

Comment to the Working Group of Experts on People of African Descent  
**RE: “Existential threats to the Black family:  
racialized interpretations of the best interests of the child”**

**May 2022**

We write to express our support this body’s continued assessment of the United States’ family regulation systems (also known as the child welfare system), and the ways in which the best interest standard has not served children and families of African descent.

In fourteen years of service, Brooklyn Defender Services’ Family Defense Practice has represented almost 14,000 parents and caretakers in Brooklyn Family Court and impacted the lives of over 30,000 children. We currently represent over 2,300 parents and caretakers. This reveals the horrific reach of this system in our state’s most marginalized communities.

As you have heard and you will hear, this system has perpetuated violence, trauma, and harm upon New York’s families, and you have the opportunity to bolster the incredible work of families impacted by this system in reimagining what true support and care look like.

As a nation and as a global community, we are experiencing a long over-due public reckoning of systemic racism and the violent impact of policing and surveillance that fails to be accountable to the most-harmed communities. In this moment, this body has a unique opportunity to interrogate the family regulation system, which has historically and continues to target communities of color.

Like the criminal legal system, race and poverty are defining characteristics of the family regulation system. Poor communities and communities of color are disproportionately impacted by the state’s family regulation system. In New York, Black children make up 40% of the children in foster care yet make up only 15% of the children in the state, whereas white children make up 25% of the children in foster care and 48% of the children across the state. Black children also fare far worse in the foster system and have much longer stays in care.

Most of the people we represent are people of color living in poverty, raising their children in homeless shelters or public housing, and in highly policed neighborhoods, making them vulnerable to government surveillance. Similar to the ways in which the criminal legal system was exposed for using pretext to “stop-and-frisk” a person based on their race or the neighborhood they live in, an initial investigation can lead to further invasive involvement by the family regulation system, including surveillance of a family, and even the removal of children from their home. This type of pretextual surveillance and punishment within the family regulation system may apply to a range of behaviors or indicators of poverty that are stigmatized and “othered.” Families living in homeless shelters, under incredible economic stress, are living under the fear that one argument between parents or one moment of impatience with a child may lead to a knock on their door from a child welfare worker. School



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attendance interrupted by homelessness, or an angry landlord seeking to evict a family illegally can result in a call to the family regulation authorities and begin an investigation into a family. While poverty may be an indicator of the likelihood of family regulation system involvement for a child, family, or communities - it is not because poverty leads to neglect, but because the lack of resources to care for child can be confused for maltreatment, the lack of resources for parents can leave families unsupported in crises, and the intense stress of unstable housing and income can make already vulnerable families easily susceptible to system involvement. Given the systemic racism engrained in the family regulation system, and the accompanying distrust of a punitive and surveillance-oriented approach, the family regulation system is ill-equipped to support families. Yet studies are clear that providing real economic resources to families corresponds with a reduction in family regulation system involvement. We urge you to take action to remedy these wrongs.

Should you have any questions, please do not hesitate to contact Nila Natarajan, Esq., Policy Counsel at [nnatarajan@bds.org](mailto:nnatarajan@bds.org) or 347-592-2504.