

**The Bronx  
Defenders**

**Redefining  
public  
defense**

**30th Session of the Working Group of Experts on People of African Descent**

**Children of African Descent**

**New York 23 – 27 May 2022**

**Written Comment of The Bronx Defenders<sup>1</sup>**

**By Emma Ketteringham, Managing Director of the Family Defense Practice &  
Miriam Mack, Policy Director of the Family Defense Practice**

\*\*\*\*\*

We submit these comments to the Working Group of Experts on People of African Descent to highlight the ways racial discrimination and inequity shape the experiences of children and families of African descent who are enmeshed in New York's family regulation system, also known as the so-called "child welfare system." Similar to our systems of over-policing and mass incarceration, New York's family regulation system overwhelmingly targets low-income families, the majority of which are Black

---

<sup>1</sup> The Bronx Defenders has provided innovative, holistic, and client-centered criminal defense, family defense, immigration representation, civil legal services, social work support, and other advocacy to indigent people in the Bronx for more than 20 years. Our staff of close to 400 represents nearly 28,000 people every year and reaches thousands more through community outreach. The primary goal of our model is to address the underlying issues that drive people into the various legal systems and to mitigate the devastating impact of that involvement, such as deportation, eviction, the loss of employment and public benefits, or family separation and dissolution. Our team-based structure is designed to provide people seamless access to multiple advocates and services to meet their legal and related needs.

Our Family Defense Practice has been in place since 2005 and represents parents in child protection and all of the related Family Court proceedings that arise out of an abuse or neglect case. Since New York City first funded institutional parent representation in 2007, we have represented more than 11,000 parents in the Bronx and helped thousands of children either safely remain at home or safely reunite with their families. Our multidisciplinary staff of more than 50 attorneys, social workers, and parent advocates intakes 1,000 to 1,500 new parents each year. During fiscal year 2018, we were assigned to represent 1,585 parents with approximately 3,500 children.

and Latine.<sup>2</sup> For too long, the system has operated unchecked, causing generations of harm, destruction, and trauma to Black, Latine, low-income, and other socially marginalized communities. At The Bronx Defenders, every day we see the consequences of family regulation agencies that willfully ignore the role of structural inequities, like racism and classism, in a family's ability to exist and thrive. Instead, they frame the direct consequences of structural inequality as individual personal failings and push "solutions" that rely on surveillance, control, punishment and even family separation instead of support. We see a system that is quick to label certain things "negligent" and use coercive interventions when they occur in Black, Latine, low-income, and socially marginalized communities — such as with recreational substance use — but that tacitly or willfully ignores the very same conduct in affluent white communities.

Through mandated reporting laws, the family regulation system's surveillance, control, and punishment has seeped into the very social service systems that socially marginalized families rely on in order to survive. From hospitals and schools to public benefit offices and homeless shelters — all spaces that are filled with mandated reporters — Black, Latine, low-income and socially marginalized families are constantly being surveilled and put at risk of being funneled into the family regulation system. And to be clear, the mandated reporters' observations and reporting is not without implicit and explicit bias; every decision to make a call to the family regulation system is informed by racism, classism, ableism, hetero-patriarchy, and other forces of power and privilege that shape who and what the reporter deems as "normative" and "deviant."

---

<sup>2</sup> Forty-four percent of the children in the foster system in New York are Black and 26% of the children in foster care in New York are Latine. See Child Trends, State-level data for understanding child welfare in the United States, Foster Care: Federal Fiscal Year 2017 (Feb. 26, 2019).

This architecture of surveillance and control fosters an environment of stress, distrust and trauma, and forces many parents to avoid systems and services altogether — or, at the very least, engage in what Professor Kelley Fong terms "selective visibility," concealing personal details or behaviors as they interact with the systems. More insidiously, it perpetuates white supremacy and a racial caste system where families of color cannot survive and thrive.