

The Perils of Child “Protection” for Children of Color: Lessons From History

Mical Raz, MD, PhD, MSHP,^a Alan Dettlaff, MSW, PhD,^b Frank Edwards, PhD^c

Based upon recent investigation rates, as many as 37% of children born this year in the United States may become the subject of a child welfare system investigation. Among Black children, an estimated close to 50% are likely to be subject to such an investigation.¹ Although rates of serious physical injury to children are on the decline,² the number of children reported for neglect has increased. Child maltreatment investigations have become the foremost intervention to safeguard children in the United States. This focus on reporting, investigation, and child removal has a long history.³ Furthermore, the burden of the coercive aspects of the child welfare system is carried disproportionately by Black families.

Allegations of maltreatment involving Black children are more likely to be reported to¹ and substantiated by child welfare agencies than those involving white children.⁴ Once investigated, Black children are more likely to be removed from their homes than white children and subsequently less likely to be reunified.^{5,6} Although some researchers identified race as a significant factor in these disparities,⁴ others found no

significant effect for race when controlling for poverty.⁷ Yet, regardless of the reasons disparities occur, they represent a significant problem because of the harm they cause Black families. We trace these current problems to historical changes in the late 1960s and 1970s that transformed child welfare from an agency focused on the provision of services to an agency focused on surveillance and coercive intervention.

A focus on reporting child maltreatment traces to the early 1960s, when physicians called attention to occult physical abuse in children.⁸ This attention rapidly transformed into legislation. By 1967, 49 states had mandatory reporting laws. With the 1973 passage of the federal Child Abuse Prevention and Treatment Act, states further expanded their reporting requirements.⁹ Although the Child Abuse Prevention and Treatment Act set minimum federal definitions for maltreatment, it allowed states broad discretion to expand these definitions, resulting in laws that varied by state, often influenced by racialized narratives surrounding poverty and parenting.¹⁰

Contemporary child abuse interventions focused on

^aCharles E. and Dale L. Phelps Professor in Public Policy and Health, University of Rochester, Rochester, New York; ^bDean and Maconda Brown O'Connor Endowed Dean's Chair, Graduate College of Social Work, University of Houston, Houston, Texas; and ^cSchool of Criminal Justice, Rutgers University, Newark, New Jersey

Dr Raz conceptualized and designed the study and drafted the article; Dr Dettlaff developed the abolition model for child welfare and collaborated in writing and editing the manuscript, in particular the policy and racial implications of child welfare; Dr Edwards participated in multiple meetings planning and developing this article, evaluated statistical data underlying its main arguments, commented and revised aspects of this article, and formatted it; and all authors approved the final manuscript as submitted and agree to be accountable for all aspects of the work.

DOI: <https://doi.org/10.1542/peds.2021-050237>

Accepted for publication Mar 12, 2021

Address correspondence Mical Raz, MD, PhD, MSHP, Charles E. and Dale L. Phelps Professor in Public Policy and Health, University of Rochester, Rochester, NY 14618. E-mail: micalraz@rochester.edu

PEDIATRICS (ISSN Numbers: Print, 0031-4005; Online, 1098-4275)

Copyright © 2021 by the American Academy of Pediatrics

FINANCIAL DISCLOSURE: The authors have indicated they have no financial relationships relevant to this article to disclose.

FUNDING: No external funding.

POTENTIAL CONFLICT OF INTEREST: The authors have indicated they have no potential conflicts of interest to disclose.

To cite: Raz M, Dettlaff A, Edwards F. The Perils of Child “Protection” for Children of Color: Lessons From History. *Pediatrics*. 2021;148(1):e2021050237

reporting, rather than on the provision of services. Hotlines emerged as the preferred technology for implementation, because these enabled increased reporting without a concomitant increase in salaried positions.¹¹ Florida was the first state to implement a child abuse reporting hotline in 1971. Following an aggressive outreach campaign, the number of reports increased from 17 in 1970 to 19 120 the following year.¹² Yet state politicians made no funding appropriations to deal with this increase, and child welfare agencies struggled to respond. By expanding reporting without increasing funding for services, Florida set what would become an unfortunate standard in child welfare, highlighting political theater and the appearance of resolute action over service provision. Florida's hotline served as a model for many states that hurriedly adopted a system focused on reporting and investigation.¹³ States prioritized reporting of suspected child maltreatment, building an apparatus for report submission and investigation. Predictably, the number of child abuse and neglect reports nationwide increased. The number of reports increased from ~416 000 in 1976 to ~614 000 in 1978, an increase of nearly 50%.^{14(p6)} Approximately 60% of reports were unsubstantiated by child welfare agencies, ~26% resulted in substantiated findings of neglect, ~15% resulted in substantiated findings of abuse, and ~2% resulted in substantiated findings of sexual abuse.^{14(pp18,34-35)}

Race clearly mattered. Black children were the subject of 19% of all substantiated reports, whereas they constituted 11% of the population nationwide; Hispanic children were also disproportionately represented.^{14(pp24-25)} Both abuse

and neglect were more commonly reported and substantiated in low-income families. Income and race tracked closely; both were associated with reporting. Nearly half of all substantiated reports of neglect were in families with annual incomes <\$5000,^{14(p31)} well below the 1978 federal poverty level of \$6200 for a 4-person family.¹⁵

By the late 1970s, data indicated that expanded reporting requirements led to significant increases in reporting of low-income families of color and that only a fraction of the reports involved physical harm to children.^{14,16} Furthermore, as agencies turned their focus to receiving and investigating reports, they spent less of their resources on service provision, and often a maltreatment report was required to receive services.¹⁷

As more children were reported to child welfare agencies, increasing numbers of children were removed from their homes. These children were disproportionately from low-income families of color.^{18,19} These ever-increasing numbers all but ensured that some children would inadvertently be placed in unsafe situations, and by the late 1970s, abuse of children within foster homes, as well as the mental health effects of temporary placements, became a focus of public concern.²⁰

Increasingly, policymakers highlighted the need for "permanence," a term that would become nearly synonymous with adoption, rather than reunification. This is demonstrated in the hearings preceding the 1980 Adoption Assistance and Child Welfare Act (AACWA). Senator Alan Cranston (D-CA), Chair of the Subcommittee on Child and Human Development, described horrific abuse of children in foster care. He decried the situation of "children left to languish

in foster care," when they "could have been in loving, permanent homes," referring to adoptive families.²¹ Multiple witnesses highlighted the connection between increased reporting and increased child removal.^{22,23} There was no discussion of whether increased investigation led to the unnecessary removal of children, or whether these policies improved outcomes for children.

In 1980, President Carter signed the AACWA, outlining 2 main methods to reduce children in foster care: (1) providing funding for services to prevent the need to remove children from their homes and (2) creating a federal adoption assistance program.²⁴ The AACWA did not address whether increased reporting contributed to increased child removal, and there was no political will to argue that not all undesirable home situations constituted abuse. Still, the AACWA advocated for enhanced family preservation services to reduce child removal. Yet it could not have passed at a less opportune time. The Reagan administration limited the appropriation for Title IV-B money, designed to pay for family preservation. In contrast, Title IV-E funds, which provided for foster care placement, continued to rise from levels that were already nearly twice that of the Title IV-B.²⁵

AACWA epitomized the widespread acceptance of the idea that children needed permanence. Yet with the lack of funding and professional standards for family preservation programs, these efforts were destined for failure. This culminated in the 1997 passage of the Adoption and Safe Families Act, which limited family preservation requirements, focusing instead on perceived safety. Adoption was promoted as the primary method to ensure children's safety, requiring the termination of parental rights.²⁶ By relaxing

reunification requirements and easing criteria for termination, more children could be removed from their families and permanently placed in new homes. These policies have remained in place, despite robust data that indicate child removal causes harm to children and communities.^{27–30}

Although foster care was conceived as a temporary placement for children, with the Adoption and Safe Families Act it became a program through which prospective parents could obtain children for adoption. This was enhanced by financial incentives to states for adoption from foster care.³¹ Ultimately, policy and legal developments of the late 1990s promoted adoption as the solution to the rising number of children in foster care, disproportionately impacting poor children of color.^{32,33} This legacy has persisted despite many attempts at reform.

The history of the child welfare system demonstrates how a focus on surveillance and reporting shifted the mission of child welfare agencies from service provision to investigations. This has resulted in disproportionate harm to Black children and families through disproportionate rates of removal and its negative sequelae, culminating in the termination of parental rights. Recent scholarship in child welfare has asked whether we could reimagine a society in which families and children are protected without a threat of child removal as a means of ensuring children's safety. These models push to end the practice of child removal and instead focus on offering supports to children and communities, including but not limited to safe housing, access to food, health care, educational opportunities, and strengthening bonds within local communities.^{34,35} This also continues a tradition of

important work of activists, including groups representing parents, primarily mothers, who lost custody of their children under contested circumstances.³⁶

Recognizing the history of our current child welfare system and the consequences of coercive family interventions is a crucial first step in envisioning alternative responses that offer services and support, including material resources, to help ensure children and families can thrive.

ABBREVIATION

AACWA: Adoption Assistance and Child Welfare Act

REFERENCES

1. Kim H, Wildeman C, Jonson-Reid M, Drake B. Lifetime prevalence of investigating child maltreatment among US children. *Am J Public Health*. 2017;107(2):274–280
2. Finkelhor D, Saito K, Jones L. *Updated Trends in Child Maltreatment, 2017*. University of New Hampshire; 2019:4
3. Raz M. *Abusive Policies: How the American Child Welfare System Lost Its Way*. The University of North Carolina Press; 2020
4. Maguire-Jack K, Font SA, Dillard R. Child protective services decision-making: the role of children's race and county factors. *Am J Orthopsychiatry*. 2020;90(1):48–62
5. Yi Y, Edwards FR, Wildeman C. Cumulative prevalence of confirmed maltreatment and foster care placement for US children by race/ethnicity, 2011–2016. *Am J Public Health*. 2020;110(5):704–709
6. Wildeman C, Edwards FR, Wakefield S. The cumulative prevalence of termination of parental rights for U.S. children, 2000–2016. *Child Maltreat*. 2020;25(1):32–42
7. Kim H, Drake B. Child maltreatment risk as a function of poverty and race/ethnicity in the USA. *Int J Epidemiol*. 2018;47(3):780–787
8. Kempe CH, Silverman FN, Steele BF, Droegemüller W, Silver HK. The battered-child syndrome. *JAMA*. 1962;181(1):17–24
9. Brown LGI, Gallagher K. Mandatory reporting of abuse: a historical perspective on the evolution of states' current mandatory reporting laws with a review of the laws in the commonwealth of Pennsylvania. *Vill L Rev Tolle Lege*. 2013;59:37
10. Hanna MD. Child welfare system issues as explanatory factors for racial disproportionality and disparities. In: Dettlaff AJ, ed. *Racial Disproportionality and Disparities in the Child Welfare System*. Germany: Springer International Publishing; 2021:177–197
11. Lester D. The use of the telephone in counseling and crisis intervention. In: de Sola Pool I, ed. *The Social Impact of the Telephone*. United Kingdom: MIT Press; 1977:454–472
12. Nelson BJ. *Making an Issue of Child Abuse*. Chicago, London: University of Chicago Press; 1986:80–81
13. Nagi SZ. Child abuse and neglect programs: a national overview. *Child Today*. 1975;4(3):13–17
14. American Humane Association. *National Analysis of Official Child Neglect and Abuse Reporting*. American Humane Association; 1976
15. US Bureau of Labor Statistics. *NLSY79 Appendix 2: Total Net Family Income Variable Creation (1979–2016)*. Bureau of Labor Statistics; 1979. Available at: <https://www.nlsinfo.org/content/cohorts/nlsy79/other-documentation/codebook-supplement/nlsy79-appendix-2-total-net-family-3>. Accessed June 4, 2021
16. Hampton RL, Newberger EH. Child abuse incidence and reporting by hospitals: significance of severity, class, and race. *Am J Public Health*. 1985;75(1):56–60
17. Lindsey D. *The Welfare of Children*. United Kingdom: Oxford University Press; 2004:119–158
18. US Department of Health and Human Services. *National Study of Protective, Preventive, and Reunification Services Delivered to Children and Their Families*. Washington, DC: US Government Printing Office; 1997

19. Tatara T. *Characteristics of Children in Substitute and Adoptive Care: A Statistical Summary of the VCIS National Child Welfare Data Base*. Washington, DC: American Public Welfare Association; 1985
20. Goldstein J, Freund A, Solnit AJ. *Beyond the Best Interests of the Child*. United Kingdom: Free Press; 1984
21. Hearings on HR 3434. 96th Cong (1979) (Testimony of Senator Alan Cranston [D-CA], Chairman of the Subcommittee on Child and Human Development)
22. Hearings on HR 3434. 96th Cong; (1979) (Testimony of Theodore Levine, Executive Director, Youth Services, Inc)
23. Hearings on HR 3434. 116th Congr (1979) (Statement of the American Academy of Pediatrics)
24. Carter J. Adoption Assistance and Child Welfare Act of 1980 statement on signing H.R. 3434 into law. 1980. www.presidency.ucsb.edu/ws/index.php?pid=44597. Accessed May 30, 2021
25. Gainsborough JF. *Scandalous Politics: Child Welfare Policy in the States*. Washington, DC: Georgetown University Press; 2010:27–35
26. Adoption and Safe Families Act of 1997, HR 867, Pub L No. 105–89
27. Roberts D. *Shattered Bonds: The Color of Child Welfare*. New York: Basic Books; 2002
28. Roberts DE. The racial geography of child welfare: toward a new research paradigm. *Child Welfare*. 2008;87(2):125–150
29. Sankaran V, Church C, Mitchell M. A cure worse than the disease: the impact of removal on children and their families. *Marquette L Rev*. 2018;102:1161
30. Trivedi S. The harm of child removal. *N. Y. U. Rev L & Soc Change*. 2019;43(3):523
31. U. S. General Accounting Office. *Foster Care Recent Legislation Helps States Focus on Finding Permanent Homes for Children, but Longstanding Barriers Remain*. U. S. General Accounting Office; 2002
32. Rymph CE. *Raising Government Children: A History of Foster Care and the American Welfare State*. Chapel Hill, NC: UNC Press Books; 2017:184–185
33. Briggs L. *Somebody's Children: The Politics of Transracial and Transnational Adoption*. United Kingdom: Duke University Press; 2012:115–118
34. Roberts DE. Abolition constitutionalism. *Harv Law Rev*. 2019;133:1
35. Dettlaff AJ, Weber K, Pendleton M, Boyd R, Bettencourt B, Burton L. It is not a broken system, it is a system that needs to be broken: the upEND movement to abolish the child welfare system. *J Public Child Welf*. 2020;14(5):500–517
36. Tobis D. *From Pariahs to Partners: How Parents and Their Allies Changed New York City's Child Welfare System*. United Kingdom: Oxford University Press; 2013