart: How the Child Welfare System Destroys Black Families—and How Abolition Can Build a Safer World* (2022), Roberts explains how we got here and what must be done to affect change. Weaving together history, social science research, and decades of expertise as a child welfare scholar, Roberts reveals a devastating truth: rather

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than invest in children and families’ safety and wellbeing, we have erected a child welfare system that uses family policing as the primary means to address the needs of marginalized children. This was not done by accident, but by design. *Torn Apart* takes readers through the history of family separation and child welfare policy, exposing how slavery, colonialism, racial capitalism, and policing shaped the system we have today. To describe the contrast between the child welfare system’s “child saving” rhetoric and its record of producing horrific, even deadly outcomes, Roberts uses the phrase “benevolent terror.” With this term, she captures how the brutality of the system is obscured and excused by paternalistic claims of protecting innocents. But, for all its power, this system is not operating without challenge. Roberts tells stories of Black mothers, caregivers, and advocates fighting to abolish family policing. Inspired by the principles and strategies of prison and police abolitionists, these organizers are building a world that meets children’s needs without criminalizing their caregivers, that exposes the terror of family separation and the trauma of foster care, and that radically reimagines the way we invest in the safety and wellbeing of children.

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**Nia Evans:** *Torn Apart* is a damning indictment of our state’s approach to child welfare. It exposes what most people consider to be a well-intentioned system of child protection as a sprawling family policing system that terrorizes and destroys Black families. Could you talk about why you felt it was important to write this book right now?

**Dorothy Roberts:** I wrote a book on this topic twenty years ago, *Shattered Bonds: The Color of Child Welfare* (2001). At the time many child welfare researchers were trying to explain away the racism in the system by claiming that the child welfare agencies were simply responding to the greater needs of Black children. Although these researchers—I call them “disparity defenders” in *Torn Apart*—are still publishing these arguments, a new group of social scientists has recently emerged that is investigating how child welfare agencies police Black and Native families. A lot more research documents the astounding extent of surveillance conducted by this system and the trauma and other harms inflicted on children placed in foster care, especially those who are confined to prison-like institutional settings. I believe that there needs to be an organized movement to abolish what most people call the child welfare system but what is actually a family policing system.

So I’ve solidified an abolitionist perspective over the last twenty years. I participated in numerous reform efforts to improve foster care, eliminate the racial disparities, and reduce the size of the foster care population. None worked to make a substantial difference. I became

convinced that we can't tinker with a state surveillance system designed at its roots to subjugate Black communities. We must abolish and replace it.

As the movement to abolish the prison industrial complex expanded dramatically, I learned tremendously from its theorizing, principles, and organizing. It helped me to see the need to dismantle the family policing system and to articulate the aim in the terms of abolition.

I call our current child welfare system a family policing system because it was designed and operates to police families. When allegations of child abuse or neglect are received by this system, it does not respond by seeking to provide the resources that families need. It treats these allegations as accusations against parents. It investigates them and monitors families, sometimes for years on end, with extremely intensive surveillance into every aspect of their private lives, far more than a police arrest would trigger. That same system, in many cases, forcibly removes children from their homes, which is a form of terror and trauma to the children and their caregivers. It then puts children into a violent foster care system that itself is structured to harm children and to increase the chances that they will be put into juvenile detention or prison. That's why this is not a social services or welfare system; it's a policing system that operates with its own type of policing agents, investigators, punitive courts, parole, and probation officers. Every single aspect of the child welfare system has a procedural analog in the criminal punishment system.

Part of the reason this system doesn't generate widespread attention and alarm is because there's been such an effective propaganda machine that fools people into thinking it's a benevolent system that helps children and families. That veneer of benevolence is starting to shatter both because of organizing by people who have been terrorized and traumatized by the system, but also because of developments like Texas Governor Greg Abbott's recent directive to child protective agents to investigate the families of trans children who receive gender affirming care. Here we can also look to the separation of migrant families at the border that was accelerated under the Trump

Administration. More and more people are seeing how child protection agencies are used as an instrument of repression by the state. My book aims to dispel the notion that these are aberrational instances. This is what the system was always designed to do, and it is inflicting this

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kind of terror and disruption disproportionately on Black communities every day. For all those reasons and more, this is an important moment to organize resistance to this system and to build a radically different approach to taking care of children and supporting families.

**NE:** I want to take a step back. The current logic of what most folks know as the child welfare system is that keeping children safe requires removing them from their parents and placing them with alternative caregivers. There's so much historical context bound up in that premise. Can you walk us through it? How did we end up with a child welfare system based on removal, surveillance, and separation?

**DR:** It's simply a myth that the child welfare system has ever been about rescuing needy children from violent parents and putting them with more loving and caring caregivers. That has never been the purpose or design of the child welfare system. To understand why it operates in such a violent way today—in a way that relies absolutely on either the threat of taking children or removing children from the home—you must go back to its origins. From the beginning the child welfare system was designed to oppress politically marginalized and disenfranchised communities, mainly Black and Native communities. It has been a form of state disruption and control from its very origins and an avenue for private charities and later state agencies to deal with poverty in a punitive way.

To understand how we got here, we must go back to the enslavement of African people in the United States and the legal right of white enslavers to separate family members at will without any regard whatsoever for family relationships or any notion of a right to family autonomy. Under the slavery system, the white head of the plantation family had control over everyone and, if it was economically or otherwise convenient, he could sell off members of Black families. So at the very beginning of what became the United States, the forced separation of Black families planted the idea that Black parents are incapable of taking care of their children, that they should have no authority over their children, and that white people should be able to come in and take Black children away from their parents. The disparaging and discounting of Black family bonds facilitates that mentality and, even today, bolsters the child welfare system, which takes Black children away from their parents at higher rates than white children in the United States, and at astronomical rates in general.

The child welfare system is also built on the history of the U.S. military deploying child removal as a weapon of war to decimate Indigenous tribes. Dispossession of children occurred alongside dispossession of land. Family separation was and is a tool of war and subjugation. Those aspects of the child welfare system are usually ignored when its advocates discuss its origins. The system's roots aren't in rescuing children, but in forcibly taking children.

Even when we look at the formal child welfare system that developed from the Elizabethan poor laws, that traveled from England to the colonies, the focus was on putting impoverished families, children along with their parents, in poorhouses. The foster care system was introduced in the nineteenth century as a reform, but it retained a similar ideology. Instead of institutionalizing entire families, the reform removed impoverished children (mostly European immigrant children) from their families and put them into homes to work for other people. This strategy included what were called “orphan trains,” where thousands of impoverished children were put on trains in Eastern cities, like New York City, and sent to work on farms in the Midwest and the Southwest. None of that was truly about rescuing children to improve their welfare. It was a violent, punitive way of handling childhood poverty by taking children away from their families instead of developing policies that would end poverty. It had nothing to do with a protective state ensuring the wellbeing of these children.

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**NE:** I want to dig into that point about the interests of children because this is a terrible country in which to be a child. We do the bare minimum for children and families here.

One **study** by the Organization of Economic Cooperation and Development (OECD) found that among thirty-one countries—including the United States, Canada, and the European states—the United States had the highest child poverty rate. Even now, after the pandemic has pushed millions into poverty, the child tax credit that passed as a part of the American Rescue Plan and kept 3,000,000 children out of poverty is politically dead and seems unlikely to be renewed any time soon. Can you talk about how our collective failure to invest in the wellbeing of children and families plays out in the family policing system?

**DR:** Not only is child removal used as a weapon of war and subjugation against disenfranchised communities, but it is also an ideological way of blaming the most disadvantaged parents for problems they did not create. Our society is structured to put people in poverty and keep them there; to deny opportunities to Black children and families; and to put children and families in dangerous, unhealthy conditions to maintain the power of a white elite.

Child welfare ideology blames parents for the realities imposed by structural inequality; punishes them; removes their children; stigmatizes them; and, ultimately, produces even greater hardships for their children because the foster care system pushes Black children into juvenile detention and prison. Foster care disrupts children's lives. It traumatizes them. It disrupts their education and healthcare. It ruptures their social relationships with their families, friends, classmates, and neighbors. And somehow, despite its repressive design and disastrous outcomes, it's seen as a system that helps these children. It's a deeply devious system that causes so much harm, not only to the individuals who are entangled in it, but also to the possibilities of social change that would benefit everyone in this nation.

**NE:** I want to discuss how and why this system functions as an extension of the carceral state. You write, "family policing targets Black families in particular and relies on racist beliefs about Black family dysfunction to justify its terror. It is deeply entangled with cops, criminal courts, and prisons, forming an integrated arm of the U.S. carceral regime" and that foster care is one of the "chief ways the U.S. state transfers the carceral containment of Black communities from one generation to the next." Can you talk more about those relationships?

**DR:** There are so many parallels between the punitive, accusatory, surveillance nature of the family policing system and the criminal legal system. But the two systems are also deeply entangled. When caseworkers go to investigate a family, especially a Black family in a segregated neighborhood—which is where most of their operations are concentrated—they often will bring a police officer with them. This enhances the terror of a child welfare investigation. I tell a story in *Torn Apart* about a police officer who killed a Black father while accompanying a caseworker on her visit. They both entered the home, and when the father tried to run away, he was shot and killed. Parents are often frightened or intimidated into agreeing to let caseworkers and officers into their home without a warrant. Child welfare agencies operate as if there's a Fourth Amendment exemption for child protection workers, even though there isn't. And police officers often ignore Fourth Amendment requirements that are regularly recognized for them to search a home by tagging along with caseworkers who rarely obtain a warrant before they knock on someone's door.

There's also a dangerous amount of information gathering that happens on these visits by law enforcement and child welfare agencies. Child protection agencies are increasingly using artificial intelligence, big databases, and algorithms to identify families to investigate,

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mirroring computerized data systems that police departments use. These databases include information that’s already structured to be biased against Black people.

**care if their families had adequate housing.”**

**NE:** In that vein—of government agencies using big tech to investigate and criminalize families—can you talk about the amount of profit in the family policing system? Just how profitable is this system?

**DR:** Another unacknowledged aspect of the history of child welfare is what happened after the Civil War. Many people know that states used the convict leasing system, Black codes, and prisons to get around the Thirteenth Amendment and recapture Black labor. We hear less about the forced apprenticing of Black children. To me that is the origin of the formal child welfare system for Black families because it was court-imposed indenture of Black children back to their former enslavers by the thousands. Under both existing child neglect laws and new laws in some states, courts could rule Black parents neglectful and indenture their children to white people for their welfare. And many children were sent right back to the plantations and farms where they had been forced to work prior to the abolition of slavery.

There was also a period between the New Deal and the Civil Rights Movement when Black children were virtually excluded from formal child welfare services. At that time the primary focus was providing services to impoverished white families that were kept intact. There wasn’t a lot of removal of children from their homes. It wasn’t until Black people demanded equal access to government funded services and began to obtain welfare benefits that the policy changed. Welfare policies allowed Southern states to push Black children and their single mothers off the welfare rolls by finding that the mothers were not providing so-called suitable homes. In the 1960s the policy required that, if the mother was not providing a suitable home, then the child must be placed in foster care. As a result, between the 1970s and 1990s, we see an explosion of foster care. We also see a huge increase in federal funding going to maintaining children *outside* their homes, rather than providing services to children in the home. To me this is such a clear reflection of the political decision to turn child welfare into a multibillion dollar foster care industry by removing Black children from their homes—that shift in policy from providing white children services within their homes to relying primarily on foster care when it came to Black children.

By the 1990s there was a massive, sprawling foster care industry and, over the course of the next several decades, states increasingly turned to private foster care companies to run their programs. These companies take children who are identified by caseworkers to be removed

from their homes and place them with foster caretakers that have been recruited, selected, and paid by those same companies. And the more children in foster care, the more money these companies make from government contracts. The very real financial incentive for these private companies to ignore harms to children in foster care has been documented time and time again. Even state child welfare departments have a vested financial interest in this system. Thousands of administrators, caseworkers, investigators, and therapists are earning money from keeping children in foster care. The state also makes money by becoming the financial representative of children in foster care and taking their Social Security disability and survivor benefits.

**NE:** I was stunned by that fact: children's federal benefits, or the money left to them by their families, can be legally taken by companies and states when they are in foster care. The claim is that it is reimbursement for their time in foster care.

**DR:** That is the justification that states use to steal the money from these children. They'll say that they are reimbursing themselves for the cost of foster care. Remember that agencies receive federal, state, and local funding to pay for foster care costs. There is no reason why they should be reimbursed by children. They should not be able to take anything from the children. And—even if you entertained that idea—it's not as though they put the money in an account on behalf of the children. That money goes into the city or state's coffers. They even use that money, in some cases, to balance the budget. I write about the Maryland Department of Human Services hiring a company called Maximus, a private contractor, to find children whose benefits they could take to close budget shortfalls. There has also been a wealth of reporting children who age out of the foster care system only to find out that they should have had a trust fund with thousands of dollars in benefits that should have been kept for them but was instead stolen over the course of their time in foster care.

**NE:** Has reform made a dent in these problems?

**DR:** There have been so many reforms in this space over the last fifty years. Foster care itself was a reform—a transition from poorhouses where parents and children were institutionalized and forced to labor together. Since I wrote *Shattered Bonds*, racial disproportionality in the child welfare system has been noted and there have been countless efforts to shrink the disparities. But the system continues to operate the way that it always has—targeting and disrupting Black families and their communities. I could give a litany of reforms. I've engaged in numerous class

action lawsuits that have been filed against child welfare departments and consent decrees that have been issued by courts for decades. None of these efforts have changed the system’s fundamental design.

You can’t fix a system that is doing what it was designed to do: oppress Black, Indigenous, and impoverished communities. The only way to stop that is to build a completely different approach, one that isn’t based on threats to families, doesn’t confuse poverty and child neglect, and doesn’t blame parents for structural injuries to their children.

**NE:** How do we build a world that abolishes the family policing system and invests in child welfare?

**DR:** Ensuring the concrete resources and income that families need is a better way to invest in children’s welfare and safety. That would keep children safer from a variety of harms—be it poverty, structural racism, or even violence in a home. Harms to children would be drastically reduced if we invested in community-based resources that meet families’ needs, such as high-quality housing, childcare, and health care.

**NE:** None of which are things that caseworkers can provide.

**DR:** Caseworkers can’t provide any of that. Caseworkers mandate therapy, parent training courses, and supervised visitation with children. Meanwhile, we would be able to release thousands of children from foster care if their families had adequate housing. Providing concrete resources not only meets immediate needs, but also relieves stress in families. It gives children opportunities that they don’t have in foster care, not to mention the ability to have relationships with their families. That’s something that gets left out so much in these discussions, as if there’s no value to Black family relationships. Family bonds are extremely valuable and important to children’s welfare.

Instead of relying on family policing, we should build mutual aid networks in communities that provide what families need on a voluntary basis. Instead of spending billions of dollars—some estimates are as high as \$30 billion—on a child welfare system that prioritizes maintaining

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children outside of the home, we should devote that money to income supports and high-quality living conditions that facilitate nurturing and safe environments for children and families.

Rather than relying on prisons, police, and child welfare agencies, we should utilize the wisdom of anti-carceral feminists, many of whom are survivors of violence themselves, and embrace transformative justice processes that seek to prevent violence by understanding why violence occurs in families, holding the people who commit violence accountable, and working to heal relationships. We can reduce violence substantially by abandoning the current approach, which makes mothers afraid to report violence in the home—even against themselves—for fear that caseworkers will take their children away. This happens all the time. In some jurisdictions merely reporting violence in the home is considered grounds to take children away and put them into a violent foster care system.

**provide what families need on a voluntary basis.”**

It doesn't need to be this way. Black communities have a long history of addressing children's needs within the community. We had to figure this out because, until the 1960s, we were virtually excluded from the child welfare system. There's a long history of Black midwives attending to children's births and care, of Black club women coming together to provide voluntary services for children and young parents, and of Black mutual aid networks meeting families' material needs. Just look at the Black Panthers who provided breakfast and healthcare to children free of charge. There are so many examples of Black community members coming together to care for children and families. We can expand these efforts by applying the same visions, principles, and organizing behind prison and police abolition to the abolition of family policing.

**NE:** So much of the family policing system hinges on violent legal systems. What role do you think the law can play in struggles for racial and family justice?

**DR:** The family policing system is a good example of the kind of structural oppression that critical race theory has always highlighted and sought to understand. Black families have been disparaged and subjugated since the time of slavery and those efforts have been embedded in institutions, including legal institutions. One way we can move toward family policing abolition is by embracing what Ruth Wilson Gilmore calls “non-reformist reforms.” These are reforms aimed at the horizon of abolition and the process of dismantling and replacing carceral systems entirely.

One of the most important non-reformist reforms is legislation that guarantees the rights of parents and other family caregivers, including providing them high quality, multidisciplinary legal defense from the beginning of child welfare investigations—that means before a caseworker enters a home and threatens to take children away. As I mentioned before, the Fourth Amendment applies to caseworkers working for the state. Requiring them to get a warrant before searching homes and to give Miranda warnings to parents to let them know they have the right to an attorney before they say anything to caseworkers is critical, and so is supporting family defender services—units of attorneys, social workers, and parent advocates who specialize in defending families in child welfare proceedings. These legal advocates reject the idea that the interests of children run contrary to those of their parents and aim to defend the family as a whole. They are creating innovative ways of providing holistic services, not only legal representation in court, but also helping families find housing, childcare, and other resources they need to stay out of the clutches of the child welfare system.

**NE:** Can you tell me a bit about one of the organizers in this space who inspired you? How did their experience with the family policing system shape their advocacy?

**DR:** Organizing by parents and youth with entanglements in the system has grown over the last two decades, with Black mothers at the forefront. There are so many people organizing to dismantle the family policing system who inspire me! But one who stands out is Joyce McMillan, an amazing parent activist who founded and directs **JMacForFamilies** in New York City. I open my last chapter of *Torn Apart* with a story about her. She became an activist after New York’s Administration for Children’s Services (ACS) took her baby girl in 1999, triggered by an anonymous call to the hotline reporting her for drug use. It took her two years to recover her daughter, when she obtained legal representation by the Family Defense Practice at Brooklyn Defender Services. Her destructive experience with ACS motivated her to work at the nonprofit Child Welfare Organizing Project in Harlem and later to found her own organization in 2019, which works to abolish the current punitive system and create an approach that truly supports families and builds community.

I love Ms. McMillan’s forthright condemnation of family policing and creative strategizing to undo it. Under her direction JMacForFamilies has led influential grassroots campaigns to call attention to and dismantle ACS. She created **Parent Legislative Action Network** (PLAN), a coalition of family defenders,

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professors, and parent activists, to promote laws to protect families from ACS. She has also held rallies and posted billboards with brilliant messages like “Some Cops Are Called Caseworkers” and “They Separate Children at the Border of Harlem, Too.” I feel honored to work with activists like Ms. McMillan in the struggle to abolish family policing and build a safer, more humane, and caring world.

**impoverished communities.”**



## Dorothy Roberts

Dorothy Roberts is the George A. Weiss University Professor of Law and Sociology at the University of Pennsylvania. She is a contributor to the 1619 Project and the author of four books, including the bestselling *Killing the Black Body*. Her path-breaking work in law and public policy focuses on urgent social justice issues in policing, family regulation, science, medicine, and bioethics. She has been featured on urgent social justic. . .

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