Right to Counsel: All participants in dependency proceedings must have a right, and meaningful access, to counsel. For parents, a meaningful right would begin at the first point of acceptance of a report. Children must also be guaranteed counsel throughout dependency proceedings, given the risks they face.

Right to Family Integrity & Association: Parents and children facing separation—and their advocates—should assert First and Fourteenth Amendment rights to intimate association and family integrity in the face of unwarranted government intrusion.

Equal Protection: Advocates should leverage the Equal Protection Clause, which prohibits selective enforcement of the law, to challenge policies and practices that may be facially neutral but have a strong discriminatory effect on Black families.

Intentional and Disparate Impact Discrimination: Advocates should challenge discrimination at the front end of the child welfare system under Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color, or national origin in programs and activities receiving federal financial assistance, such as state child welfare systems.

Shifting to Active Efforts: Federal law should replace the vague and grossly inadequate reasonable efforts legal standard with an active efforts requirement to heighten the effort child welfare agencies must make to prevent removal.

Delinking Services from Title IV: Policymakers should delink community-based services for families from Title IV of the Social Security Act and the child welfare system.

Narrowing Definitions of Maltreatment: Federal law should require states to adopt definitions of child abuse and neglect that avoid conflating the consequences of poverty with child maltreatment.

Amending Reporting Statutes: Federal law should require states to move away from universal, centralized, and anonymous reporting, toward non-universal, confidential, and de-centralized reporting of suspected child maltreatment.

Centering Trauma: Federal and state legislation, policies, and practices must hold systems accountable for the trauma, loss, and long-term developmental impacts associated with disrupting a child’s attachment to their family.

Government is perpetuating the oppression of Black children and families through traumatic surveillance, investigation, and family separation practices carried out under the auspices of the child welfare system. Institutional racism contributes to the disproportionate involvement of Black children and families with the system. This must change.
THE FACTS

Nationally, Black children represent 14% of the general population of children and 22% of children in foster care.

41 out of 52

Black children are disproportionately represented in 41 out of 52 child welfare system jurisdictions.

Despite standardized screening tools to assess maternal drug use, medical professionals are two times as likely to screen Black infants v white infants.

14% of the general population
22% of children in foster care

Black children are more likely to be reported for suspected abuse or neglect than white children by educational personnel.

Black families are almost twice as likely to be investigated for child abuse or neglect, compared to white families.

The parental rights of Black parents are terminated at higher rates than white parents.

In 2019, 18.2% of Black children were removed from their homes due to physical or sexual abuse, while 63.1% of Black children were removed due to neglect.

LASTING HARM

The profound trauma of family separation is proven to result in significant harm that can last a lifetime.

Children who are forcibly separated from their families experience emotional and psychological harm stemming from disruption of attachments, trauma from the very act of removal, and grief and loss. In the short term, children can experience intense anxiety, depression, and disruptive behaviors. Long-term consequences of involuntary family separation can include poor developmental health and adult involvement with the criminal legal system.

Black parents experience an additional layer of trauma from the policing they are subjected to by an inherently racist system. The racism that Black families and children experience inflicts deep trauma and can impact long-term psychological and physical health.

CHANGE THAT IS POSSIBLE

Black children matter. Black parents matter. Black families matter. These words did not ring true for people at the time the child welfare system began its long history of separating Black families. Today, we have hope that we have indeed progressed in this country and can begin a national conversation about the urgent need to end inappropriate government intervention in the lives of Black children and families. It is among the most urgent civil rights battles of our time.

“Whether we prevail is determined not by all the challenges that are present, but by all the change that is possible.”

Amanda Gorman, Fury and Faith

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