

November 21, 2023

Repeal CAPTA Workgroup - 2024 CAPTA Appropriations

The Honorable Patty Murray, Chair
Senate Committee on Appropriations
Washington, DC 20510

The Honorable Kay Granger, Chair
House Committee on Appropriations
Washington, DC 20515

The Honorable Susan Collins, Vice Chair
Senate Committee on Appropriations
Washington, DC 20510

The Honorable Rosa DeLauro, Ranking
Member
House Committee on Appropriations
Washington, DC 20515

Dear Chair Murray, Chair Granger, Vice Chair Collins, and Ranking Member DeLauro:

The Repeal CAPTA Workgroup is a national coalition that centers the leadership and expertise of people who have been impacted by the child welfare system and works to end the devastating effects of the Child Abuse Prevention and Treatment Act (CAPTA) on children, families, and communities. This letter is intended to communicate a deep concern and opportunity on behalf of a broad, bi-partisan coalition that works to support public policy approaches that keep families strong and together with community support.

In FY2023, federal funding under CAPTA was \$214 million, including \$105 million for state child welfare agency grants, \$71 million for community-based grants, and \$38 million for research and technical assistance. There is broad, bi-partisan agreement that many of the requirements and activities included in CAPTA do not and have not had the effect of preventing or treating child abuse. Moreover, as emphasized by the proposed *Family Poverty is Not Neglect* Bill (H.R. 573), the system is not designed to address poverty, which is a primary driver of families into the child welfare system. To prevent unnecessary and harmful system involvement, federal funding must be reoriented to prioritize anti-poverty approaches that promote community-based resources and truly support the safety, stability, and well-being of children in their families.

As a first step, we recommend right-sizing CAPTA appropriations by reallocating funding from Title I (state grants) to Title II (Community-Based Child Abuse Prevention–CBCAP) and increasing funding for CBCAP grants to at least \$500 million.

This reallocation should include clear eligibility and implementation criteria to ensure that federal dollars provided under CAPTA, and their state and local matches, are used for direct financial and material support for families and communities historically targeted for family policing free of requirements that presume risk of child abuse and neglect. Reallocating federal funds from state grants to CBCAP and increasing funding for community-driven supports directly aligns with the public policy approach identified in the National Academy of Sciences’ (“NAS”) 2019 congressionally commissioned report, *A Roadmap to Reducing Child Poverty*. The NAS recommendations suggest robust funding for family support can substantially reduce the number of children whose lives are disrupted and destabilized by unnecessary, ineffective, expensive, and harmful state interventions encouraged by CAPTA.

In the letter that follows, we discuss the damage inflicted on children and families by CAPTA’s surveillance and reporting requirements and by equating actionable child abuse with conditions of poverty and lack of access to necessary child-rearing resources. We end with a **detailed proposal** to begin reorienting priorities by reallocating CAPTA appropriations to promote child and family well-being through community-based support.

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Dear Chair Murray, Chair Granger, Vice Chair Collins, and Ranking Member DeLauro:

This letter outlines the routine and destructive state intervention into the lives of millions of children and families facilitated by the Child Abuse Prevention and Treatment Act (CAPTA). The letter ends with a detailed proposal for ending the harm CAPTA currently causes and reallocating CAPTA appropriations to promote child and family well-being through community-based support.

The Repeal CAPTA Workgroup is a national coalition¹ guided by the leadership and expertise of people impacted by the family policing system (often referred to as the child welfare system)² and works to end the devastating effects of CAPTA on children, families, and communities.³ Our very name may come as a shock. Who would want to repeal CAPTA? To paraphrase the bill's original sponsor, Senator Walter Mondale, "No one is in favor of child abuse." But to get his bill passed, Mondale ignored warnings that CAPTA's approach, rooted in surveillance of marginalized communities and punishment of families living in poverty, was doomed to fail.⁴ After CAPTA passed, Mondale himself expressed concerns, noting that the act was intended "to address the problems of the most severely threatened and abused children" and not "the much more complicated and difficult problem of child neglect."⁵ Particularly alarmed about the expansion of mandatory reporting to suspicions of neglect, Mondale warned that "psychological and social judgements about children and families. . . could result in an unwarranted intrusion of the government into family life" and stressed government's responsibility to "safeguard families – particularly those who are poor and from minority groups – from being enveloped in a system which may label them permanently as criminals or deviants; and which may lack the resources to provide services even if they are legitimately required."⁶ Those concerns were prescient: CAPTA not only fails to prevent or treat child abuse, but its core requirements – mandated reporting, investigation, prosecution, and "treatment" - facilitates unconstitutional government overreach and intrusion into the lives of families, and separates millions of children from their families under the guise of protecting them.

In FY2023, federal funding under CAPTA was \$214 million, including \$105 million for state child welfare agency grants, \$71 million for community-based grants, and \$38 million for research and technical assistance.⁷ As emphasized by the proposed *Family Poverty is Not Neglect* bill, H.R. 573,⁸ poverty is a primary driver of children into the system.⁹ Yet, the current CAPTA allocation ratio encourages states to spend more money on surveillance, investigation, prosecution, and family separation than on the provision of community and family strengthening resources to support children's safety, health, and wellbeing.

As you begin work on the FY2024 Labor, Health and Human Services, and Education Appropriations bill, we strongly urge you to reorient federal funding under CAPTA to prioritize anti-poverty approaches that truly support the safety, stability, and well-being of children in their families. As a first step, we recommend right-sizing CAPTA appropriations by:

- **Cutting funding from Title I (state grants), moving these funds to Title II (Community-Based Child Abuse Prevention–CBCAP), and increasing funding for CBCAP grants to at least \$500 million.**
- **Including clear eligibility and implementation criteria to ensure that:**
 - **Federal dollars are used for direct financial and material support for families and communities historically targeted for family policing,**
 - **Financial and material support is accessible without requirements that presume risk of child maltreatment,**
 - **State child welfare agencies are eliminated from the list of lead agencies for disseminating CBCAP funds.**

Reallocating federal funds from state grants to CBCAP and increasing funding for community-driven family supports untethered to presumptions of child maltreatment aligns with recommendations identified in the National Academy of Sciences’ (NAS) 2019 congressionally commissioned report, *A Roadmap to Reducing Child Poverty*.¹⁰ The NAS recommendations suggest robust funding for family support can substantially reduce the number of children whose lives are disrupted and destabilized by child protective services involvement and family separation.¹¹ And, because Title II doesn’t have the onerous policing requirements of Title I, states would be incentivized to embrace innovative approaches to bolster family support and end reliance on family separation as a primary state intervention. **Indeed, we emphasize that we support transferring the funds from Title I to Title II, but strongly oppose any effort to attach Title I’s policing requirements to Title II.**

BACKGROUND

I. The Family Policing Problem: Over-Surveilled and Under-Resourced

CAPTA’s current orientation toward policing and regulation of families does not prevent child abuse or neglect. Nor does it promote child “safety, permanency, and wellbeing” - the stated objectives of the so-called “child welfare” system.¹² In fact, CAPTA’s requirements prioritize surveillance, prosecution, and punitive oversight of families living in under-resourced communities and have the effect of destabilizing families and making children less safe. Our proposal to shift federal funding under CAPTA from family policing to family support is grounded in the reality that the system perpetually harms children and families living in poverty. This is especially true for Black, Indigenous, and Latinx/Hispanic communities.¹³

The Administration for Children and Families (ACF) recently acknowledged the urgent imperative to change course from the destructive history of family policing codified in Title I of CAPTA in its June 1, 2023 Notice of Funding Opportunity (“NOFO”) entitled *Field-Initiated Approach to Addressing Racial Bias and Inequity in Child Welfare*.¹⁴ ACF acknowledged that the child protective services (“CPS”) system spawned by CAPTA “is responsible for many structural barriers and racial biases that have contributed to family dysfunction, separation, and destruction under the guise of safety and well-being” and recognized that families entangled in the system “are often embarking on a seemingly continuous journey of surveillance, interruption, removal, and for many, eventual breakdown, leading to lasting adverse outcomes impacting generations.” To address these state-inflicted, multi-generational threats to children and families, ACF proposes to “move strategically towards eliminating the existing structures that harm” and “work to further support families and care for children by strengthening and expanding community-based efforts that already exist and launching new initiatives.”¹⁵

Internationally, America’s family policing system’s racialized impact is a major human rights concern.¹⁶ The United States is a signatory to the International Convention to Eliminate All Forms of Racial Discrimination. In Fall 2022, the United Nations Committee on the Elimination of Racial Discrimination (CERD) noted that racial minorities in the U.S. routinely face more invasive levels of surveillance, investigations, and family separations and are less likely to be reunified with their families than white children.¹⁷ In its Concluding Observations, the

CERD urged the U.S. to take proactive steps toward eliminating discrimination in the family policing system, in part by amending or repealing laws such as CAPTA, noting specifically the harmful impacts of the system on Black children and families.¹⁸ The United Nations Human Rights Committee, in its Fall 2023 review of United States' obligations under the International Covenant on Civil and Political Rights, noted the high number of children separated from their families and “the overrepresentation of children belonging to racial and ethnic minorities in the child welfare system, in particular children of African descent and indigenous children,” and also called on the United States government to amend or repeal CAPTA.¹⁹

II. “Surveillance Is Not Support”: Harms of Mandated Reporting

One in three children in the United States, and over half (53%) of all Black children, will be subjected to a child protective services (CPS) investigation by age 18. Nearly 8 million children were referred to a child maltreatment hotline in 2019. Nearly half of these reports failed to satisfy the requirements for the state to initiate an investigation. **Of the 3 million children whose cases were investigated, more than 80% were found not to have been abused or neglected.**²⁰ These numbers demonstrate that the vast majority of investigations initiated through the reporting system mandated by CAPTA are not only unnecessary but actively endanger the safety and well-being of children and their families.

CAPTA's reporting requirement subjects families to unnecessary surveillance and results in massive overreporting, but does not protect children, improve detection of maltreatment, or promote access to resources or family strengthening supports. Instead, these reports instigate criminal-like investigations that expose children to traumatizing strip searches (strongly condemned by the American Bar Association),²¹ and threatening and terrifying warrantless home entries by CPS agents – often accompanied by armed police²² - that intrude on the privacy and sanctity of the home and children's bodies in violation of the US Constitution.²³ During the pandemic, reports of maltreatment declined; this decrease in reports did not signal a rise in instances of child abuse.²⁴ Data from this period demonstrate that mandated reporting does not make children safer but instead exposes children to life-long trauma inflicted by punitive and unhelpful “child welfare services” delineated by CAPTA and other federal laws.

Moreover, mandated reporting makes children less safe by deterring families from accessing resources that truly prevent and treat harm. CAPTA's mandatory reporting provisions create and perpetuate a culture of fear and mistrust of community social service providers, discouraging many parents who may want or need help from seeking it.²⁵ Moving funds from Title I to Title II, along with excluding state child welfare/child protection agencies from among the list of approved lead agencies for managing Title II funds,²⁶ will have the salutary effect of reducing the culture of fear and mistrust that has resulted from overreliance on surveillance, reporting, and investigation, and will send the message that federal and state public policy and resources must focus on family and community strengthening approaches untethered from the threat of unnecessary state interventions and family separation.

III. “Poverty is Not Neglect”: From Punishing Poverty to Supporting Children and Families

CAPTA's vague definition of “abuse and neglect,” has allowed for wide variation in state interpretations of these terms. These vague definitions have led to the routine equation of conditions of poverty as child neglect, reinforcing states' reliance on policing families rather than providing material support. As Senator Walter Mondale predicted, instead of acknowledging lack of access to quality food, housing, childcare, healthcare, mental health supports and other necessities as systemic failures rooted in inequality and racism, child welfare agencies and courts label parents “unfit” and hold them personally responsible and fail to assist in mitigating these conditions.²⁷

PROPOSAL

Reallocate CAPTA Appropriations to Promote Child and Family Well-being Through Community-Based Support

Directing CAPTA funding to CBCAP programs will begin to rectify the aforementioned injustices by providing strong economic support directly to children and families in communities historically deprived of necessary resources.²⁸ Commissioned by Congress, the 2019 report by the National Academy of Sciences (NAS), *A Roadmap to Reducing Child Poverty*, identifies recommendations related to, among other things, safety net, child allowance, and child support programs.²⁹ Building from the NAS report, a recent Casey Family Programs study suggests that some combination of these recommendations could cut the number of CPS investigations by more than one-third (up to 1.2 million fewer investigations annually). This would result in 23,000 fewer children being taken from their families,³⁰ and could significantly reduce racial disproportionality.³¹ While we recognize that enacting these recommendations is beyond the scope of CAPTA appropriations, we raise it here because the continued privileging of onerous policing and surveillance requirements of Title I would undercut the effectiveness of these essential reforms. Therefore, shifting funding out of Title I would be an essential step in bolstering the success of our core recommendation to increase CBCAP funding.

RATIONALES

Below, we outline three rationales for our proposal to reallocate funding from state grants to CBCAP grants. These rationales reflect the Repeal CAPTA Workgroup’s goal of ending unnecessary and harmful policing and regulation of families and increasing access to resources that meet the needs and aspirations of Black, Indigenous, Latine/Latinx, and economically disadvantaged children and families who have been historically targeted by CAPTA’s CPS system. Our proposal to shift funding from Title I and increase funding for Title II is grounded in respect for constitutionally recognized rights of family integrity and autonomy, and community self-determination, and aims to: 1) increase families’ access to direct support and material benefits, 2) reduce the power and harm of the family policing system, 3) support family integrity, parental decision-making, and community self-determination, and 4) promote healing, redress, and repair for system-impacted children, parents, families, and communities.

1. Reallocating funding from Title I to Title II (CBCAP) will increase child and family safety, health, and well-being while reducing harms to children, families, and communities—especially those who are Black, Indigenous, LGBTQIA+, disabled, and from other marginalized groups.

Cutting funding from Title I will send a clear signal to the states that Congress is committed to prioritizing child wellbeing, family integrity, and family unity over the reporting, investigating, prosecuting, and separating of families. In fiscal year 2020, state and local child welfare agencies spent an estimated \$31.4 billion on “child welfare activities”³² using a combination of federal, state, local, and other funds. States spent an astounding 82% on activities that support surveillance, investigation, and separation of children from their families.³³ Only 14% of the funding was spent on financial support and prevention, the vast majority of which went to caseworker visits and ineffective “skill-based” programming for parents (“parenting classes”) instead of supporting children and families’ material and social needs.³⁴

Shifting funding from state grants to CBCAP, with eligibility criteria and implementation requirements untethered from presumptions of child maltreatment or the risk of child maltreatment, will send a strong message to the states that Congress prioritizes public-private partnerships that increase families’ access to direct financial and material benefits, thereby reducing the threatened and actual harm caused by family policing system intervention.

Forced family separation causes trauma and lifelong harm to children.³⁵ A stark example of the devastating effects of child removal is states' implementation of the Comprehensive Addiction and Recovery Act (CARA), added to CAPTA in 2016. CARA requires that states have "plans of safe care." Countless traumatic separations of newborn babies from their parents - often moments after birth - are being carried out in the name of CARA. This is the case despite a growing consensus that the most effective treatment for newborns exposed to substances is close contact with their mothers.³⁶ Tearing infants away from their mothers under CARA's "plans of safe care" in the name of child abuse prevention has been clearly revealed as sophistry. The destructive consequences of this ill-considered policy is documented most recently in the *New York Times Magazine*.³⁷

Once separated, many children experience severe trauma in the foster system. Children taken from their families regularly sleep on the floors of child welfare offices, languish in psychiatric or juvenile detention facilities while awaiting appropriate placements, and are subjected to physical, emotional, and other abusive treatment by foster custodians and facilities.³⁸ Indeed, states meet "few of the performance standards established by the federal Children's Bureau" to assess "safety, permanency, and well-being outcomes for children and families who receive services through the child welfare system."³⁹

Data show that neighborhoods with the highest child poverty rates also see the highest rates of family policing investigations, which are "the front door" to child removal and family separation.⁴⁰ Living in poverty does not render parents unable to care for their children—and marginalized communities do not engage in substance use at higher rates than wealthy, white communities.⁴¹ Yet, the government's response is to add more layers of trauma to marginalized communities through intrusive and dehumanizing investigations, prolonged and disruptive court prosecutions, child removal, family separation, and legal termination of children's familial rights ("termination of parental rights").

2. Prioritizing the safety and health of all children, families, and communities requires dismantling CAPTA's ineffective family policing framework and instead providing responsive, concrete resources and direct financial support for families and communities that have been historically disenfranchised and targeted by the system.

As outlined above, CAPTA's current funding framework prioritizes reporting, investigation, court prosecution, out-of-home placement, and legal severing of children's family bonds over providing direct material support to families and communities. The system is not designed nor equipped to provide basic life necessities or to enhance the environmental conditions necessary for children to thrive. Yet we spend billions of dollars to investigate families and maintain children with substitute caregivers and in group homes while grassroots organizations that successfully support children and families to thrive are chronically underfunded. In many neighborhoods targeted for family policing, there are community groups and organizations working to provide concrete resources and material support, nurture social connections, and help children and families in times of crisis. However, these groups often struggle to survive because they are blocked from accessing federal and state dollars due to insufficient funding, onerous and unattainable criteria, and unduly complicated processes.

Reallocating funding from state grants to CBCAP would strengthen and multiply community assets by investing in local projects and organizations. Investing federal dollars into groups that are embedded in communities and responsive to the needs of disadvantaged families is necessary to normalize a caring and resource-driven approach, free of surveillance and regulation, that truly meets the needs and aspirations of children and families historically targeted by the system.

We propose that this reallocation be accompanied by requirements that funding decisions are made through a community-led grant-making process to ensure that families can determine the kinds of resources they want in their neighborhoods. Critical to the success of this reorientation is ensuring that CBCAP funding is not

administered by state or local child welfare agencies or made contingent on eligibility requirements based on presumptions of child maltreatment.

Our goal is to ensure the safety of children by fostering healthy families and communities. Achieving this goal will require the continued leadership of children and parents who have lived experience and expertise.

This new approach to CBCAP funding should result in:

- Elimination of onerous and unnecessary eligibility and process criteria that prohibit small organizations/initiatives from receiving government funding;
- Investment in organizations that have community trust and do not have ties to the family policing system;
- Centering community expertise, particularly that of system-impacted parents, youth, and family members in budget decisions;
- Intentional investment in the social fabric; for example, using an asset-based community development model to build social capital and collective action;
- Development of long-term community capacity to support organizational growth and sustainability;
- Reduction in the likelihood of family policing system intervention

This reorientation and reallocation of CAPTA funding will not only support healthy families and thriving children; it will save money and put our public resources to better use in the long term. Investing in families and in neighborhoods can reduce health disparities, improve educational outcomes, and reduce the well-documented harms of family policing on economically and resource-deprived American families.

CONCLUSION

CAPTA employs a framework that not only inflicts traumatic surveillance, disruption, and separation on families, but also fails to meet its stated goal of protecting children. We therefore urge that you reallocate funding from Title I (state grants) into Title II (CBCAP) with specific criteria to ensure that funding goes directly to support the safety, health, and well-being of families and communities.

Thank you for your consideration. Please do not hesitate to contact info@RepealCAPTA.org with any questions or to discuss further.

Sincerely,

The Repeal CAPTA Workgroup

Website: <https://www.repealcapta.org/>

ENDNOTES

¹ The coalition includes parents, children, siblings, relatives, caregivers, and their allies who represent social workers, physicians, attorneys, educators, policymakers, researchers, healthcare and other service providers, and advocates across the country. Many of our members are former system staff and leaders, including those who have worked as commissioners of the Federal Administration for Children and Families, city child welfare commissioners, foster care agency presidents, and child protective services caseworkers and supervisors.

² We use the term “family policing” instead of commonly used terms like “child protective services” or “child welfare” to describe what the system codified in CAPTA actually does—surveil, regulate, and police families. In his 2021 Foster Care Month Proclamation, President Biden recognized the “histories of injustice in our Nation’s foster care system,” noting that “[t]oo many children are removed from loving homes because poverty is often conflated with neglect, and the enduring effects of systemic racism and economic barriers mean that families of color are disproportionately affected by this as well.” Much like practices inflicted on Indigenous families outlined by Associate Justice Gorsuch in his concurring opinion in *Haaland v. Brackeen*, CAPTA is rooted in white supremacy and indifference to the material needs of families living in poverty. Further, rather than promoting children’s safety and well-being, CAPTA’s core functions of reporting, investigation, and punishment under the guise of “treatment” serve to police and destabilize families, often pushing them further into poverty and despair.

³ The Repeal CAPTA website is at <https://www.repealcapta.org/>.

⁴ Barbara J. Nelson, *Making an Issue of Child Abuse: Political Agenda Setting for Social Problems* (1984); Mical Raz, *Abusive Policies: How the American Child Welfare System Lost Its Way* (2020).

⁵ Mical Raz, *Abusive Policies*, at pp. 67-68.

⁶ *Id.*

⁷ Emilie Stolfus, *Purposes, Federal Programs, and Funding*, p. 2, Congressional Research Service (updated , May 26, 2023), <https://crsreports.congress.gov/product/pdf/IF/IF10590>.

⁸ *Family Poverty is Not Neglect*, H.R. 5028 (introduced 7/27/2023), <https://www.congress.gov/bill/118th-congress/house-bill/5028/text>.

⁹ Jerry Milner and David Kelly, “*It’s time to stop confusing poverty with neglect*,” <https://cbexpress.acf.hhs.gov/article/2020/december-january/its-time-to-stop-confusing-poverty-with-neglect/953840031b92c150517620efe54bcbd9>;

¹⁰ NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *A ROADMAP TO REDUCING CHILD POVERTY* (2019) (ebook), <https://nap.nationalacademies.org/catalog/25246/a-roadmap-to-reducing-child-poverty>.

¹¹ Jessica Pac et al., *The effects of child poverty reductions on child protective services involvement and placement into out-of-home care*, 97 SOC. SERV. REV. 43, 43-91 (2023).

¹² Child Welfare Information Gateway, “*How the Child Welfare System Works*”, October 2020, p. 2 (“The child welfare system is a group of services designed to promote the well-being of children by ensuring safety, achieving permanency, and strengthening families.”), <https://www.childwelfare.gov/pubpdfs/cpswork.pdf>.

¹³ Alan J. Dettlaff & Reiko Boyd, *Racial Disproportionality and Disparities in the Child Welfare System: Why Do They Exist, and What Can Be Done to Address Them?*, 692 THE ANNALS OF THE AM. ACAD. OF POL. AND SOC. SCIENCE 253, 253–74 (2021), <https://bettercarenetwork.org/sites/default/files/2021-02/0002716220980329.pdf>.

¹⁴ Administration for Children and Families, *Field-Initiated Approach to Addressing Racial Bias and Inequity in Child Welfare*, Notice of Funding Opportunity, (June 1, 2023), <https://www.grants.gov/web/grants/view-opportunity.html?oppId=343853>.

¹⁵ *Id.* at pp. 3-4.

¹⁶ Child.’s Rts. & Colum. L. Sch. Hum. Rts. Inst., *Racial (In)justice in the U.S. Child Welfare System: Response to the Combined Tenth to Twelfth Periodic Reports of the United States to the Committee on the Elimination of All Forms of Racial Discrimination* (2022), <https://www.childrensrights.org/wp-content/uploads/imported-files/Childrens-Rights-2022-UN-CERD-Report-FINAL.pdf>.

¹⁷ UN Committee on the Elimination of Racial Discrimination [CERD], International Convention on the Elimination of All Forms of Racial Discrimination: *Concluding Observations on the Combined Tenth to Twelfth Reports of the United States of America*, U.N. Doc. CERD/C/USA/CO/10-12, (Sept. 21, 2022), <https://docstore.ohchr.org/SelfServices/FilesHandler.ashx?enc=6QkG1d%2FPPrICAqhKb7yhspzOI9YwTXeABruAM8pBAK1xYN2wdGpGmJxT4qZ%2B%2Fzhl9s68flbQK27IwmDC1j6l212QsTq%2B%2FgbOEik44QIDlYZdvGiNLspvbKJ1mADJtn5a1Ojg9FFaST8zoSIBL%2FEgHQ%3D%3D>.

¹⁸ *Id.*; CAPTA Reauthorization Act of 2010, Pub. L. No. 111-320, 124 STAT. 3459 (2010). It is also the recommendation by CERD to amend or repeal the Adoption and Safe Families Act and the Adoption Assistance and Child Welfare Act.

¹⁹ United Nations, Human Rights Committee, (2023), *Concluding observations on the fifth periodic report of the United States of America*, paragraphs 62-63, https://tbinternet.ohchr.org/_layouts/15/treatybodyexternal/Download.aspx?symbolno=CCPR%2FC%2FUSA%2FCO%2F5&Lang=en.

²⁰ Child Welfare Information Gateway. (2021). *Child Maltreatment 2019: Summary of Key Findings*. <https://www.childwelfare.gov/pubpdfs/canstats.pdf>.

²¹ American Bar Association, *Preventing Strip Searching of Children and Youth: A Guide for Advocates*, (2020), <https://www.americanbar.org/groups/litigation/committees/childrens-rights/preventing-strip-searches-of-children-and-youth/#:~:text=For%20that%20reason%2C%20in%202020,certain%20enumerated%20requirements%20are%20met.>

²² Eli Hager, *Child Welfare Officials Have Searched Her Home and Her Son Dozens of Times. She's Suing Them to Stop*, (Nov. 16, 2023), <https://www.propublica.org/article/nyc-child-welfare-agency-warrantless-searches-lawsuit>.

²³ Eli Hager, *CPS workers search millions of homes a year. A mom who resisted paid a price*, (Oct. 13, 2022), <https://www.nbcnews.com/news/us-news/child-abuse-welfare-home-searches-warrant-rcna50716>; Tarek Z. Ismail, *Family Policing and the Fourth Amendment*, 111 Calif. L. Rev., (2023), available at <https://www.californialawreview.org/print/family-policing-and-the-fourth-amendment>; Julia Hernandez & Tarek Z. Ismail, *Radical Early Defense Against Family Policing*, The Yale Law Journal, Nov. 18, 2022, https://www.yalelawjournal.org/forum/radical-early-defense-against-family-policing#_ftnref84.

²⁴ *HHS Leaders: No evidence of child abuse surge amid pandemic*, AP News, January 14, 2021, <https://apnews.com/article/us-news-health-coronavirus-pandemic-child-welfare-child-abuse-2c88d66ab57e1b621cf86d3657536ce7>; Robert Sege and Allison Stephens, *Child Physical Abuse Did Not Increase During the Pandemic*, December 20, 2021, JAMA Pediatrics, <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2787005#:~:text=A%20review%20of%20available%20data,declined%2C%20and%20hospitalizations%20were%20stable>; Anna Arons, *An Unintended Abolition: Family Regulation During the COVID-19 Crisis*, Columbia Journal of Race and Law (April 2022); Kristine A. Campbell, MD, et. al, *Child Abuse Prevention in a Pandemic—A Natural Experiment in Social Welfare Policy*, (2023), <https://jamanetwork.com/journals/jamapediatrics/fullarticle/2810940>.

²⁵ Kelley Fong, *Concealment and Constraint: Child Protective Services Fears and Poor Mothers' Institutional Engagement*, Social Forces, Vol. 97, No. 4 (June 2019), Oxford University Press. https://scholar.harvard.edu/files/kfong/files/fong_socialforces_postprint.pdf and *Investigating Families: Motherhood in the Shadow of Child Protective Services* (2023), Princeton University Press).

²⁶ See CAPTA Sections 202(1)(A)(C) and (D)) (including state agencies in list of lead agencies for disseminating CBCAP funds).

²⁷ Human Rights Watch and American Civil Liberties Union, *"If I wasn't poor, I wouldn't be unfit": The Family Separation Crisis in the US Child Welfare System*, (2022), https://www.hrw.org/sites/default/files/media_2022/11/us_crd1122web_3.pdf; Jerry Milner and David Kelly, *"It's time to stop confusing poverty with neglect"*, <https://cbexpress.acf.hhs.gov/article/2020/december-january/its-time-to-stop-confusing-poverty-with-neglect/953840031b92c150517620efe54bcbd9>.

²⁸ NATIONAL ACADEMIES OF SCIENCES, ENGINEERING, AND MEDICINE, *A ROADMAP TO REDUCING CHILD POVERTY* (2019) (ebook), <https://nap.nationalacademies.org/catalog/25246/a-roadmap-to-reducing-child-poverty>.

²⁹ *Id.*

³⁰ Jessica Pac et al., *The effects of child poverty reductions on child protective services involvement and placement into out-of-home care*, 97 SOC. SERV. REV. 43, 43-91 (2023).

³¹ *Id.*

³² Kristina Rosinsky et al., *Child Welfare Financing SFY 2020: A survey of federal, state, and local expenditures*, Child Trends, (May 2023), https://cms.childtrends.org/wp-content/uploads/2023/04/ChildWelfareFinancingReport_ChildTrends_May2023.pdf.

³³ 18% of these funds went to front-end child protective services (intake/screening, investigation/assessment, and related services and administrative costs); 45% to out-of-home placement (foster care); and 19% to adoption and guardianship subsidies.

³⁴ *Child Welfare Financing*, Child Trends, p. 3. https://cms.childtrends.org/wp-content/uploads/2023/04/ChildWelfareFinancingReport_ChildTrends_May2023.pdf (“[a]gencies spend much less on financial supports (such as assistance with transportation, housing, child care, and more), substance use prevention and treatment, and mental health services.”).

³⁵ Colleen Kraft, *Am. Acad. of Pediatrics Statement Opposing Separation of Children and Parents at the Border*, AM. ACAD. OF PEDIATRICS (May 8, 2018), <https://www.aap.org/en/news-room/news-releases/aap/2018/aap-statement-opposing-separation-of-children-and-parents-at-the-border/>; Joseph J. Doyle Jr., *Child Protection and Child Outcomes: Measuring the Effects of Foster Care*, 97 AM. ECON. REV. 1583, 1583 (2007); Shanta Trivedi, *The Harm of Child Removal*, 43 N.Y.U. REV. OF LAW & SOC. CHANGE 523 (2019); Eli Hager, *The Hidden Trauma of “Short Stays” in Foster Care*, Marshall Project (Feb. 11, 2020, 6:00 AM), <https://www.themarshallproject.org/2020/02/11/the-hidden-trauma-of-short-stays-in-foster-care>; Kimberly Howard et al., *Early Mother-Child Separation, Parenting, and Child Well-Being in Early Head Start Families*, NAT’L INST. OF HEALTH PUB. ACCESS. (2011), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3115616/pdf/nihms263344.pdf>; Vivek Sankaran, Christopher Church, & Monique Mitchell, *A Cure Worse than the Disease? The Impact of Removal on Children and Their Families*, 102 MARQ. LAW REV. 1161, 1167 (2019).

³⁶ Young LW et al., “Eat, Sleep, Console” Reduces Hospital Stay and Need for Medication Among Opioid-Exposed Infants, NEW ENG. J. OF MED. (MAY 1, 2023), <https://www.nih.gov/news-events/news-releases/eat-sleep-console-reduces-hospital-stay-need-medication-among-opioid-exposed-infants>; John Kelly, *A Cheaper Preservation Approach to Keep Babies Exposed to Opioids with Mom*, THE IMPRINT (June 26, 2018, 5:00 AM), <https://imprintnews.org/child-welfare-2/cheaper-preservation-approach-keep-babies-exposed-opioids-mom/31417>.

³⁷ Shoshana Walter, “They Followed Doctors’ Orders. Then Their Children Were Taken Away. Federal law has put thousands of women on anti-addiction medications into an impossible bind: Give up your treatment or risk losing your baby.” New York Times Magazine, (June 29, 2023), <https://www.nytimes.com/2023/06/29/magazine/pregnant-women-medication-suboxonbabies.html>

³⁸ Ben Bradley, *Public Guardian: More Kids Sleeping in DCFS Offices*, CHICAGO’S VERY OWN WGN9 (March 3, 2023), <https://wgntv.com/news/wgn-investigates/public-guardian-more-kids-sleeping-in-dcfs-offices/#:~:text=Cook%20County%20public%20guardian%20Charles,according%20to%20the%20public%20guardian>; Michele Youngerman, *Illinois DCFS Director Marc Smith found in contempt of court for 12th time over improper placement of child*, CBS NEWS CHICAGO (July 8, 2022, 5:21 PM), <https://www.cbsnews.com/chicago/news/illinois-dcfs-director-marc-smith-found-in-contempt-of-court-for-12th-time-over-improper-placement-of-child/>; Duaa Eldeib, *Hundreds of Illinois Children Languish in Psychiatric Hospitals After They’re Cleared For Release*, THE IMPRINT (June 5, 2018), <https://features.propublica.org/stuck-kids/illinois-dcfs-children-psychiatric-hospitals-beyond-medical-necessity/>; *Sen. Ossoff Launches Bipartisan Inquiry into Alleged Abuse & Neglect of Children in Georgia’s Foster Care System*, February 23, 2023, <https://www.ossoff.senate.gov/press-releases/new-sen-ossoff-launches-bipartisan-inquiry-into-alleged-abuse-neglect-of-children-in-georgias-foster-care-system/>

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- ⁴⁰ The New School Center for New York City Affairs. *Data Brief: Child Welfare Investigations and New York City Neighborhoods* (June 2019). <http://www.centernyc.org/data-brief-child-welfare-investigations>.
- ⁴¹ Government Accountability Office, *Report to the Chairman, Committee on Ways and Means, House of Representatives. African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care* (July 2007). <https://www.gao.gov/assets/gao-07-816.pdf>