



**Center for the
Study of
Social Policy**
Ideas into Action

SYSTEMICALLY NEGLECTED

*How Racism Structures Public Systems to
Produce Child Neglect*

BY ELISA MINOFF AND ALEXANDRA CITRIN

MARCH 2022



ABOUT CSSP

CSSP is a national, non-profit policy organization that connects community action, public system reform, and policy change. We work to achieve a racially, economically, and socially just society in which all children and families thrive. To do this, we translate ideas into action, promote public policies grounded in equity, support strong and inclusive communities, and advocate with and for all children and families marginalized by public policies and institutional practices.

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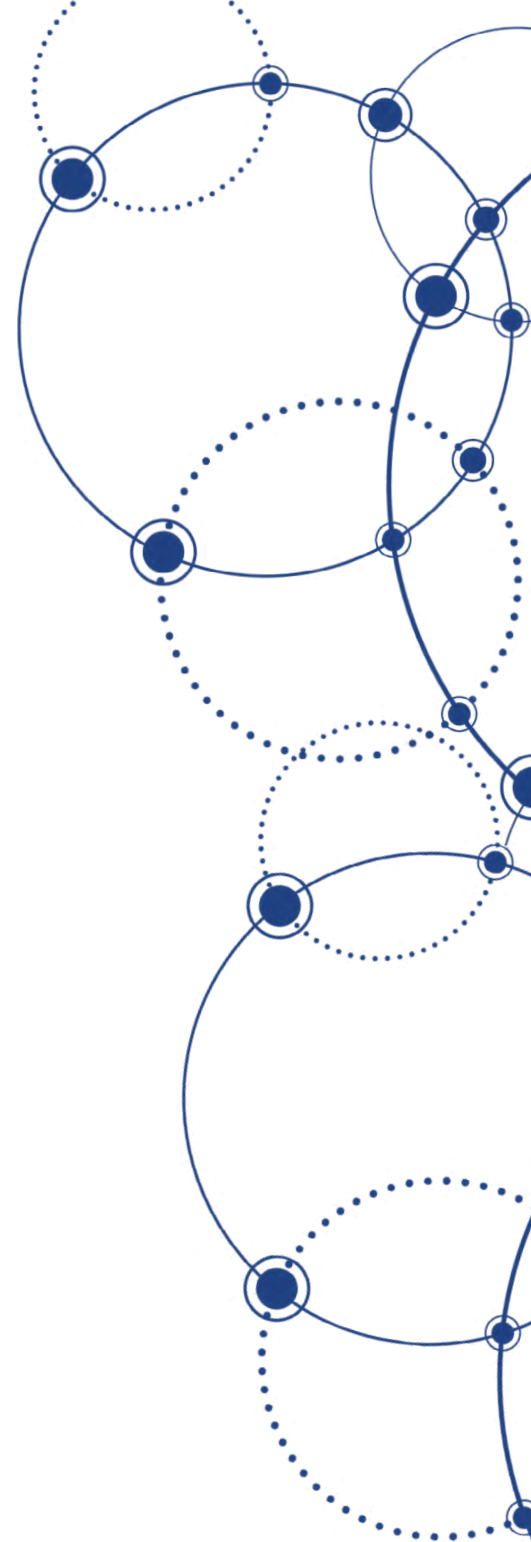
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INTRODUCTION



In recent years, more than a quarter of a million children annually have been removed from their families and placed in foster care.¹ The vast majority of children who are removed from their families are removed as a result of alleged child neglect.² Black and Indigenous children are significantly more likely to be removed from their families than White children.³ These facts are inextricably connected, and rooted in racism.

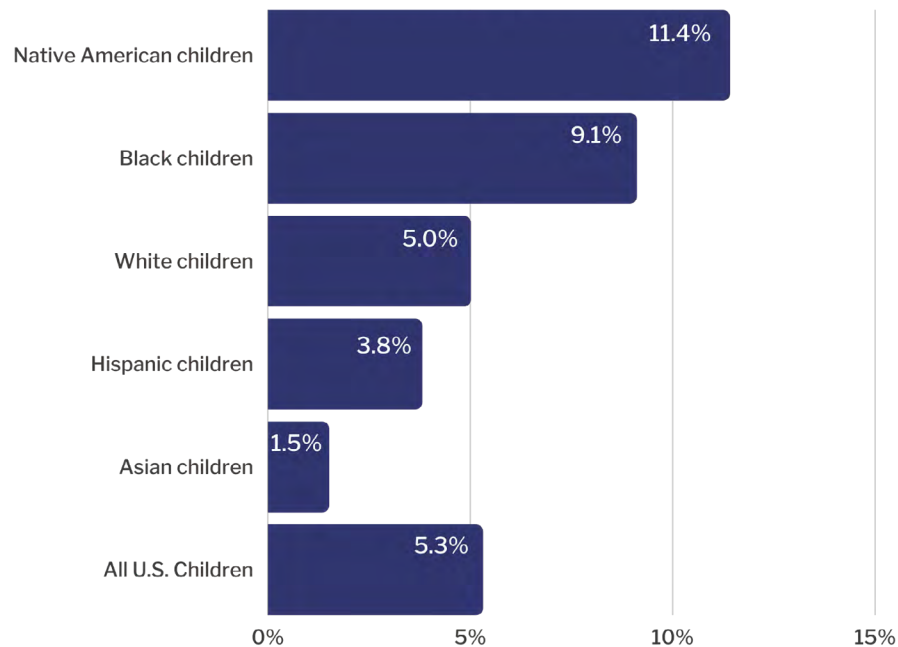
Federal law does not clearly define neglect.⁴ Neglect is most commonly defined in state law as the failure of a parent or other person with responsibility for a child to provide needed food, clothing, shelter, medical care, or supervision to the degree that the child's health, safety, and well-being are threatened with harm. Given the broad definition of neglect, and flexibility in interpretation, there is significant variability in application across and within child protection systems.

Too often, circumstances stemming from poverty are construed as neglect. For example, if families are homeless because parents cannot afford rent, or a family's home is dirty, the water is cut off, or children share a bed, child protective services may deem the parent to be providing unsafe housing or shelter, a form of neglect. If a parent needs to work two jobs to make ends meet and leaves a child home alone, or school unexpectedly closes and they cannot afford a babysitter, child protective services may call it inadequate and unsafe supervision, a form of neglect. In other cases poverty can be an indirect contributor to neglect, underlying the circumstances that lead to a family's involvement with child protective services. For example, when insecure jobs and inadequate supports lead parents to struggle to provide day-to-day necessities, they can feel anxious, depressed, fearful, and overwhelmed. Researchers have found that the daily stress of trying to meet basic needs can interfere with a parent's ability to provide responsive care, such as responding to a child's emotional needs and addressing potential safety risks.⁵ Meanwhile families with low incomes may have limited access to mental health services to address conditions exacerbated by poverty.⁶ For all of these reasons, families experiencing poverty are more likely to be investigated for and charged with neglect.

Underlying both poverty and neglect, however, is historic and present-day racism. Discrimination based on race in housing, education, health care, and employment can make it difficult for Black, Indigenous, Latinx, and other families of color to find safe housing, quality health care, affordable child care, and good jobs that enable them to sustain their families.⁷ Social supports such as cash, food, and housing assistance do not adequately support struggling families, and many Black, Latinx, Indigenous, and immigrant families are excluded from these supports entirely because of policies and practices rooted in racism, from work requirements to immigrant restrictions in public benefits.⁸

Systemic racism outside of the child welfare system compounds the effects of systemic racism within the system. Over the course of the last hundred years, the child welfare system has evolved to surveil and punish Black, Indigenous, and other families of color. The racism that has shaped the child welfare system affects all forms of involvement in child welfare—not just neglect—through surveillance, policing, vague definitions of maltreatment that are subject to bias, and more.⁹ The result is that families of color are more likely to become involved in child protective services and they experience worse outcomes once they become involved. Investigations alone can cause significant stress and harm to families. Shockingly, over the course of their childhood, a staggering 53 percent of Black children—and by extension their parents and families—will be investigated by child protective services, compared to 32 percent of Hispanic children, 28 percent of White children, 23 percent of Native American children, and 10 percent of Asian/Pacific Islander children.¹⁰ Once investigated, children of color are more likely to be removed from their families. Researchers have consistently concluded that race on its own “is an important factor that affects the decision to place children in foster care.”¹¹ An estimated 5 percent of White children will experience foster care placement by their eighteenth birthday, compared to 11.4 percent of Native American Children and 9.1 percent of Black children.¹² Once placed in foster care, Black and Indigenous children spend longer in foster care than White children, are less likely to reunify with their families, and are more likely to age out of care without a permanent connection to a loving adult.¹³ This is problematic, because when children are removed from their families, they lose important bonds and connections—whether it is to parents, siblings, aunts, uncles, grandparents, or more extended or fictive kin. Not only that, we know that foster care itself can at times be a site of harm and abuse.¹⁴ Ultimately, research shows that children who spend longer in foster care are at greater risk of poor educational, employment, and health and well-being outcomes over the long term.

Figure 1. Black and Indigenous Children Are Significantly More Likely to be Separated from their Families: Cumulative Risk of Foster Care Placement by Age 18



Source: Yi, Youngmin et al “Cumulative Prevalence of Confirmed Maltreatment and Foster Care Placement by Race/Ethnicity, 2011-2016.” American Journal of Public Health, 2020.

* In this report we use the terms Black, Latinx, and Indigenous unless we are citing data that used other terms to describe racial and ethnic categorization, in which case we use the terms reported in the original source.

It is long past time that we stop and ask ourselves why we approach neglect the way that we do. If we continue to turn to an intervening system that has been inextricably shaped by racism to solve a problem that racism has helped create, we will continue to see Black, Indigenous, and Latinx families separated due to circumstances related to poverty that could have been prevented in the first place with adequate supports and services.

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Everyone wants children to grow up safe, nurtured, and loved. Instead of turning to a system that cannot provide children what they need, we should address the root causes of what brings children and families to the attention of that system in the first place. We must develop a continuum of anti-racist supports aimed at meeting families' basic needs and helping them stay together. By anti-racist supports, we mean supports that are designed to redress past injustices, meet the expressed needs of people of color—and not harm or exclude as too many policies have done in the past—and support the whole family.¹⁶

Developing a continuum of anti-racist supports to address families' needs is critical for all families who come to the attention of the child welfare system. Concrete supports such as housing assistance, cash assistance, quality and affordable childcare, transportation support and home visiting can address and resolve the circumstances underlying neglect when poverty is an indirect or direct cause, and they are a foundation that is critical for all families. As part of a larger effort to re-envision how communities support families, these supports and services can help buttress and strengthen families. Regardless of whether the alleged maltreatment is neglect or abuse, strengthening families and providing a continuum of universal and targeted supports in communities, where families are, can ensure child protective services are unnecessary and children and families flourish. The goal of policy should be to support families in their communities, and support children in their families so that they can grow up safe, nurtured, and loved.

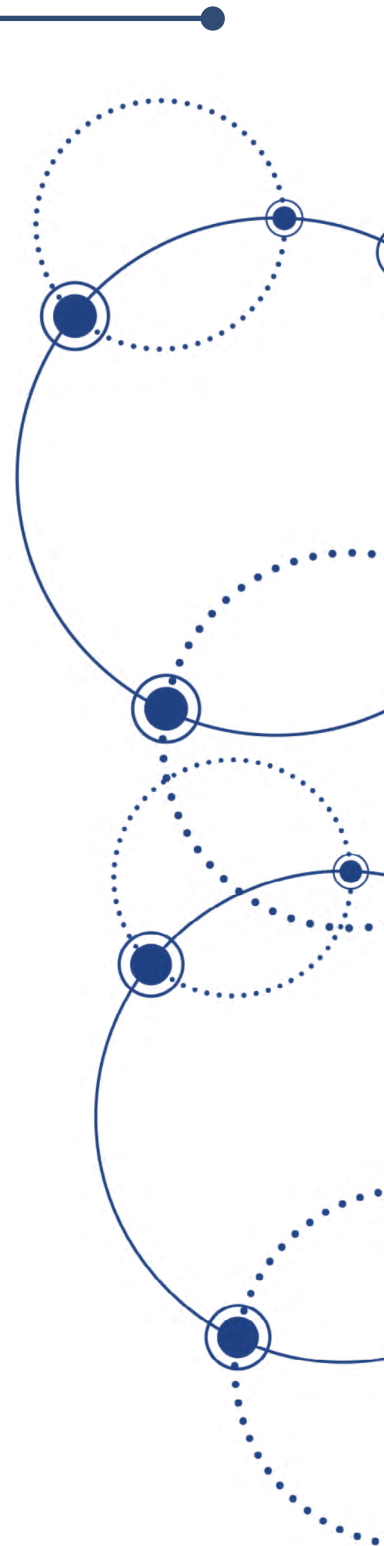
This report outlines the history of how child protective services developed to surveil families of color, examines how policy pushes families of color into the child welfare system today, and concludes with some recommendations for adequately supporting children and families of color and keeping families together in the future. In order to redress the wrongs created by punitive child protective services we will need to work across systems to root-out systemic racism and develop supports and services—from housing to health care to income supports—that actually meet the needs of children and families of color and promote their health and well-being.

HOW WE GOT HERE

To understand how the child welfare system became a system that threatens families because of their race and class, we need to look to its history. The child welfare system as we know it took shape in the mid-twentieth century, when significant federal funding was first made available to states to support children who were removed from their homes. But this system developed out of a mix of public and private institutions that arose over the course of the nineteenth and early twentieth centuries to serve poor children—and were designed to serve poor European immigrant children in particular, often explicitly excluding Black children and Indigenous children.

These early child welfare institutions were predicated on removing poor children from their homes and communities, but they were not exclusively coercive and punitive. Private charities often did surveil poor families and coerced parents into sending their children away, motivated by the belief that children were better off when they were removed from the “evil influences” of impoverished families and communities. The fact that the poor Jewish, Irish, and Italian families surveilled by these institutions were not yet racialized as White fed this view.¹⁷ But in a period before government-funded cash assistance and social supports, families could also voluntarily send their children to orphanages or charities that ran proto-foster care systems when they fell on hard times, and reclaim their children later.¹⁸ In other words, these institutions could be both a threat and support to families, and this dual role characterized child welfare services through the early twentieth century and beyond, even as state and local governments began funding them to provide services to children.

The Black and Indigenous children who were excluded from these early institutions were often pushed into significantly more punitive and coercive institutions. While Black children whose parents fell on hard times were traditionally supported by their communities and extended kin networks, as juvenile court systems developed and localities established juvenile detention facilities in the early twentieth century, Black children who did not have kin or communities to support them, such as those who had recently migrated and left extended family members and supports behind, were increasingly sent to juvenile detention facilities. In the South, Black children in need of support were often sent directly to adult jails or reform schools, even when they had not been charged with a crime. Well into the twentieth century there were reports of Black children being housed in jails because there was nowhere else for them to turn.¹⁹ Like Black children, Indigenous children were generally excluded by the early orphanages and foster care systems, but the U.S. Bureau of Indian Affairs established boarding schools with the explicit goal of separating children from their families and communities, as part of a larger attempt to erase Indigenous cultures and undermine tribal sovereignty.²⁰





The federal government took significant steps to limit the need for out-of-home placement of poor children when it created the modern welfare state, including unemployment insurance, social security, and cash assistance in the 1930s. But these new supports, like the much more limited previous supports, too often excluded Black families and other families of color. At the insistence of southern Congressmen intent on buttressing White supremacy, the two primary occupations for Black people in the South—agricultural work and domestic service—were excluded from protections under the Social Security Act and the Fair Labor Standards Act, which meant that the majority of Black workers were denied a minimum wage, unemployment insurance, and social security in old age.²¹ Southern Congressmen also insisted that decisions concerning benefit levels and eligibility for Aid to Dependent Children (ADC), the cash assistance program for families with children, be left to states.²² As a result, southern states kept benefit levels very low and instituted work requirements, “suitable home” policies, and other eligibility restrictions to deny Black families support and force them to work for White people for low wages.²³ White families benefited significantly more from these and other social supports than Black families and other families of color in the years that followed.²⁴ Through the mid-twentieth century, extreme racial inequity continued to characterize the system of social supports, even as some services integrated and pressure mounted for more structural inclusion as the civil rights movement gained momentum.

Meanwhile, federal child welfare institutions continued to focus on removing children from their homes in the name of child safety. The Children’s Bureau, the primary federal agency overseeing child welfare matters, along with child welfare advocates outside of government, had long demanded that families receive adequate support so that children could remain in their homes with their loved ones. But when ADC was created, that and other social supports were placed under the Bureau of Public Assistance and other departments and agencies—not in the Children’s Bureau. This bureaucratic separation of responsibilities meant that the Children’s Bureau and the child welfare apparatus it oversaw continued to focus almost exclusively on out-of-home placement.

This was the context for the formation of the modern child welfare system in the 1960s—a much larger and better-funded system than anything that came before, but one that increasingly surveilled families of color and families experiencing poverty, and despite goals to the contrary, responded in coercive and punitive ways, ultimately resulting in systemic family separation.

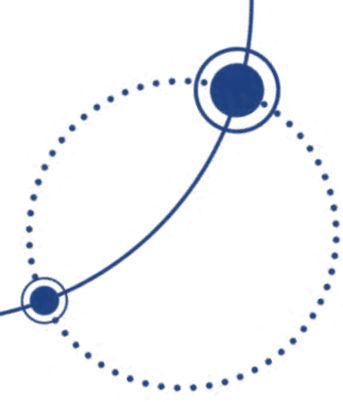
Ironically, a catalyst for this change was a federal attempt to expand access to cash assistance for Black families in the South. In 1960, Louisiana had passed a draconian new “suitable home” law as part of a legislative package of segregation bills designed to reinforce the racial hierarchy and deny Black families support.²⁵ The law denied ADC to women who had children out of wedlock, and of the 23,000 children who were cut off ADC in the first two months after the law’s passage, an estimated 80 to 90

percent were Black.²⁶ Under pressure from the National Urban League, the prominent civil rights organization, and other social welfare advocates, Secretary of Health, Education, and Welfare Arthur Flemming responded by condemning Louisiana's new law. In a ruling which became known as the "Flemming Rule," he stated that states cannot simply deny assistance to children if households are deemed unsuitable, but must instead either provide services to make the home suitable, or move the child to a suitable home and provide support for the child in that home. The Flemming Rule was seen by social welfare advocates as a major victory for civil rights because it ensured that families could not be entirely denied assistance at the whim of state governments. However, by emphasizing service provision and allowing states to remove children if a home was deemed unsuitable, it set families up for increased surveillance and ultimately separation.²⁷

Two years later, the Flemming Rule was codified in amendments to the Social Security Act that paired this new direction with new federal funding to remove children from their families and place them in foster care. The new federal funding made available under Title IV of the Social Security Act could only be used for out of home placements—it could not be used to provide services to families whose children remained at home. It also could not be used to support the removal of children from middle-income families, because the law required that a family be eligible for ADC—which it simultaneously renamed Aid to Families with Dependent Children (AFDC)—in order for a portion of the costs of foster care placement to be reimbursed by the federal government. While child welfare institutions had always primarily served children in poor families, the law encouraged states to work with only the families with the lowest incomes so that foster care could be reimbursed by the federal government. As a result, the new funding strengthened the orientation of the system toward removing poor children from their homes. And these removals were increasingly involuntary. While previously parents and caregivers sometimes voluntarily sent their children away until they could once again support them, access to the new federal funding required that agencies seek court orders to remove children from their homes. The provision was originally included in the law to protect families from improper separations, but it resulted in a system that was even more oriented toward adversarial removals and compliance with services, instead of voluntary and cooperative services.²⁸

The new federal funding gave rise to a more coercive system focused increasingly on the poorest families, and, because of parallel developments in cash assistance policy, increasingly on Black families and other families of color. During these years, Black women and other women of color who had historically been denied public assistance were gaining access to AFDC. More Black families were living in Northern states where cash assistance was more accessible, states were liberalizing access to and eligibility for benefits, and the federal government was beginning to crack down on blatantly discriminatory state laws (such as Louisiana's).²⁹ As a result, by the 1960s Black families made up a larger share of families participating in AFDC than ever before.





Because of this confluence of policy decisions, just as Black women gained access to cash assistance, agencies administering that cash assistance began scrutinizing Black women’s child rearing practices to see if the state should remove their children, and pursuing judicial findings of neglect in order to have foster care for their children covered by the new federal funds.³⁰ As the historian Catherine Rymph has observed, in the years that followed, “professionals would discover that in practice... foster care would now be used punitively against particular AFDC mothers who local agencies believed fell short of local standards of propriety.”³¹

The child welfare system that emerged from these developments no longer formally excluded poor families of color, but actively surveilled and punished them. Over the decade that followed, the child welfare’s system surveillance was buttressed by new state mandatory reporting laws, which legally required certain individuals to report child maltreatment. The federal government encouraged states to move in this direction, first by proposing model state legislation on mandatory reporting, and then by conditioning new federal funds on states instituting these laws within the Child Abuse Prevention and Treatment Act of 1974.³²

Many of the families of color being separated by this increasingly coercive and punitive system were still not getting the basic supports—and most notably, the cash assistance—they needed to make ends meet. Over the years that followed there was a public backlash against cash assistance, as politicians increasingly invoked racist and sexist tropes to undermine support for cash assistance. Benefit levels for cash assistance declined in real terms in the 1970s and 1980s.³³ In 1996, AFDC was replaced with Temporary Assistance for Needy Families (TANF), a block grant providing, at best, only time-limited cash assistance conditioned on work.³⁴ As a result, cash assistance has been decimated for the very families who the child welfare system was increasingly “serving.”³⁵

In the quarter-century since the end of AFDC, an economy defined by insecure jobs and a fragmented, work-based system of social supports continues to disproportionately subject Black families and other families of color to economic insecurity, which in turn puts them at risk of child welfare involvement. This is a direct product of how racism continues to structure opportunities and supports.

PUBLIC POLICY CONTINUES TO PUSH FAMILIES OF COLOR INTO POVERTY

Limited workplace protections subject large numbers of workers to low pay and exploitative workplace conditions, and people of color are disproportionately harmed, as systemic racism and discrimination in education and employment push many into the lowest paid and most insecure jobs.³⁶ When Black, Latinx, and Indigenous people lose a job or have their hours reduced, they are also less able to weather negative income shocks because they have less wealth—a result of their continuous exclusion from wealth-building opportunities, and their historical experiences of state-sanctioned wealth expropriation, from slavery and land confiscation in the colonial period to discrimination in real estate acquisition and land leases that bar tribal governments from developing land today.³⁷

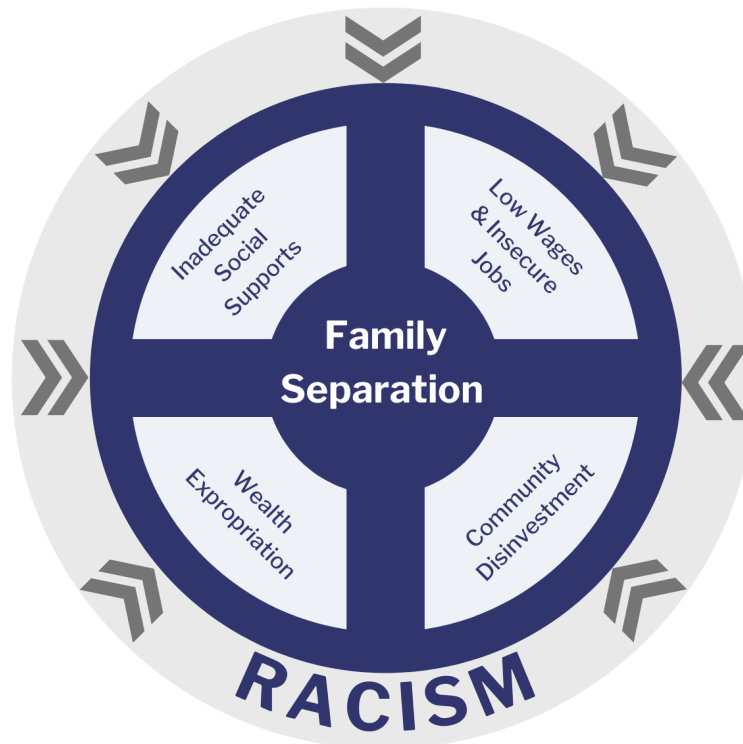
Children and families of color are also significantly more likely to live in communities marked by historic disinvestment because of decades of policy decisions that have engineered racial residential segregation and pushed Black families in particular into neighborhoods with high poverty rates, poor housing conditions, and more limited access to employment opportunities, healthy food, clean open spaces for children to play, reliable public transportation, strong schools, and other critical services.³⁸ Ultimately, these conditions can make it difficult for families to meet their basic needs, provide safe and healthy outlets for their children's development, and pursue their goals.³⁹

Public policy does not compensate for the resulting racial and economic inequality, but rather reinforces it. The United States both spends less on supports for children and families than comparable wealthy nations, and much of what it does spend—through policies such as the mortgage interest deduction and retirement savings incentives—goes to middle and upper income families, who are disproportionately White.⁴⁰ The United States' workforce system has historically struggled to effectively support workers most in need of services, and we do not have a large-scale subsidized employment program—even though research has shown that subsidized jobs programs can be very effective at helping Black and Latinx individuals, youth, and people impacted by the criminal justice system find jobs with livable wages.⁴¹ Meanwhile, there is no meaningful program of cash assistance for families with the lowest incomes, as racist and sexist tropes have been invoked to undermine support for public assistance over the last half-century.⁴² Fewer than 23 out of every 100 families living in poverty currently access cash assistance through Temporary Assistance for Needy Families (TANF).⁴³ The Earned Income Tax Credit (EITC) provides critical support to many working families, but does less to help families with limited or no earnings because it phases in as earnings rise—a family with one child does not receive the maximum EITC until their earnings reach \$10,000.⁴⁴ As housing and child care costs skyrocket, only one in six children who are eligible for child care assistance,⁴⁵ and only one in five families who are eligible for housing assistance, receive it.⁴⁶ For many families with the lowest incomes, food assistance, through the Supplemental Nutrition Assistance Program (SNAP), is the only regular support they can rely on to make ends meet.⁴⁷

While existing policies provide much-needed support to families of color who are able to access them, lifting millions of Black and Latinx people out of poverty, families of color are still disproportionately excluded from accessing these supports when needed.⁴⁸ For example, work reporting requirements systematically deny Black families and other families of color cash assistance, both because states that have more Black families impose stricter requirements, and because within states, caseworkers are more likely to deny assistance to Black, Latinx, and other families of color for not meeting them.⁴⁹ Restrictions on immigrants' access to benefits—including health insurance, housing assistance, food assistance, and more—make it difficult for immigrant families of all races and ethnicities to access the supports they need.⁵⁰

As it stands, because of past policy decisions and the United States' historic and present-day racism, families of color are more likely to have low incomes and experience poverty. In 2019, the last year of the longest economic expansion on record, 40 percent of Black households and 30 percent of Hispanic households had incomes under \$35,000. The Economic Policy Institute's Family Budget Calculator estimates that even in communities with the lowest cost of living, a family of four needs at least \$55,000 a year to cover their basic expenses.⁵¹ More than one in four Black and American Indian children and one in five Hispanic children were living in families with incomes so low they fell below the official poverty line—\$21,330 for a family of three—compared to one in 10 White and Asian children.⁵² A year later, in the midst of a global pandemic and economic recession, stimulus payments and other federal interventions effectively supported many families, but vast racial disparities in poverty persist.⁵³

Figure 2. Racism and Systemic Inequities Contribute to Family Separation Caused by Child Protective Services



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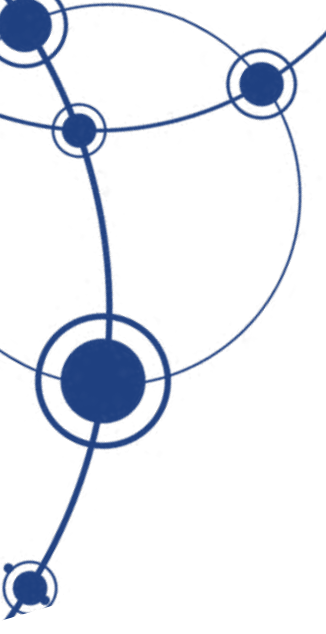
THE CHILD WELFARE SYSTEM CONTINUES TO SURVEIL AND THREATEN FAMILIES OF COLOR

Today, for the disproportionate number of families of color who are pushed into and kept in poverty by historic racism and present-day racist public policies, child protective services too often drive families deeper into the system—ultimately leading Black and Indigenous children to be disproportionately separated from their families.⁵⁴

Racial disparities are produced at each stage of families' involvement with child protective services. To begin with, the system places significant power in the hands of mandated reporters, or individuals who are required to report known or suspected child abuse and neglect under federal law.⁵⁵ The individuals named as mandated reporters vary from state to state, but most often include people who have frequent contact with children, such as school teachers, social service providers, and police officers. The biases of these individuals can influence their reporting. For example, one study of toddlers who were hospitalized in Philadelphia for bone fractures found that children of color were more likely to be reported for suspected physical abuse than White children, even after controlling for the likelihood of the child's particular injury actually stemming from abuse.⁵⁶

The system also encourages mandated reporters to err on the side of over-reporting. If mandated reporters fail to report a case of abuse or neglect, they can be penalized and fined,⁵⁷ creating a culture of fear and further incentivizing individuals to report issues of poverty to child welfare.⁵⁸ Researchers have found that many mandated reporters view their local child protective services agency as a “sort of all-purpose agency, compensating for what they could not provide.”⁵⁹ These agencies derive some of their power over families from this perception that they are a “helping” agency, and community members report families to CPS in order for families to receive a wide range of supports. As a CPS investigator in Connecticut put it, “I think the entire community think[s] CPS can save them all [that is, all families] and providing housing and fix their financial problem. I think that's the misconception in the community. I'm not sure why, but I feel as if they cannot service the family, they feel like we will be the backup plan.”⁶⁰ As a result, families living in poverty, who are disproportionately families of color, are more likely to be reported to child welfare, in part because they are more likely to need supports, and in part because people living in poor, racially segregated communities are more likely to come into contact with mandated reporters, whose intervention might in some cases actually create the conditions that precipitate child welfare involvement—such as when police arrest a parent.⁶¹

Once they become known to child protection services, families of color and families with low incomes encounter a system that places significant discretion in the hands of frontline workers and their supervisors, allowing class biases and implicit and explicit racism to shape whether a family becomes more deeply involved in the system. At the hotline (also known as intake), a large share of reports are generally screened out and cases closed, but there are nonetheless structural imperatives that create a low-bar for child protection to accept a case for an investigation or other response.⁶² Typically, the intake worker simply needs to determine that the child is under the age of 18, the alleged maltreatment was caused



by a parent or somebody acting in a caregiving role, and the allegations, if determined to be supported, rise to a level of maltreatment.⁶³ The reports themselves can be anonymous, and reporters are promised anonymity, which makes it possible for vindictive family members or acquaintances to report parents as a way to harass them and make their lives more difficult, when there is no concern of maltreatment.⁶⁴ The decision to accept a case for an investigation does not require contacting the family but simply reviewing the alleged report, and it does not always even require supervisory oversight.⁶⁵

Child protection systems and frontline workers use a variety of tools including Structured Decision-Making (SDM) tools to guide their work and identify risk factors that they think put children at greater risk of maltreatment, which can further discriminate against families with low incomes and families of color. These tools are designed to guide decision making. When poverty or “previously receiving services” (i.e. community-based or child welfare services) are defined as risk factors—both of which disproportionately impact families of color—it increases a family’s SDM risk score and the likelihood a family will become more deeply involved in the child protection system. For example, a family with more “risk factors,” and consequently an overall higher risk score, is more likely to have a case opened rather than referred to supportive services in the community and closed without further involvement. The lack of a concrete definition of “risk” within a system and a lack of systemic structures to mitigate the role implicit bias plays in workers’ decision-making operates to penalize families of color.

Once a case is opened for an investigation, caseworkers have broad discretion and power—often gathering information that is goes beyond the purview of the allegations. Caseworkers’ own racial and class biases can continue to influence their decisions to substantiate an allegation of maltreatment, or assert that the alleged incident occurred and constituted maltreatment.⁶⁶ In many cases little factual evidence is required to do so.⁶⁷ In addition, the entire process—from the time the agency receives the report to the completion of the investigation—often occurs without the parent knowing their rights or having access to an advocate, or legal representation. As legal scholar Dorothy Roberts writes, “vague definitions of neglect, unbridled discretion, and lack of training form a dangerous combination in the hands of caseworkers charged with deciding the fate of families.”⁶⁸

If a caseworker decides there is no maltreatment, there is not enough evidence to substantiate an allegation, or there is no need for ongoing child welfare involvement, these cases will be closed and families can theoretically return to their regular lives and routines. A large share of cases are closed after investigation. Research has shown, however, that simply being reported to the child protective services and investigated for maltreatment can cause significant trauma to families.⁶⁹ It can also change how families interact with public systems, leading parents to avoid seeking the health and social services they need, or avoid interacting with social workers generally, for fear that they might be reported again.⁷⁰ A history of allegations in the system can also impact how later reports are perceived—including if the report is accepted, substantiated, and opened for ongoing case management.

If a worker does substantiate the allegations, it can also push families deeper into poverty. Once a child protection agency substantiates an allegation against a parent, the parent is listed in the State’s child abuse and neglect registry, which can bar them from working in certain fields, such as in childcare.⁷¹ The impact of substantiation falls primarily on mothers, whose names are used as the case identifier for child protection investigations and ongoing cases. This is the case even if the mother is a victim of domestic violence and is substantiated for neglect due to so-called “failure to protect”—which in practice is often invoked if the child witnesses abuse against the mother but is not the victim of abuse themselves.⁷²

Many families who are involved in a report to child protective services where an allegation is substantiated are referred to community-based services such as parenting classes or family therapy while the child remains at home and the case remains open for ongoing case management by the child protection agency. Receiving these family preservation services is preferable to separating families, but Black families are less likely to be referred to them than White families.⁷³ For these families whose child welfare cases remain open while a child remains at home, as for families who have a child removed, a child welfare worker continues to monitor whether the family participates in the identified services and whether risk and safety concerns are mitigated.⁷⁴ The services may not address families’ actual needs, may be tangentially related to the allegations, and can be burdensome, making it harder for parents to maintain employment or meet the often-conflicting requirements to receive cash assistance and other basic supports. In some cases, families may be responsible for covering the costs of the services themselves—for example, paying as much as \$1,500 for a psychological assessment that is not covered by Medicaid because it is not deemed medically necessary or being required to pay for mental health or substance use treatment services. The services therefore not only impose opportunity costs, but direct costs to families that can exacerbate their economic insecurity.

Eventually, for many poor families of color, substantiating an allegation of neglect can lead to family separation.⁷⁵ In Fiscal Year 2019, the most recent year for which data are available, 251,359 children were removed from their families and placed in foster care—either in family foster homes, group homes, or institutions. Nationally, Black or African American and American Indian/Alaska Native children are both overrepresented among children in foster care. American Indian/Alaska Native children are less than 1 percent of the child population nationally, but they make up 2 percent of children entering foster care (a disproportionality rate of 2.0). Black children are 14 percent of the child population nationally, but they make up 20 percent of children entering foster care (a disproportionality rate of 1.42).⁷⁶ Latinx children are not overrepresented in foster care nationally, but they are overrepresented in the foster care system in some states—and the number of states in which Latinx children are overrepresented has grown over the last decade and a half.⁷⁷ As noted earlier, these disparities translate into a significantly higher lifetime risk of being placed in foster care for Black and Native American children.⁷⁸

The compounding effects of excluding families of color from supports and services, segregating families of color in neighborhoods where there has been historic disinvestment, and surveilling them, leads to child welfare being so ubiquitous in some poor communities of color, and the threat of family separation being so constant, that it affects how families interact with each other, increasing distrust among neighbors, and undermining parental authority—something Dorothy Roberts has called the “racial geography of child welfare.”⁷⁹

CONCLUSION



Today, families of color are unduly and disproportionately separated by the child welfare system, despite the fact that the system's leaders, advocates, and policymakers have long recognized that the goal of policy should be to provide families the concrete and emotional supports they need so they can remain safely together. The White House Conference on Children in 1909, which gave rise to the Children's Bureau, called for aid to families so that children could remain in their own homes, emphasizing that the goal of policy should be to prevent the need for removal in the first place: "except in unusual circumstances, the home should not be broken up for reasons of poverty."⁸⁰ In 1962 Executive Director of the Child Welfare League Joseph Reid testified before Congress that "day care is one of the least developed and most necessary child welfare services," explaining that because of "lack of day care, children are frequently placed in 24-hour foster care at much greater expense to the community."⁸¹ Academics and researchers have documented how the failure to provide these supports leads to family separation. In 2004, for example, researchers observed, "for many years, the child welfare system has been bearing the burden of America's affordable housing crisis most often using the only tool afforded it by current federal financing constraints, foster care placement."⁸² Instead of connecting families to the housing, child care, physical and behavioral health care, and income supports they need, however, policy pushes them into the child welfare system, where children can ultimately be removed from their families and communities, and the potential for nurturing, loving care that they routinely provide.

The goal of policy should be to support children in their families, and support families in their communities, where they have the best opportunity to thrive. Transitioning from systematically neglecting families, as we currently do, to systematically supporting families, as we should do, will not be easy. It will require rooting out systemic racism that pushes families of color into poverty—in policing, housing, education, employment, and other public systems. It will require developing our economic and social supports so that they are anti-racist, and actually redress past injustices, meet the needs of families of color, and promote the well-being of all families. Our labor and workforce systems must build worker power and ensure that all people's work is valued—that unpaid and low-paid care work is recognized and adequately compensated, that everyone has access to a job who wants one, and that all who work are guaranteed a livable wage. Our social safety net must provide an income floor for families with children, safe, affordable housing, and high-quality childcare, so that all children can grow and thrive. Our health care system must provide high-quality, affordable care to all children and families that addresses the full range of their physical and behavioral health needs.⁸⁷

Reimagining how government supports families also requires investing in specific and targeted supports to prevent child welfare involvement that are part of a larger continuum of supports that is grounded in anti-racist principles and is flexible and responsive to meeting the diverse and unique needs of children and families.⁸⁸ It requires investing in communities of color to develop their own solutions and responses to supporting children and families rather than financing that privileges “evidence-based practices” that are often not developed by communities of color, responsive to diverse races, ethnicities, and cultures, or sufficiently flexible in how the programs are delivered to racially, ethnically, and culturally diverse children and families. It requires re-thinking mandatory reporting laws, so that neglect related to poverty, such as dirty clothes or cut-off utilities, does not get reported to the child protective services hotline as child neglect. Finally, it requires reimagining how we serve children and families in communities to develop alternative, community-based, practices to support families in crisis, so that there is no need for the intervention of a coercive and punitive system that disregards parents’ rights and inflicts lasting harm on children, families, and communities.

Moving forward, we must recognize and affirm that family surveillance and separation is not the answer to poverty and child welfare systems should not be responsible for solving the problem of poverty. The solutions must take place outside of child welfare through policy, upstream systems, and community-based programs.

Building an economy and society that works for all families and ensures they can meet their needs without the intervention of a punitive and coercive system is an all-encompassing undertaking. But it is possible in a country with the wealth and resources of the United States. We can and must start immediately, by listening to and involving families, other stakeholders from across child and family-serving systems, and lawmakers to chart a path forward that centers a shared goal: keeping families together and providing meaningful support so that they can meet their needs and achieve goals—as they define them for themselves.

A PROMISING DEVELOPMENT: THE CHILD TAX CREDIT

The American Rescue Plan Act of 2021 (ARP) expanded the Child Tax Credit (CTC) for one year to support families struggling during the coronavirus pandemic, creating a temporary guaranteed income for families with children. It was a marked break with policymaking of the last 25 years, providing meaningful support to families regardless of the work status of parents, with the ability to advance racial and economic equity.

Previously, the CTC did not provide significant support to the families who needed it most because, like the EITC, it phased in as incomes rose—a third of all children, and more than half of Black and Hispanic children, lived in families that earned too little to get the full credit.⁸³ The ARP included important reforms to the CTC, making it fully available to families with no income, boosting the value to \$3,600 for children zero to five and \$3,000 for children six to 17, and making it available through monthly payments.

The Center on Poverty and Social Policy estimated that this expansion, if made permanent and accessed by all eligible families, has the potential to cut child poverty overall by almost 45 percent, and do even more for Black, Latinx, and Indigenous children: reducing Black child poverty by 52 percent, Hispanic child poverty by 45 percent, and Native American child poverty by 62 percent.⁸⁴

But this new benefit was temporary, and take up by families of color and families with the lowest incomes has not been one-hundred percent.⁸⁵ Ultimately we need a permanent policy that provides regular, generous, easy-to-access, income support for families with children.⁸⁶



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⁴⁹ For a summary of this research, and the history of how these policies exclude Black families in particular, see Minoff, *The Racist Roots of Work Requirements*.

⁵⁰ Minoff, “Stronger Together.” Minoff et al. “The Lasting Legacy of Exclusion.”

⁵¹ Table A-2, Households by Total Money Income, Race, and Hispanic Origin of Householder.

⁵² Kids Count. “Children in poverty by race and ethnicity in the United States.” Tabulations from 2019 American Community Survey. Available at: <https://datacenter.kidscount.org/data/tables/44-children-in-poverty-by-race-and-ethnicity#detailed/1/any/false/1729,37,871,870,573,869,36,868,867,133/10,11,9,12,1,185,13/324,323>.

⁵³ See Minoff, Elisa. “New Data Confirms Cash Assistance Helps Lift Families from Poverty.” Center for the Study of Social Policy, September 14, 2021. Available at: <https://cssp.org/2021/09/new-data-confirms-cash-assistance-helps-lift-families-from-poverty/>. Fox, Liana E. and Kalee Burns. “The Supplemental Poverty Measure: 2020.” U.S. Census Bureau, September 2021. Available at: <https://www.census.gov/content/dam/Census/library/publications/2021/demo/p60-275.pdf>.

⁵⁴ See “Definitions of Child Abuse and Neglect.” Child Welfare Information Gateway, Children’s Bureau, March 2019. Available at: <https://www.childwelfare.gov/pubPDFs/define.pdf>. “Act of Omission: An Overview of Child Neglect.” Child Welfare Information Gateway, Children’s Bureau, July 2018.

⁵⁵ CAPTA 42 U.S.C. § 5106a(b)(2)(B)(i).

⁵⁶ Lane, Wendy G. et al. “Racial Differences in Pediatric Fractures for Physical Abuse.” *Journal of the American Medical Association*, 2002. Available at: <https://jamanetwork.com/journals/jama/fullarticle/195342>.

⁵⁷ Child Welfare Information Gateway. “Penalties for Failure to Report and False Reporting of Child Abuse and Neglect.” Available at: <https://www.childwelfare.gov/pubPDFs/report.pdf>. Child Welfare Information Gateway. “Mandatory Reporters of Child Abuse and Neglect.” Available at: <https://www.childwelfare.gov/pubPDFs/manda.pdf>.

⁵⁸ They may also do so because they feel the family needs concrete supports, but with the limited public assistance available, the child welfare agency is one of the few agencies that may be able to help. See Fong, Kelley. “Getting Eyes in the Home: Child Protective Services Investigations and state Surveillance of Family Life.” *American Sociological Review*, August 4, 2020. Available at: <https://doi.org/10.1177/0003122420938460>.

⁵⁹ A number of reporters interviewed indicated that they felt the families they reported needed concrete supports, such as housing assistance, but with little assistance available in the community, the child welfare agency is one of the few agencies that may be able to help. *Ibid.*

⁶⁰ *Ibid.*

⁶¹ Blustain, Rachel and Nora McCarthy. “The Harmful Effects of New York City’s Over-Surveillance.” *The Chronicle of Social Change*, October 21, 2019. Available at: <https://chronicleofsocialchange.org/child-welfare-2/the-harmful-effects-of-over-surveillance/38441>. On policing and its contribution to disproportionality in the child welfare system, see for example, Edwards, Frank. “Family Surveillance: Police and the Reporting of Child Abuse and Neglect.” *The Russell Sage Foundation Journal of the Social Sciences*, February 2019. Available at: <https://doi.org/10.7758/RSF.2019.5.1.03>.

⁶² Some child protection systems have implemented Differential Response pathways to respond to allegations of neglect received at the hotline. Differential response, also called alternative response, is a response used to engage families who are considered low risk through provision of services and not requiring the allegations to be “substantiated”.

⁶³ DePanfilis, Diane and Marsha Salus. “Child Protective Services: a Guide for Caseworkers. U.S. Department of Health and Human Services, 2003. Available at: <https://www.childwelfare.gov/pubpdfs/cps.pdf>.

⁶⁴ Lee, Catching a Case.

⁶⁵ See SCAN Policies Database, available at: <https://www.scanpoliciesdatabase.com/explore-data?state%5B1668%5D=1668&state%5B1670%5D=1670&domain=370&var=0>.

⁶⁶ Administration for Children and Families. “National Survey of Child and Adolescent Well-Being Research Brief No. 6 How Do Caseworker Judgments Predict Substantiation of Child Maltreatment.” Available at: https://www.acf.hhs.gov/sites/default/files/opre/caseworker_judgments_0.pdf.

⁶⁷ See generally Minoff, *Entangled Roots*.

⁶⁸ Roberts, *Shattered Bonds*, p. 55.

⁶⁹ Lee. “Process of Racialization in New York City’s Child Welfare System.”

⁷⁰ Fong, “Getting Eyes in the Home.” Roberts, *Shattered Bonds*

⁷¹ Many parents never have a chance to defend themselves as not all substantiated cases are filed in court. There is a process to undo a substantiated finding, called a fair hearing, but it is arduous.

⁷² On the impacts of the child welfare system on mothers, and women of color in particular, see Clifford, Stephanie and Jessica Silver-Greenberg. “Foster Care as Punishment: The New Reality of ‘Jane Crow.’” *New York Times*, July 17, 2017. Available at: <https://www.nytimes.com/2017/07/21/nyregion/foster-care-nyc-jane-crow.html>. Lee, *Catching a Case*: In some states, case law forbids a parent who is a victim of domestic violence from being found in court to be guilty of neglect. However, for cases that do not make it court, there often are no such protections. On children’s removal due to domestic/intimate partner violence against a parent, typically the mother, see Pattillomar, Natalie. “Victims of Spousal Abuse are Losing Their children to Social Services.” *Pacific Standard*, September 5, 2018. Available at: <https://psmag.com/social-justice/victims-spousal-abuse-children>.

⁷³ Martin and Connelly. “Achieving Racial Equity.”

⁷⁴ Child Welfare Information Gateway. “In-Home Services in Child Welfare.” U.S. Children’s Bureau, March 2014. Available at: https://www.childwelfare.gov/pubPDFs/inhome_services.pdf.

⁷⁵ Over the last five years, more than 260,000 children have entered foster care annually. In FY2018 262,956 entered foster care. See U.S. Children’s Bureau. “AFCARS Report No. 26 Preliminary FY2018 Estimates as of August 22, 2019.” Available at: <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport26.pdf>. See also “AFCARS Report No. 27.” Available at: <https://www.acf.hhs.gov/cb/resource/afcars-report-27>.

⁷⁶ Children’s Bureau. “The AFCARS Report No. 28” Available at: <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport28.pdf> <https://www.acf.hhs.gov/cb/resource/afcars-report-27>. For data on race of child population in 2019, see KidsCount. “Child Population by Race.” Available at: <https://datacenter.kidscount.org/data/tables/103-child-population-by-race#detailed/1/any/false/1729/68,69,67,12,70,66,71,72/423,424>. For an analysis of the overrepresentation of African American children specifically, see U.S. Government Accounting Office. “African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care.” July 2007. Available at: <https://www.gao.gov/new.items/d07816.pdf>.

⁷⁷ Dettlaff and Boyd. “Racial Disproportionality and Disparities in the Child Welfare System.” Somers, Alicia. “Disproportionality rates for Children of Color in Foster Care (FY 2014).” The National Council of Juvenile and Family Court Judges, August 2016. Available at: <http://www.ncjfcj.org/sites/default/files/NCJFCJ%202014%20Disproportionality%20TAB%20Final.pdf>. See also Dettlaff, Alan. “Responses to a Research Synthesis on Child Welfare Disproportionality and Disparities.” In Center for the Study of Social Policy, “Disparities and Disproportionality in Child Welfare: Analysis of the Research.”

⁷⁸ See Wildeman, et al. “Cumulative Prevalence of Confirmed Maltreatment and Foster Care Placement” and Wildeman and Emanuel. “Cumulative Risks of Foster Care Placement by Age 18.”

⁷⁹ Roberts, Dorothy E. “The Racial Geography of Child Welfare: Toward a New Research Paradigm.” Child Welfare League of America, 2008. Available at: <https://cap.law.harvard.edu/wp-content/uploads/2015/07/robertsrd.pdf>. On the effects on how families interact with health care, educational, and other social service systems see for example Fong, Kelley. “Concealment and Constraint: Child Protective Services Fears and Poor Mothers’ Institutional Engagement.” Social Forces, June 2019. Available at: <https://doi.org/10.1093/sf/soy093>.

⁸⁰ “Twenty-Seventh Annual Report of the Children’s Aid Society of Pennsylvania. 1908.” Available at: <https://books.google.com/s?id=AspZAAAAIAAJ&pg=PA17&lpg=PA17&dq=%22except+in+unusual+circumstances,+the+home+should+not+be+broken+up%22&source=bl&ots=205HXUewDk&sig=AC-hl=en&sa=X&ved=2ahUKewiXtvapw5jqAhUUbs0KHeR5DK8Q6AEwAHoECAUQAQ#v=onepage&q=%22except%20in%20unusual%20circumstances%2C%20the%20home%20should%20not%20be%20broken%20up%22&f=false>.

⁸¹ Quoted in Rymph, Raising Government Children, pp. 166-167.

⁸² Duva and Metzger. “Addressing Poverty as a Major Risk Factor in Child Neglect.”

⁸³ On the structure of the CTC prior to 2021, see Congressional Research Services. “The Child Tax Credit: How It Works and Who Receives It.” Updated November 17, 2020. Available at: <https://sgp.fas.org/crs/misc/R41873.pdf>. On the children left behind by this structure, see Collyer, Sophie et al. “Left Behind: The One-Third of Children in Families Who Earn Too Little to Get the Full Child Tax Credit.” Center on Poverty and Social Policy at Columbia University, May 13, 2019. Available at: <https://www.povertycenter.columbia.edu/news-internal/leftoutofctc>.

⁸⁴ Center on Poverty and Social Policy at Columbia University. “A Poverty Reduction Analysis of the American Family Act.” January 25, 2021. Available at: <https://static1.squarespace.com/static/5743308460b5e922a25a6dc7/t/600f2123fdfa730101a4426a/1611604260458/Poverty-Reduction-Analysis-American-Family-Act-CPSP-2020.pdf>.

⁸⁵ Minoff, Elisa. “The American Rescue Plan’s Child Tax Credit: Advancing Equity and Laying the Foundation for a Child Allowance.” Center for the Study of Social Policy, March 2021. Available at: <https://cssp.org/resource/the-american-rescue-plans-child-tax-credit-advancing-equity-and-laying-the-foundation-for-a-child-allowance/>.

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