

**THE BRONX
DEFENDERS**

“This Wound Is Still Fresh”



***Stories of Family Survival in the Face of the
Administration for Children's Services Racism***

TABLE OF CONTENTS

INTRODUCTION	3
THEMES OF DISCRIMINATION	5
ANALYSIS	18
CONCLUSION	24

INTRODUCTION

Black and Latine parents who have survived intrusions by New York City’s Administration for Children’s Services (“ACS”)¹ describe similar experiences: ACS made assumptions about them; ACS judged them with no information; and ACS lied about them. Worse, ACS traumatized and damaged their children. These parents recount their children getting hurt in facilities, begging to come home, bedwetting for the first time, being forcibly switched to formula when separated from their breastfeeding mothers, and more.

These are not merely anecdotal accounts: Government and private analysts have exposed “extreme” racial disparities in ACS’s operations.² According to both New York State’s and ACS’s own data, ACS investigates, prosecutes, and

separates Black and Latine families more often than white families.³ Because of ACS’s involvement, Black children are at least **thirteen times more likely** to be put in foster care than white children and six times more likely than white children to be involved in a report of abuse or neglect.⁴ Of the 1,374 children ACS removed in 2023, 1,230 of those children were Black or Latine.⁵

The data is so consistent that both the public and ACS itself have recognized ACS’s systemic bias. ACS leadership has admitted that implicit bias and racism play a role in ACS’s racial disparities,⁶ despite ACS’s official

non-discrimination policy.⁷ News outlets, organizations, and government agencies have catalogued ACS’s unfair treatment of Black and Latine parents.⁸

Two prominent, recent reports demonstrate the depth of the problem of bias at ACS. First, in 2020, ACS commissioned a highly touted racial equity audit, which ultimately revealed that ACS employees view the agency as giving “preferential treatment to white parents” over

Black and Latine parents.⁹ “Participants described ACS as a predatory system that specifically targets Black and Brown parents and applies a different level of scrutiny to them throughout their engagement with ACS.”¹⁰

“ACS criminalizes, it doesn’t support.”

“ACS came and destroyed everything.”

“ACS looks at us as uneducated, and it takes advantage of us.”

Separately, in May 2024, after an eighteen-month investigation in which the current and former ACS Commissioners testified, the New York Advisory Committee to the United States Commission on Civil Rights issued a report finding that “racism . . . continues to impact New York’s child welfare system and forms the foundation for how it functions.”¹¹ Moreover, “[t]he Committee received extensive testimony that the [racial] disparities are due to ongoing racial biases.”¹²

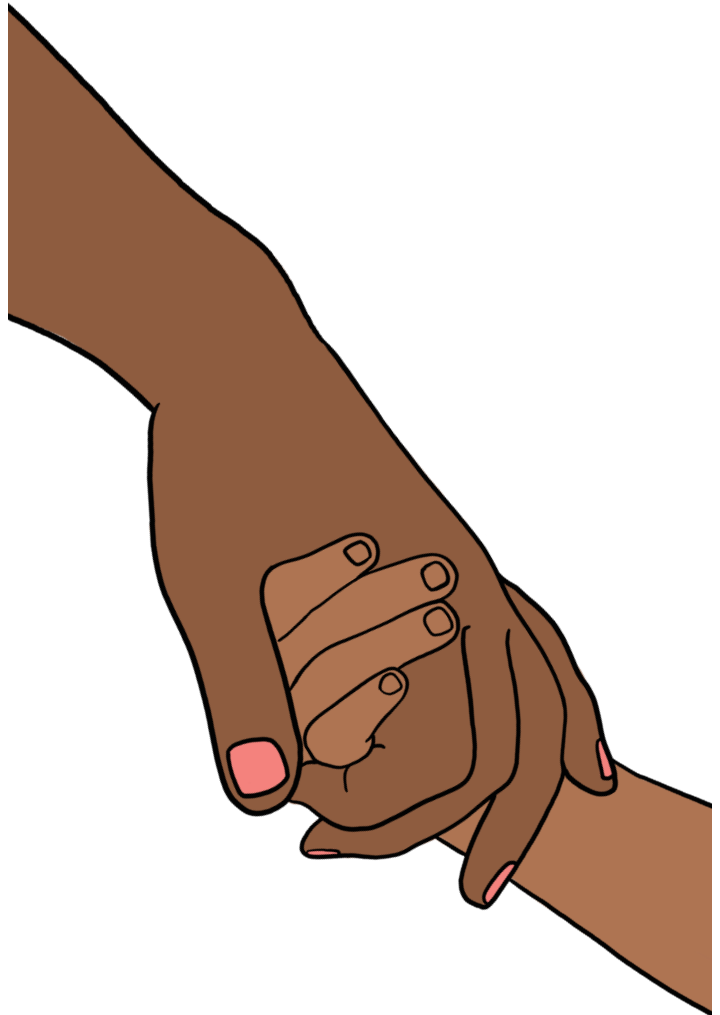
But these facts, figures, and reports do not tell the full story. What is missing is how Black and Latine families experience ACS’s policing —

what happens to them — and how ACS policing viscerally traumatizes and damages these families. To truly understand the gravity of the data, we must know the stories of the Black and Latine families that have survived this system.

In this report, The Bronx Defenders exposes patterns of how ACS engages with thousands of Black and Latine families in the Bronx, highlighting a few of our clients' many stories.¹³ ACS's discrimination, and its devastation, happens behind closed doors, obscured from public view. As public defenders, The Bronx Defenders bears witness to the anguish of ACS's unrelenting interference in Black and Latine families. Here, we shine a light on ACS's noxious presence in the borough where they conduct the most emergency removals and place the most children into foster care.¹⁴

This report features the experiences of Black and Latine families in the Bronx who have lived through the trauma of ACS investigating them and, in some cases, separating their families. We first outline four themes that surface repeatedly in families' stories. Using these themes as organizing principles, we present the accounts of Black and Latine families' unfair treatment by ACS. We then offer an analysis of how ACS's racial bias continues to harm families, even as ACS publicly denies, with few exceptions, the reality of its own practices.

These patterns reveal how and why racial disparities plague ACS's treatment of Black and Latine families, even though ACS leadership publicly avows that these outcomes are unacceptable.¹⁵ These patterns exist because of ACS's racial bias. Moreover, these patterns expose ACS's justifications for the racial disparities — whether child safety, poverty, or mandated reporters — as false.



THEMES OF DISCRIMINATION

Rarely do ACS employees admit overt racial bias. Instead, the bias surfaces in the patterns of how ACS relates to Black and Latine families. While this report focuses on each theme separately, these patterns intersect and build on each other in the lives of Black and Latine families.

Theme 1: ACS treats Black and Latine families more harshly than white families. The agency takes more extreme and punitive measures against Black and Latine families than white families, including taking children away. ACS workers presume Black and Latine parents to be incompetent and a risk to their children when they engage in the same inactions or actions as white parents who are not similarly vilified.¹⁶

Theme 2: ACS rushes to judge Black and Latine parents, ignoring what parents have to say and facts that disrupt ACS's narrative that Black and Latine parents are not safe for their children. As with all the patterns, ACS's hasty judgment is evident in many contexts, although it is particularly stark in cases where children need emergency medical care. In these situations, ACS dismisses Black and Latine parents' descriptions of their children's medical experiences, cuts short investigations, and fails to consider causes for medical conditions unrelated to parental culpability. ACS then prosecutes Black and Latine parents for allegations of harming their child, when the truth ultimately reveals that the parents — unlike ACS — have tried to keep their child safe and healthy.

Theme 3: ACS consistently exploits racial

misidentifications, tropes, and stereotypes of Black and Latine parents to prop up unfair accusations and treatment of Black and Latine families. ACS confuses Black people for each other and characterizes Black and Latine parents as “angry” or “playing games” when they defend themselves and their families or make legitimate parenting decisions. The agency also frequently relies on racist tropes about drug use by assuming, without evidence, that Black and Latine caregivers use drugs.

Theme 4: ACS disrespects Black and Latine families by violating laws and rules that exist to protect against unlawful and wrongful state interference in family life. For example, ACS will separate children from their parents for days or even weeks, without first obtaining the required judicial approval.

As illustrated below, these patterns reveal how ACS's racial disparities come to be and their devastating impact on Black and Latine families in the Bronx.

ACS Treats Black and Latine Families More Harshly Than White Families

ACS's punitive treatment of Black and Latine families — as reflected in the data and ACS's audit report — permeates its operations and is a consistent thread in the families' stories. ACS holds Black and Latine parents to a different standard and takes extreme measures against them, without connection to reality or what is best for the children. The examples below — a

small sample of how ACS's practice of unfair treatment of Black and Latine families shows up — demonstrate a few ways their harsh practices play out: (1) ACS punishes Black and Latine families for factors outside their control, including poverty and accidents; (2) ACS punishes Black and Latine families for wrongs they did not commit; and (3) ACS punishes Black and Latine families more harshly when the parents do not live up to idealized notions of parental perfection.

As seen in the following cases, ACS often oppresses Black and Latine families for problems outside the parents' control, most notably poverty and injuries caused by accidents.

The most common example is ACS's treatment of poverty as individual parental failure and consequently a justification for investigation, prosecution, and family separation.¹⁷ While ACS weaponizes poverty against parents, poverty alone does not account for ACS's targeted prosecution of Black and Latine families. If poverty explained the difference between rates of child investigation and removal between Black and white children, ACS would investigate and remove Black children twice as often as white children. Instead, the rate of investigations and removals for Black children is six and ten times higher than white children, respectively.¹⁸

When ACS encounters poverty in Black and Latine families, the agency takes drastic measures that neither alleviate the poverty nor protect the children. In fact, ACS's involvement can cement a parent's financial instability.¹⁹ In 2022, ACS took away a child from a Black mom who left her child in an apartment with a roommate while she did her laundry, as the mom did not have laundry facilities in her apartment and needed to rely on her roommate

to watch her child. The roommate left the child alone, and although the child was unharmed, a neighbor called the police, who arrested the mother and called ACS. ACS did not speak to the roommate, much less the mother, before filing the case. ACS "didn't even give me a chance to explain," the mother said, and the workers did not tell her where her daughter was until ACS filed the case in court. In January of 2024, ACS blamed Black parents for the mold and roaches in their rented apartment, despite the parents' attempt to get the landlord to fix the issues. ACS continued prosecuting the parents despite ACS's acknowledgement that the child was "very well kept and very clean."

ACS also judges Black and Latine parents more harshly when their children have accidents, as demonstrated by Rita's story below.²⁰

Rita

In August 2022, Rita, a Black and Puerto Rican mom, was cooking dinner while her son, Aaron, then one-and-a-half-years-old, was playing with his toys nearby. Rita and Aaron had recently moved into a small apartment from a family shelter, and Rita did not yet have a baby gate, playpen or highchair for Aaron. While Rita was cooking, Aaron tried to touch the stove, but Rita told him no. She put the hot pan on a back burner and moved her son further away from the stove. Yet Aaron reached for the stove again and, this time, succeeded in grabbing the pan filled with hot grease. Rita tried to grab the pan from Aaron before he was hurt, but before she could get the pan out of Aaron's hands, grease accidentally spilled out and onto Aaron, burning him. Rita immediately took Aaron to the bathroom, removed his clothing, and tended to his wounds with a damp cloth. Rita then quickly dressed Aaron and rushed to the medical clinic.

Importantly, the doctors treating Aaron, as well as hospital social workers, did not call ACS to report the accident²¹ and found Rita's account of the accident consistent and credible. While Aaron was receiving treatment at the hospital, the staff wrote down that Rita was always there, caring for her son appropriately.

Despite Rita's prompt response to the accidental burning, ACS filed a neglect petition seven days after the incident, alleging Rita did not intervene to prevent Aaron from burning himself. Rather than rely on the significant evidence that what happened to Aaron was merely an accident, ACS used Rita's race as a proxy for neglect. As a result, ACS forcibly separated Aaron from his mother and placed him in foster care. The Judge that oversaw the trial found that Rita testified credibly and compellingly. At the end of the trial, the Judge dismissed the case, because Rita "was a single mother who was cooking dinner for her child when an accident happened that she took affirmative steps to prevent, but unfortunately failed." The Judge, unlike ACS, recognized that sometimes accidents happen. The Judge then reunited Rita with Aaron, after the six months that they had been apart.

In contrast to the Judge, ACS reflexively blamed this Black parent and took her baby away from her. The agency's refusal to recognize an accident for what it was further traumatized Aaron while doing nothing to keep him safe. ACS's harsh treatment of Rita, and other Black and Latine parents, not only failed to follow the facts and medical experts but also separated a vulnerable child who had just been burned from his primary caregiver at a time when he needed her most.

In addition to punishing Black and Latine families for poverty and accidents, ACS also punishes Black and Latine parents for others'

mistakes. As illustrated by Brittany's story below, ACS prosecutes Black and Latine parents when they are undeniably not the reason their child was injured.

Brittany

In March 2021, Brittany, a Black mom, received a devastating phone call: her youngest daughter Zayla had been rushed to the hospital after nearly drowning while in the care of her father. At the time, Brittany had been in Washington, D.C. for a few weeks, visiting family and trying to earn extra money at a beauty salon. Brittany immediately rushed back to New York City to be at her daughter's bedside at the hospital. Seeing Zayla struggling for her life was incredibly traumatic; indeed, it was one of the worst moments of Brittany's life.

Despite her trauma, the hospital described Brittany as easy to engage, friendly, and "appropriately tearful." Brittany agreed to all recommended treatments and diagnostic tests for her daughter, and she actively engaged in discussions regarding the extensive rehabilitation that her daughter would need to go through. The hospital raised no concerns about Brittany's state of mind or ability to comprehend her daughter's complex needs, and the hospital supported Zayla being discharged to Brittany. For the three months Zayla remained hospitalized, Brittany was at her bedside.

The hospital called in the case to ACS, based on the father's lack of supervision of the baby in the bath. ACS began investigating Brittany and her three older children as well. Rather than supporting Brittany, ACS filed a neglect petition against her and took the three oldest children away. ACS's callous treatment only compounded Brittany and her family's trauma. "I didn't have

time to process” what happened to Zayla, said Brittany, because ACS forced her to fight for her family. Despite claiming that the children were unsafe with Brittany, ACS did not come to the hospital to check on Zayla, and Brittany had to explain to the ACS workers who rotated in and out of her life about Zayla’s medical condition. Despite ACS’s obligation to act in the best interest of the child, the numerous caseworkers failed to understand or learn about Zayla’s medical diagnoses or treatment, instead relying on the mother who they accused of neglect to educate them about the child’s needs.

Even though Brittany had nothing to do with Zayla’s near-drowning, ACS used the tragedy to bring a wide range of baseless allegations against Brittany. ACS asked Brittany’s relatives if she used drugs, relying on racist stereotypes that were not true, even after Brittany showed them proof of her work as a hairdresser. ACS also described Brittany as mentally impaired, because “I could not stop crying when I saw my daughter in a coma.” Brittany’s children suffered when they were taken away from her, so much that Brittany’s seven-year-old tried to run away to get back to Brittany.

Over a year after ACS began their investigation, ACS began prosecuting Brittany at trial. Brittany’s testimony was so compelling that after hearing it, ACS withdrew the neglect case against her, and the Judge returned her children to her care. Based on an accident that happened while she was hundreds of miles away, ACS kept four children from their mother for a full year. ACS punished Brittany for being away from her children, aggravating her family’s trauma instead of supporting them during such a difficult period. ACS further punished Brittany’s children, as they were kept away from their mother while processing their sister’s

near-death. Brittany still feels haunted by what happened to her and her children.

As part of its differential treatment of Black and Latine families, ACS discredits the words of the children they claim to protect when those children tell ACS their parents are good parents. For example, in 2022 the agency forced four Latine children to undergo invasive interviews regarding their parents’ discipline when one child had bruises — even though all the children denied the parents hit them, none of the other children had bruises or other signs of bodily harm, and no one posited discipline or abuse as a cause for the bruises. The older children told their mom that the ACS workers tried to pressure them into saying that their mom hit them, even though that was not true. The mom described feeling violated by what ACS had done. In another example, in late 2023, ACS investigated a Black mom whose child had a bruise; the child said her sister caused it. When the sister denied it, ACS assumed that the mother hurt her child, even though all four children in the home denied the mother hit them. ACS requested all the children undergo intrusive physical examinations, which the Court denied. ACS threatened to file a case against the mother when she did not agree to ACS’s continued investigation, but when the mother stood strong, ACS eventually backed down.

When Black and Latine parents do struggle, ACS does not grant them the opportunities to try to parent better, nor does it empower them to “create safety” for their children, which, according to ACS’s audit report, ACS allows for white parents.²² For example, ACS removed a newborn from a Black mother in 2022 because her older children were in foster care due to her struggles with mental illness. Yet by the time ACS took her newborn from her, this mother had

done everything “right”: engaged in services including therapy, visited safely and without supervision with her older children, attended conferences with ACS, and worked with the agency to plan for her children to return home. ACS did not give her the opportunity to take care of and bond with her newborn until the judge forced ACS to return her baby to her after their week-long separation. For this mother, it felt as though ACS stole her baby from her. In another example from 2022, ACS removed a Black mother’s children when she used physical discipline. Even though ACS took the extreme measure of separating the family, a judge denied ACS’s request²³ and returned the children to their mother. Instead of empowering the mother to create safety, perhaps with ACS support, as ACS allows white parents to do,²⁴ ACS continued to prosecute her. This mother said that listening to ACS describe her in court, they made her feel like a monster. She could only begin repairing her relationship with her children once they were back in her care.

ACS Rushes to Judge and Presumes Culpability of Black and Latine Parents

As seen in the cases presented so far, ACS rushes to judge Black and Latine parents. The agency assumes parental culpability and instead of conducting a fair and open investigation, often presumes guilt and uses the investigation to build a case against the parent.²⁵ This pattern is particularly prevalent in cases where Black and Latine families seek medical care for a young child’s unexpected symptoms or injury. In those contexts, ACS, often with little investigation, separates families and concludes Black and Latine parents abused their child — even when doctors do not diagnose abuse or need more time to sufficiently investigate

appropriate diagnoses. Worse yet, ACS frequently ignores the parents’ evidence of what caused the child’s condition, disregards medical evidence consistent with innocence, and does not rely on qualified doctors with appropriate expertise.

ACS pursues cases and takes away children in situations where the doctors, the police, and the parents all deny that abuse caused the medical condition. This pattern existed in Rita’s case, highlighted above, as ACS workers spoke to numerous medical professionals on several occasions, each time pressing to see whether abuse caused Aaron’s burns. Each time, the doctors, nurses, and social workers said no. Yet ACS pursued neglect charges against Rita.

In the cases below, ACS chose to charge the parents with abuse — allegations which were unsupported by the facts and ultimately rejected by the courts, but not in time to prevent the trauma of an ACS investigation and family separation.

As seen in Salamata’s case below, ACS will charge parents with abuse even though no medical expert tells ACS that the parents abused their child.

Salamata

Salamata, a Black woman who had recently immigrated from western Africa, gave birth to a girl, Charlotte, in July 2023. At that time, Charlotte’s birth was Salamata’s “dream come true.” Yet “ACS came and destroyed everything.”

Salamata lived in a single room with her baby and her partner. Salamata exclusively breastfed her daughter, who received timely vaccinations and regularly saw a pediatrician at a local hospital. One morning in January 2024,

upon waking her daughter, Salamata noticed swelling on Charlotte's forehead. Salamata called her husband to go to the hospital with their child. At the hospital, doctors examined Charlotte, including doing a full body x-ray, and did not find any other signs of injury or trauma. Significantly, while non-medical staff at the hospital called in a report to New York's child abuse hotline, no medical personnel could say whether the swelling was accidental or caused by abuse. Salamata and her husband told the hospital, ACS, and the police that they did not know exactly what caused the swelling, but that as soon as they noticed it, they brought their daughter to the hospital for medical care. Other than the swelling, the hospital staff had no concerns about Charlotte or the care she received from her parents. Salamata stayed with Charlotte full-time during her hospitalization.

After investigating the case for five days, ACS filed an abuse petition against Salamata and her husband, despite not having evidence that the swelling on Charlotte's head was abusive. Not only did ACS file a case, but the agency also asked to place baby Charlotte, who was still breastfeeding, into foster care. Salamata challenged the separation of her family, and the Family Court judge held a hearing the same day. At the completion of the testimony of the ACS workers, ACS's only witness, the judge granted Salamata's request to have Charlotte remain with her parents. After the judge ruled against them, ACS withdrew the abuse allegations against Salamata and her husband, as they did not have any evidence to support their claims.

ACS's bias against Black parents led the agency to claim Charlotte's parents abused her, even though no medical professional opined that Charlotte was abused. Salamata described ACS's case as "harassment," and it has had

lasting impacts on Salamata and her family. Salamata struggled with the shame of ACS's false accusations, even though she "ha[s] never done anything bad to anyone." Salamata fears having another child in the United States, because she "do[es] not know what ACS will do."

In a case from 2022, ACS attempted to take away a baby and prosecute a Latine mother for child abuse when the child had a skull fracture. At a hearing on ACS's application to remove the child, a medical expert testified that the fracture was most likely caused by an accident, such as the baby's head bumping into furniture, given the short length of the fracture and the lack of other symptoms indicating abuse. This medical expert's testimony was undisputed by ACS at the hearing, and ACS did not have any medical professional testify. The judge returned the baby to the mother, and only then did ACS withdraw the case. Two years later, "the wound is still fresh" for the mother and her family.

ACS investigates and prosecutes Black and Latine parents and separates families even when the parents have proof that the injuries their children sustained were accidental. ACS investigated a Latine mother in 2022 for her child's injury when he fell off the bed, despite the fall being recorded by a camera in the home. That mother described her experience with ACS as a "battle to bring me down." Even though she knows she is a good mother and did nothing wrong, she is still fearful that ACS will come after her again.

In addition to investigating and prosecuting Black and Latine parents when no doctor reports abuse or when there is evidence that the child's injuries were accidental, ACS also relies on medical providers who lack expertise in the field(s) pertaining to the child's treatment

needs, such as neurosurgery, orthopedics, or ophthalmology.²⁶ ACS further disregards specialists who do have relevant expertise and in some cases are the treating medical provider.²⁷

Gabriella's story, described below, reflects ACS's improper reliance on a child-abuse pediatrician who was unqualified to handle the child's medical condition.

Gabriella

Gabriella is an Afro-Latine mother of two children, nine-year-old Mila and baby Christian. In June 2020, then-two-month-old Christian began having a seizure. The day before, Gabriella noticed that Christian had not been feeding well and seemed lethargic. Gabriella called Christian's pediatrician, who observed Christian seizing and advised Gabriella to take Christian to the hospital immediately. Gabriella rushed Christian to the hospital, where Christian's Black father, Darius, met them. The hospital admitted Christian, and Gabriella remained by his side for his entire two-week hospital stay. Christian was diagnosed with a blood clot in the veins of the brain, typically caused by infection and dehydration.

Two weeks into Christian's hospital stay, the hospital's child-abuse pediatrician opined that someone had intentionally hurt Christian and instructed the hospital to call in a report to ACS. ACS began investigating the family, and as Gabriella describes it, "it's like they have an agenda. When I was first interviewed by the caseworker, she wasn't asking 'what happened,' instead it was: 'someone did this, and we are going to figure out who.' She made it seem like someone, whether me, my partner, or my mom, hurt Christian, and someone is going to pay."

ACS took the children away, separated them, and filed an abuse case against Gabriella and Darius. During the separation, Gabriella felt that she overlooked Mila, as she could not spend much time with her in between visiting Christian, who she was breastfeeding, and going to court. Mila desperately wanted to be reunited with her family.

Gabriella and Darius asked for their children to be immediately brought back home. Throughout the hearing, no one raised any concerns about Gabriella or Darius's parenting, and ACS's own caseworker acknowledged that Gabriella and Darius were loving and attentive to the children.

At the hearing, ACS relied on the word of a child-abuse pediatrician, even though a judge in Bronx Family Court found, just one month prior, that the same pediatrician conducted an "incomplete" investigation into another Black family and "rush[ed] to judgment" when incorrectly diagnosing the infant with abuse.²⁸ In Gabriella's case, two doctors — a pediatric radiologist and a pediatric neurosurgeon — did not diagnose Christian as abused. Instead, these experts, both of whom treated Christian, agreed that Christian had a blood clot in the brain, which neither said was caused by abuse. The Judge credited the two expert doctors and found that the child-abuse pediatrician "overlooked or may have ignored crucial information," "conflated two different medical findings," and was "unable to adequately explain how [Christian's] medical findings were the result of abuse."

Despite the evidence that Gabriella saved her son's life by taking immediate action when she observed him seizing, ACS pursued a case against her. The agency relied on a discredited doctor, did not properly investigate, refused to listen to other doctors' opinions, and ignored

all the evidence demonstrating that Christian suffered from a blood clot. ACS's actions demonstrate how ACS treats Black parents punitively, ignoring medical evidence in favor of racist assumptions that Gabriella harmed her baby. After the judge denied ACS's request to keep the children away from their parents, nearly two months after ACS first took them, and instead returned Christian and Mila to Gabriella and Darius, ACS withdrew the case entirely. For Gabriella, the impact remains. She was "in disbelief" when she was falsely accused of abusing her son, and she still gets flashbacks. She feels she shelters Christian too much, in the fear that he will be hurt and need to go to the hospital, where ACS could again become involved in their lives. "It's a feeling that doesn't go away."

Gabriella's experience is not isolated. In 2022, ACS prosecuted a Black father for abuse when the child had a leg fracture, relying on a nurse practitioner with no expertise in the area and ignoring the expert opinion from a pediatric orthopedist that the injury was not caused by abuse. ACS agreed to dismiss the case against the father one year after it filed, but the investigation and prosecution "devastated" the family. The father believes "if I was a different color, when I had taken my son to the hospital, it would have been just that," instead of the ordeal it became.

In another instance in 2022, ACS prosecuted Black parents for their infant's rib fractures based on one child-abuse pediatrician's opinion, when the mother's two obstetricians, the chief of the neonatal intensive care unit where the child received treatment, and a separate child-abuse pediatrician opined the fractures were not caused by abuse. ACS workers constantly changed, forcing the family to relive and re-

explain not only the trauma of ACS, but also the trauma of the child's birth, where both the mother and child nearly died. Even though ACS claimed the family abused their child, the ACS workers made no effort to understand their child's medical needs. According to the parents, ACS "came very judgmental into our home, they think automatically that we are abusers, and treated us as such." After a four-month hearing, the judge reunited the family, and ACS then agreed to dismiss the case several months later. For this family, "we are still recovering" from what ACS did to them. ACS refused to allow the mother to be alone with her daughter in the hospital, forcing her to leave her pumped breast milk at the front desk. Her milk consequently dried up, forcing her daughter to switch to formula and causing havoc with her already weak gastrointestinal system. Their seven-year-old daughter begged to go back home while separated from her parents, and their oldest son became angry and frustrated when he couldn't participate in summer activities. The parents lost income, because the mother had difficulty finding work as a licensed social worker when employers discovered she had an ACS case.

ACS does not meet its mandate of protecting children when it adopts the mindset that Black and Latine parents are culpable, regardless of the evidence or lack of investigation. In rushing to judge the parents, ACS destabilizes and traumatizes the same children the agency claims to keep safe.

ACS Acts on Racial Misidentifications, Tropes, and Stereotypes to Police Black and Latine Families

In investigating, prosecuting, and separating Black and Latine families, ACS weaponizes racist

misidentifications, tropes, and stereotypes to create and bolster accusations. ACS misidentifies Black people, as seen in the example below. ACS also uses denigrating and dehumanizing language to negatively depict Black and Latine parents, particularly parents who advocate for themselves. Finally, ACS makes racist assumptions about Black and Latine parents' drug use.

Shannon

Shannon is a young Black mom, a child who grew up in the foster system, and a survivor of domestic violence. When the father of her seven-month-old daughter Kiara attacked Shannon, the police arrested him and called ACS. In response, ACS not only filed a case against Kiara's father but also against Shannon. When the case started, ACS agreed that Shannon and Kiara could live together. Despite living with the trauma of partner violence and ACS involvement, Shannon went to therapy, moved into a domestic violence shelter, followed court orders, and repeatedly told the police, the district attorney, ACS, and the other social workers in her life when Kiara's father violated the restraining order. Shannon gave ACS a picture of Kiara's father, whom the workers had never seen, so they would know what he looked like.

The agencies charged with protecting Kiara did not give her mom actual support. Shannon would repeatedly reach out for housing and financial assistance. When she asked for assistance in getting food, as the shelter did not provide it, the ACS worker told Shannon he did not believe Shannon did not have food. The worker had previously told Shannon he did not believe the things Shannon told him. When Shannon reached out for help, the worker

responded by saying ACS was "not adult protective services," and that ACS could only help her daughter. When Shannon would bring up the ways that ACS was not helping her family, the worker accused Shannon of "constantly challenging" him. The worker canceled home visits but when Shannon needed to cancel a visit, after the worker failed to confirm he was coming, he asked "what kind of games are you playing?"

Not only did the ACS worker belittle Shannon, ACS took Kiara away from Shannon when the worker mistakenly identified another Black man as Kiara's father. Shannon and Kiara were out for pizza with Shannon's friend, Cole. The worker happened to pass them in the street. When the worker grabbed Shannon's arm, Cole questioned the worker. During the exchange, the worker did not ask Cole his name or ask Shannon about Cole's relationship to the family. The worker never met Kiara's father, and yet did not consult the photo Shannon previously provided or ask Shannon if Cole was Kiara's father. Instead, the worker assumed that Cole was Kiara's father, even though their only shared identity is that they are both Black. Five days later, the worker wrongly accused Shannon of being around Kiara's father and took Kiara away from her. ACS would not reconsider even when the evidence, including videos and text messages, demonstrated that Shannon was with Cole, not Kiara's father.

The judge in Shannon's case, however, recognized that misidentification is a problem, noting that misidentification can cause wrongful convictions. The judge returned Kiara to Shannon's care after the hearing. While the hearing went on, Shannon spent an entire month separated from Kiara, including her first Mother's Day. Being separated from Kiara

was the worst possible feeling Shannon could imagine, and the trauma affects her and Kiara to this day.

As seen in Shannon's story, ACS relies on biased tropes to denigrate Black and Latine parents' attempts to advocate for themselves.²⁹

As occurred with Shannon, many Black mothers described situations where ACS workers relied on the "welfare queen" trope to stereotype their financial situation.³⁰ Some, like Shannon, did not get assistance they sought, even though ACS claims its goal is to make families stronger, and the agency provides extensive financial resources to caretakers in the foster system. For other families, ACS workers assumed that Black mothers relied on public assistance or were uneducated, even when the mothers had full-time employment and advanced degrees.

ACS also employs the "angry Black woman" trope to punish Black parents. In 2022, ACS called one Black mother "aggressive" when she first sought help as a survivor of domestic violence and then posited that they should have treated her family better. This mother expressed that she did not feel heard by ACS workers and instead felt like ACS workers unfairly judged her. ACS claimed that the mother was allowing the person who perpetuated abuse against her around the children, yet the workers would also ask the mother to text him information about the case. "They put me through hell," and her children are still traumatized and emotionally struggling with what happened, "lashing out" to express the trauma they experienced. ACS's treatment of this mother directly contradicted how ACS leadership claim survivors should be treated. In testimony before the New York State Assembly in 2023, Commissioner Dannhauser stated: "I will say, though, I think especially in New York City, it's really important to talk

about race in that context. Substance abuse is treated differently, domestic violence is treated differently by race. I think we have to make sure that folks who are seeking help, that is expressing a minimum degree of care. If you are seeking help, you shouldn't pay a price for that."³¹

In addition to misidentifying Black people and using dehumanizing language and descriptions, ACS also stereotypes Black and Latine parents as drug users, even if no evidence suggests that is the case.³² As we saw above in the case of Brittany, ACS investigates whether Black and Latine parents use drugs when they travel for work or when they express emotion at seeing their children hurt. In Teresa's case, described in the next section, ACS demanded she and her husband submit to drug tests despite the lack of evidence that the parents used drugs, all because their home was not clean. Even when the tests were negative, ACS refused to give the children back to the parents. In Dayanara's case, also in the next section, an ACS worker assumed that Dayanara was under the influence of illegal drugs and took away her baby when Dayanara was recovering from illness and struggling with a migraine. In another example from 2023, ACS refused to consider sending children to a Black relative, because "his personal appearance raised concerns about illicit drug use." That relative tested negative for illegal drugs.

ACS's racist stereotypes both cause and further entrench ACS's disparate treatment of Black and Latine parents.

ACS Violates Laws Meant to Protect Families

The final theme we highlight in this report is ACS's disrespect for Black and Latine families by violating their due process rights. Specifically,

the agency disobeys the laws and rules that exist to protect families from unjustified separations and parents from wrongful accusations. One of the most drastic, and painful, actions ACS takes is to separate children from their parents. As seen in the previous cases highlighted in this report, ACS needlessly and harmfully takes children away. While these traumatic removals can be unlawful on their own, ACS goes further by failing to follow the law on how these removals should occur. This section focuses on ACS's practice of taking children away from their families and keeping them for days and weeks, without getting the legally required court approval for separating the family. ACS evades judicial oversight when it does one of the most intrusive and terrifying things it can do to a family.³³

Families have a fundamental right to be together, and thus they have a right to neutral judicial oversight when the government interferes in family life. In New York, when ACS takes the extreme measure of removing a child from their parent on an emergency basis, the agency must, by the next business day, either seek judicial approval of that decision or return the child to the parent.³⁴ In violation of the law, ACS often delays filing the necessary paperwork to bring the matter before a judge. As described below, these forcible separations can devastate a family, break bonds, shatter a child's sense of security, and sow distrust — regardless of the length of the separation.

For example, ACS removed a twelve-year-old daughter from a Black mother on a Saturday in February 2024, for allegations that the mother got in a fight with her girlfriend while her daughter was present. Despite removing the daughter, the agency did not file a case in court until the next Wednesday. Instead, ACS placed

the child in the Children's Center, an intake facility run by ACS with a history of children being so scared they brought weapons into the facility to protect themselves.³⁵ In this family's case, the girl's grandmother was ready and available to care for her granddaughter. During the separation, the agency did not allow any visitation between the mother and her child. When the Judge reunited the family eight days after ACS separated them, ACS withdrew the case.

ACS separated two Latine children from their mother in November 2022, after the mother asked a friend to watch her children when she went to work at a new job. Unbeknownst to the mother, that friend expressed suicidal ideations to others, and someone called ACS. Even after learning the case was not about the mother, ACS did not return her children to her. Instead, ACS made an untimely request to continue its investigation of the mother and the removal of the children, because one child had a diaper rash. ACS never filed a neglect petition against the mother and returned her children two weeks after taking them away. While the children were out of the mother's care, ACS refused to allow her to visit and told her family member who was watching the children not to give the mother any information about them, something that judicial oversight would not allow.

On another occasion, ACS forced a Latine father to leave his home on a Thursday in September 2023. The agency filed a case on Monday but told the father that the case would not be heard that day. When the judge heard the case late in the day on Monday, ACS did not inform the father, and he was not present in court. After learning that the hearing was held without him, even though ACS knew he was willing to participate, the father was "confused" and felt

“left out.” Once the father was able to appear a few days later, he asked to return home, which the judge allowed after conducting a hearing. While his children were separated from him, his eight-year-old child began bedwetting and at one point asked whether his father was dead. The father described the separation as being “alive but mentally dead at the same time because [ACS] took away everything that you love.”

Dayanara

Dayanara, a Latine mother, and her four-year-old daughter Patricia lived in a shelter. In February 2023, Dayanara had a meeting with an ACS worker who had been working with Dayanara for months in a non-investigatory capacity.³⁶ During this meeting, the ACS worker met with Dayanara and her daughter, and then Dayanara left to go to her shelter unit with Patricia. After this meeting, the ACS worker removed Patricia from the shelter unit, claiming that Dayanara misused drugs because the ACS worker perceived Dayanara’s speech pattern as being “strange.” The ACS worker relied on the racial trope associating Black and Latine people with drug use when taking Dayanara’s daughter. The shelter staff noted that Dayanara parented Patricia appropriately and that her daughter was never at risk of harm. Dayanara described the removal as a kidnapping. “At the time I didn’t know my rights. There was no court. There was no police. They just took her from me.”

Dayanara gave the worker information for both Patricia’s father and Dayanara’s own mother as potential caretakers. She also agreed to an immediate drug test at the hospital, where she tested positive for her prescribed migraine medication and no other substances. Despite learning of Patricia’s father and grandmother on

Thursday, ACS placed the girl in a facility³⁷ until Tuesday evening. While in the facility, Patricia began urinating on herself, despite previously being potty trained. Her daughter also had marks and bruises on her knees, butt, and face after being in the facility. To this day, Dayanara does not know “what happened or what went on in that place.”

ACS did not seek court approval for its forcible separation of this family until Wednesday, six days after removing Patricia. Dayanara asked for an immediate hearing for the return of her daughter, and ACS agreed to return Patricia to her care on the second day of the hearing. ACS’s failure to file the case timely deprived Dayanara and her daughter of the opportunity to challenge Patricia’s placement in a facility, potentially sparing her the trauma of separation, the setback in potty training, and the bruises she sustained. It may have also prevented the long-term impacts of the removal on Patricia: to this day, she will not get into a black car (the car the worker used to take her away from her mom was black), she hides when she needs to use the bathroom, and she asks not to be hit, things she never did before being taken away. ACS’s failure to follow the law and seek court approval for taking a child from her family is symptomatic of the agency’s view that Black and Latine families do not matter and that the parents are not worthy of following the law.

In some instances, ACS will not seek judicial approval at all after removing children, yet the agency will not return the children for weeks or even months at a time. This leaves families with little recourse to reunite with each other or to remove ACS from their lives.

Teresa

Teresa, a Latine mother, lives with her children, ten-year-old Josephine and 17-year-old Tina. In September 2024, ACS received a false, anonymous report that teenager Tina was in an abusive relationship with a boy and that Teresa was aware (in fact, Tina is gay, not in an abusive relationship, and denied that she had troubles with her girlfriend or her parents). Once ACS began investigating, the agency switched its focus to the cleanliness of Teresa's home. On September 19, ACS told Teresa to send her children to live with their aunt while Teresa cleaned the home, and Teresa felt forced to move her children to their aunt's home. Teresa's compliance with ACS's request was not voluntary or willing, as she felt like she had no choice but to follow ACS's instructions or risk ACS following through on their threats to file a case against her.

Teresa did everything ACS asked of her, including deep cleaning her home, paying for a storage unit for her belongings, and submitting to a drug test, despite no substance use concerns (the test was negative). Despite Teresa following ACS's instructions, ACS never told Teresa that she could have her children back. Teresa felt "manipulated" by the worker's constant new requests. The agency further neglected to inform Teresa of her rights to challenge ACS's actions.³⁸ When Teresa would ask for the children to come back home, the worker would say that Teresa needed to do more things, or else the supervisor would take her to court.

In December 2024, out of desperation Teresa sought legal advice. Once The Bronx Defenders contacted ACS about the three-month removal without any legal process provided to Teresa or

any information given to her about her rights, ACS agreed to return the children to Teresa. Teresa and her children were separated for three months. During this time, the family dealt with Teresa's husband's cancer diagnosis, her daughters could not sleep, and their grades suffered. When the worker visited the girls, Tina and Josephine would ask when they could return home, and the worker would say soon, once your mother does something else. The constant hope of returning and being let down was devastating for Teresa's daughters.

ACS staff felt entitled to take such a drastic action — separating Teresa and her children — without following the law or informing Teresa of her rights because ACS treats Black and Latine parents more punitively and disrespects their rights more cavalierly. For Teresa, it was "the worst experience of my life."



ANALYSIS

These stories and the patterns they follow expose ACS's lip service to child safety and family support as just that. ACS professes an anti-racist ideal, while condoning discriminatory treatment of Black and Latine families.

Below, we analyze how ACS's racism continues to manifest. First, ACS's mistreatment of Black and Latine families violates both society's and the law's recognition of the fundamental right to raise one's children without interference from the government. Second, ACS perpetuates, ignores, or buries its bias, all while acknowledging the impact of racism in this system. Third, ACS's bias and refusal to correct it leads to the stories featured here and the four themes into which they fall. Fourth, ACS's racism damages Black and Latine children and parents physically, emotionally, and financially. Fifth, racism, and not any other cause, explains ACS's punitive treatment of Black and Latine families.

ACS's treatment of Black and Latine families violates their fundamental right to family sanctity. Our society and our nation's constitution have long recognized the value of family and the rights of families to be together, free of government intrusion.

Family is a vital part of American life. "The family has been described quite properly as perhaps the most fundamental social institution of our society."³⁹ According to a 2023 Pew Research Center survey, spending time with family is one of the most important things or very important to 90% of Americans surveyed, far more than any other activity.⁴⁰

The parents highlighted in this report echoed

the value of family in their own lives. Parents spoke of the love and commitment they had for their children, including the importance of trying to do everything they could for their kids. Some mothers spoke of how important it felt for them to breastfeed their babies, while other parents talked about rushing to ensure their child received medical care. The devastation of being separated and not being able to engage in that family time caused parents physical symptoms: one parent described feeling totally drained and not like themselves, as they felt so anxious and worried. Another parent described that he could not eat, could not think straight, and could not focus.

Because family is seen as a fundamental right in our society, the government may not intrude without strong justification. The Supreme Court of the United States has "made plain beyond the need for multiple citations that a parent's desire for and right to the companionship, care, custody and management of his or her children is an important interest that undeniably warrants deference and, absent a powerful countervailing interest, protection."⁴¹ Moreover, this "fundamental liberty interest . . . does not evaporate simply because they have not been model parents or have lost temporary custody of their child to the State."⁴²

Although it should not need to be said, discrimination against and bias toward Black and Latine families does not qualify as a good reason for ACS to interfere into families' lives.

ACS has systematically ignored, buried, and perpetuated the widespread bias and discrimination within its ranks,

despite its public commitments to the contrary. The American tradition of respecting the rights of family exists alongside a shameful history of surveillance and separation of Black and Latine families.⁴³ As a former ACS Commissioner noted, this history “undermines” ACS’s work, and the acting Commissioner of New York’s Office of Children and Family Services acknowledged that the “child welfare system” is “built on racist principles.”⁴⁴ While ACS speaks of its commitment to respecting families, its actions remain rooted in the history of unfairly treating Black and Latine families. One way ACS acts on that racist history is to ignore, bury, and perpetuate bias within its ranks.

ACS has ignored internal and external recommendations, spanning more than a decade, that were designed to alleviate racial disparities. ACS has been offered multiple sets of recommendations and directives, including a 2016 internal working group report; a 2020 directive from the Office of Children and Family Services; and the 2020 audit.

In 2016, an internal ACS equity working group made recommendations meant to make ACS more accountable to racial equity concerns and to support racial equity and fairness when creating policies.⁴⁵ ACS failed to implement many of the recommendations generated by the internal working group. For example, the working group recommended that ACS identify policies that contributed to racial disproportionality and revise such policies, which ACS did not do.⁴⁶ The working group further recommended that ACS routinely collect and publish racial and ethnic data on decision-making points at critical junctures in a case.⁴⁷ Yet not until the New York City Council required ACS to publish demographic data⁴⁸ did ACS

make the information publicly available in a systematic way.

In October 2020, New York’s Office of Children and Family Services issued an administrative directive that required all local social services agencies, including ACS, to use an anonymous process (often referred to as a “blind” process) to determine whether to remove children, meaning that workers would not know the names, race, or address of the children at issue.⁴⁹ The directive was based on data from another child welfare agency (in Nassau County) showing a significant decrease in racial disparities in child removals after implementing an anonymous removal process.⁵⁰ To date, ACS has neither launched an anonymous removal process nor announced plans to implement one, despite its professed commitment to reducing racial disparities and this four-year-old mandate to begin a program proven to do so.

As discussed previously, in 2020 ACS partnered in an audit to address its racial disparities. In 2021, ACS and the auditor co-designed a 5-step process “to help divisions within ACS identify racial inequities, design solutions, and measure their success.”⁵¹ To that end, ACS was to launch a pilot implementing the 5-step process. After doing so, ACS was to adapt the pilot for use in all ACS divisions. As far as ACS has revealed to the public, ACS did not launch the policy improvement process. Nor is there any evidence that ACS built the team necessary to launch the pilot, despite the detailed recommendations to do so.⁵²

In addition to failing to follow recommendations to address the disparities, ACS has resisted accountability. For example, ACS touted the 2020 audit in testimony and written reports,⁵³ yet the agency intentionally resisted publicizing

the outcome of the audit once it discovered the damning evidence of racism it contained.⁵⁴ ACS hid the audit in 2020 and continues to hide the agency's responses to the recommendations. Further, ACS failed, for over one year, to publish an updated equity assessment as required by local law.⁵⁵ These failures expose ACS's continued practice of ignoring and burying recommendations to decrease its bias, in turn aggravating the disproportionality and calling into question the agency's commitment to addressing its racism.

These case studies show how ACS's bias causes the disparities borne out in the data. The Black and Latine parents in this report value their families, and the parents' interest in the care of their children deserves respect and deference. ACS, however, acted on the biases it has allowed to flourish. ACS did not respect the fundamental rights of the families whose stories are featured here.

The themes featured in this report demonstrate how ACS's disrespect for Black and Latine families — and the racial disparities displayed in the data — persists, even in the face of widespread scrutiny and concern. Despite ACS's official policy of non-discrimination, ACS treats Black and Latine families overly harshly, rushes to judgment against them, justifies their wrongful actions with racist characterizations, and breaks laws meant to protect families.

ACS takes overly harsh actions against Black and Latine parents, as the families in this report agonizingly revealed. Instead of supporting Brittany and her family through the trauma of her daughter's near-death, ACS forced the family apart. ACS refused to recognize that Rita did everything she could to prevent her child's terrible accident, even though the doctors, the social workers, and the police officers that

worked with the family all told ACS that this was a tragedy, not the result of neglect. In contrast to its official policies, ACS has admitted that it treats Black and Latine families so harshly in part because of pressure to police Black and Latine families in certain ways.⁵⁶ One parent reported that an ACS worker told her that had she been a white mom on the Upper West Side, she would not have a case. But because she was a single Black mom in the Bronx, ACS came after her.

ACS also rushes to judge Black and Latine parents, as demonstrated by many of the stories highlighted here. ACS fails to investigate and assumes that parents have hurt their children. Many parents pointed out ACS's quick judgment and expressed dismay at ACS's stereotypes and refusal to listen to them. This quick judgment often confronted parents who brought their children to the hospital for medical care. ACS workers treat parents like Gabriella and Salamata as having hurt their children, when in fact the parents only wanted to ensure their children were safe. As seen in Gabriella's story, ACS relies on unqualified doctors who misdiagnose children and ignores experts who disagree with ACS's judgment of abuse.

ACS further acts on racist errors, stereotypes, and tropes when removing children and accusing Black and Latine parents of mistreatment. ACS misidentifies Black and Latine people and acts on those misidentifications when taking children away from their families. This discrimination puts children in harm's way. ACS relies on and furthers racist tropes to take harsh actions, including assuming Black women have children to get money from the government. When Black and Latine parents stand up for themselves and their rights, ACS describes them as aggressive

or angry. ACS also forces Black and Latine people to undergo invasive drug testing, with no reason to do so. Instead of relying on the evidence in front of them, ACS weaponizes biased descriptions and miscalculations to prematurely judge and police Black and Latine families.

Finally, because ACS does not respect Black and Latine families' dignity, ACS fails to follow the laws meant to protect families from ACS's wrongful conduct. When ACS takes away a child, the agency must immediately come to court to get a judge's approval or return the children. Doing so protects families' rights and limits the damage to children from being separated from their parents.⁵⁷ Instead of following this legally required procedure, ACS waits days, sometimes weeks, to get a judge's approval, allowing children to languish in the meantime. In some situations, families like Teresa's are separated for months without ACS ever securing judicial approval for the removal. In Teresa's case, ACS did not respond when Teresa or her daughters requested to be reunited; it was only a call from a legal office that spurred ACS to bring the children home.

These patterns flourish in ACS because ACS has not meaningfully addressed the bias in the agency.

Far from keeping children safe, ACS harmed each of these children and families. The impact of ACS's bias — the overly harsh treatment, the rush to judgment, the use of racist tropes and stereotypes, the violations of the law — lands traumatically on the Black and Latine families ACS claims it protects. As demonstrated by the cases above, ACS's targeting of Black and Latine families did not make children safer, and in some cases physically harmed children. The families in this

report dealt with physical symptoms, struggled mentally and emotionally, and carry lasting scars. While an ACS investigation on its own has negative impacts,⁵⁸ ACS's removal of children from their families is particularly harmful. "[C]hildren who are removed from their families suffer worse outcomes than similarly situated youth who are not."⁵⁹ Child psychiatrists who testified before the U.S. Commission on Civil Rights described children's removal from their family as the "definition of experiencing complex trauma."⁶⁰ In fact, a "child's body chemistry can be permanently altered by a removal" due to the "monsoon" of cortisol flooding the child's body when the state takes them away from their family.⁶¹

Some children, like Dayanara's daughter, were hurt while in an ACS facility.⁶² Other children began urinating on themselves after having been potty trained. One medically fragile baby girl needed to switch to formula after she was taken away from her mother and not permitted to breastfeed. This infant had gastrointestinal issues and the switch worsened her condition. Other children experienced sleep disturbances, and for children in school, their grades dropped.

Black and Latine children also suffered emotionally. Many children expressed devastation and confusion over being away from their parents. Brittany's daughter tried to run away to get back to Brittany; ACS reacted by threatening to take Brittany's daughter from the place she was staying with a family friend and move her in with strangers. Teresa's daughter threw herself on the floor, crying to be reunited with her mom. Elementary-age children expressed confusion; they did not understand what was happening. The parents highlighted here would struggle to answer their children's questions of why they could not be

together. Some children told their parents they felt pressured to answer ACS workers' questions in a way that incriminated their parents. Older children refused to answer workers' questions and got frustrated when the case upended their lives.

The impacts on the children featured in this report continued long after ACS's involvement in their life ended. Children who previously could separate appropriately became clingy, refusing to let go when being dropped off for school. One mother received calls from the school requesting she reassure the child she would pick her up at the end of the day. Other children stopped wanting to play outside, expressing fear that someone would be coming to get them. Parents described children who lashed out and struggled emotionally, despite ACS no longer being in their lives.

For the Black and Latine parents featured here, ACS investigation and prosecution took a physical and emotional toll, in turn impacting their families. One parent described ACS as trying to "break me down." Parents talked about the fear that exploded when ACS took their children away: not knowing where the children were, not being able to see or speak to their children, and not knowing what was happening to their children. Brittany could not process her child's near-death; instead, she had to focus on reuniting her family. She also felt ACS blamed and judged her when she could not stop crying upon seeing her daughter in a coma. Another mother, whose child was medically fragile, was forced to tell the revolving door of caseworkers who came in and out of her life the story of her nearly dying during her child's traumatic birth. Gabriella described herself as so stressed out and anxious that she lost weight. Another father described his inability to eat or sleep while

separated from his children.

One of the most frequent and lasting impacts the parents expressed in this report is ongoing fear. Salamata is afraid of getting pregnant, because she does not know if ACS will get involved. Other parents described fear of being outside or interacting with the police. Many parents, particularly those who were falsely accused of hurting their children after seeking medical treatment, are afraid of hospitals. Gabriella shelters her son, more than what she thinks is appropriate, because she does not want him to need to be hospitalized again. In addition to fear, parents carry the weight of being branded as a bad parent. They described needing to remind themselves that they were good parents and were not wrong. One mother struggled with her perception of ACS's portrayal of her: "they made me seem like I was a monster." Another described still having "heavy shoulders" from the experience.

Racial Bias Explains the Themes of How ACS Treats Black and Latine Families. For the Black and Latine parents who contributed to this report, their race explains why ACS treated them the way the agency did. Those parents recognize a hard truth about ACS: it discriminates against Black and Latine families. ACS's systemic indifference to known racial disparities and its failure to enact recommendations, when viewed in the context of the heart wrenching stories profiled here, show that they are right. The only way to explain and understand how these patterns are allowed to continue is through the lens of racial bias. Consider the data: ACS investigates, prosecutes, and separates Black and Latine families much more than white families. Consider ACS's acknowledgement of bias, both individual and institutional. Consider ACS's refusal to follow

recommendations on how to change their operations to be fairer to Black and Latine families. And then consider the lives of the families featured in this report. ACS treated them punitively, ACS rushed to judgment against them, ACS weaponized racial stereotypes and tropes against them, and ACS broke laws meant to protect them. Racism explains why ACS treated these families the way that they did.

ACS and its supporters point to other causes for the unfair treatment of Black and Latine families, including child safety, poverty, and the bias of professionals calling the state's child abuse hotline. Yet these alternatives do not fully explain why ACS treats Black and Latine families one way and white families another.

Child safety does not explain ACS's discriminatory treatment.⁶³ Workers within ACS report that child safety is not the underlying motivation in their work, and that ACS involvement can make children less safe. ACS workers view "ACS as a system that actively destabilizes Black and Brown families and makes them feel unsafe."⁶⁴ Further, ACS staff feel incentivized to protect themselves "from internal consequences rather than ensuring the safety of the family."⁶⁵ These incentives include punitive treatment of Black and Latine families while giving "preferential treatment" to white families.⁶⁶ Because ACS prioritizes its own reputation, the agency does not hold workers accountable when they make biased decisions.

The families in this report also expose the justification of child safety as false. In the families' experiences, judges frequently disagreed with ACS's decisions, returning children or dismissing cases. Just weeks after claiming the children could not safely remain with their parents, ACS would agree to withdraw or dismiss cases, exposing the meaninglessness

of the original claim. ACS workers did not try to understand children's needs or learn about their medical care, including children who were hospitalized for months or needed extensive surgeries.

Nor does poverty explain the extent of the disparities found in ACS operations.⁶⁷ The difference in ACS's prosecution and removal rates for Black and white children far outpaces the differential poverty rates between Black and white children.⁶⁸ While many of the families in this report were poor and were blamed for their poverty, many other parents were not. Some were social workers, college educated, or employed in professional settings, including the Department of Education. These parents expressed the impact ACS's actions had on their employment and professional careers.⁶⁹ Their middle-class status did not protect them from ACS's intrusion into their lives — ACS saw only their race and acted accordingly. More than one parent described ACS making assumptions about their socio-economic and educational status based on their race, including that the parent was uneducated, could not comprehend what was happening, or received public assistance. Many parents expressed fear that ACS's unnecessary intrusion into their life would cost them their current jobs. And for the poor Black and Latine parents in this report, ACS punished them more harshly for their poverty.

In seeking to justify the racial disparities, ACS frequently points to the racial disparities in reports made to the State's child abuse hotline.⁷⁰ One would expect that ACS would more closely scrutinize hotline calls regarding Black and Latine families, rejecting more of these calls given the "concerning" disparities. Yet ACS only furthers the disparities once the agency gets involved.⁷¹ Moreover, when

hotline calls went down during the height of the pandemic, ACS made efforts to encourage more reporting.⁷² The difference in reporting between Black and Latine families and white families, while problematic, is not the reason ACS mistreats Black and Latine families.

CONCLUSION

ACS treated the Black and Latine families featured in this report punitively. Why did the agency treat the families this way, when ACS publicly acknowledges that Black and Latine families have endured “unnecessary investigations” “for far too long?”⁷³

The answer lies in the data, admissions, and the families’ stories detailed in this report: ACS discriminates against Black and Latine families. That bias is evident in how ACS handled these families: taking excessively harsh action, making premature judgments, employing racist tropes and stereotypes, and disregarding their rights.

ACS’s bias costs New York City taxpayers, wasting resources on punishing Black and Latine families. However, the greatest toll is borne by the families themselves. Children endure physical and psychological trauma from ACS’s interventions and separations, while families struggle in the aftermath. These impacts linger long after ACS has moved on.

For Black and Latine families, ACS is a wound that does not heal.



ENDNOTES

- 1 To learn how a family gets involved with ACS, please see a description of the process contained in the report documenting the United States Commission on Civil Rights' investigation into the New York child welfare system. U.S. Comm'n on Civil Rights, "Examining the New York Child Welfare System and Its Impact on Black Children and Families," at 9-10 (May 2024), <https://www.usccr.gov/files/2024-05/ny-child-welfare-system-sac-report.pdf> (hereafter Civil Rights Report).
- 2 See Office of Children and Family Serv., "Black Disparity Rate: Unique Children in SCR Reports CY 2020," <https://ocfs.ny.gov/reports/sppd/dmr/DMR-County-Comparison-2020.pdf> (hereafter OCFS Data).
- 3 See *id.*; Admin. for Children's Serv., "Demographics of Children and Parents at Steps in the Child Welfare System, FY 2023," <https://www.nyc.gov/assets/acs/pdf/data-analysis/2023/demographics-children-fy-2023.pdf> (hereafter ACS Data).
- 4 See OCFS Data, *supra* n. 2. Compared to white children, Latine children are 5 times more likely to be involved in a report but almost 6 times more likely to be in foster care. ACS's data shows similar extreme disparities, with Black children making up 37% of the children mentioned in reports, 47% of emergency removals, and 47% of foster care entries, despite comprising roughly 20% of New York City's child population. See ACS Data, *supra* n. 3. In 2019, ACS took one out of 250 Black children in New York City from their families — while taking one out of 2,610 white children. NYC Family Policy Project, "Racial Disparities," <https://familypolicy.nyc.org/data-brief/racial-disparities/>.
- 5 ACS Data, *supra* n. 3.
- 6 Former ACS Commissioner Gladys Carrion stated in 2015 when asked about the factors contributing to racial disparities that one factor "is really racism. I think we should be honest about that." Roxana Saberi & Lisa Semel, "In NY, Black Families More Likely to Be Split by Foster Care System," (June 25, 2015), <http://america.aljazeera.com/articles/2015/6/25/new-york-foster-care-system-racial-disparity.html>; see 2019 Local Law 174 Report, Appendix at 8, on file with authors ("Children and families of color are disproportionately represented in the New York City child welfare system. Implicit bias contributes to this overrepresentation and perpetuates inequity."). In a 2015 internal audit, ACS staff listed 4 causes for racial disparities, as laid out in the 2007 Government Accountability Office report *African American Children in Foster Care*, including worker bias and institutional and structural racism. See Admin. of Children's Servs., "Racial Equity Impact Assessment Policy Report," at 8 (updated 2016) (on file with author) (hereafter ACS Racial Equity Report).
- 7 See Admin. for Children's Serv., "Subject: Non-Discrimination—Youth and Families," (June 20, 2008), https://www.nyc.gov/assets/acs/pdf/lgbtq/Non_Discrimination_YouthandFamilies.pdf.
- 8 See, e.g., David Hansell, Testimony to the New York City Council, Committee on General Welfare, at 2-3, (Oct. 28, 2020), <https://www.nyc.gov/assets/acs/pdf/testimony/2020/GWCommitteeHearing.pdf> (hereafter Hansell Testimony); Admin. of Children's Serv., Local Law 174 Reporting, at 6 (July 2021), <https://www.nyc.gov/assets/operations/downloads/pdf/reporting/LL174-July-2021-Submission.pdf> ("Even as the foster care census declines, it continues to be disproportionately African American."); New York Civil Liberties Union, "Racism at Every Stage: Data Shows How NYC's Administration for Children's Services Discriminates Against Black and Brown Families," (June 20, 2023), <https://www.nyclu.org/report/racism-every-stage-data-shows-how-nycs-administration-childrens-services-discriminates>; NYC Family Policy Project, "Racial Disparities," *supra* n. 4; Jeh Johnson, "Report from the Special Adviser on Equal Justice in the New York State Courts," at 36-37, <https://nycourts.gov/whatsnew/pdf/SpecialAdviserEqualJusticeReport.pdf>; New York State Bar Association, "Report and Recommendations of the Committee on Families and the Law Racial Justice and Child Welfare," (April 2022), <https://nysba.org/app/uploads/2022/03/Committee-on-Families-and-the-Law-April-2022-approved.pdf>; Legal Services NYC, "The Far-Reaching Impact of ACS's Discriminatory Investigations on Women of Color and Survivors of Gender-Based Violence," <https://www.legalservicesnyc.org/wp-content/uploads/2025/04/Report-ACS-Discriminatory-Investigations.pdf>.
- 9 See Nat'l Innovation Serv., "Racial Equity Participatory Action Research & System Audit: Findings and Opportunities," at 14 (Dec. 2020), https://www.bronxdefenders.org/wp-content/uploads/2022/11/DRAFT_NIS_ACS_Final_Report_12.28.20.pdf (hereafter Audit Report). ACS publicly lauded its partnership with NIS. See, e.g., Hansell Testimony, *supra* n. 8, at 19; ACS Local Law 174 Reporting 2021, *supra* n. 8 at 13-14. However, ACS rebuffed NIS's findings. ACS has done everything it can to keep this report secret: the agency hid the report for over ten months and only produced it as part of a request under the Freedom of Information Law ("FOIL"). Moreover, when NIS recommended that ACS take certain steps to lessen its racial inequities, ACS failed to do so. In its 2020 report, NIS made several recommendations, including reorienting the system around family-defined safety, prioritizing primary prevention investments outside ACS, engaging staff in policy-making, and supporting Miranda rights, among other recommendations. See Audit Report, *supra* n. 9 at 16-31. Yet ACS has failed to follow through on these recommendations, pouring more funding into ACS prevention programs and opposing legislative Miranda rights for parents. NIS further recommended that ACS establish a 5-step process for involving staff in policy creation, yet ACS has never publicly announced it was implementing this change.
- 10 See *id.* at 14.
- 11 Civil Rights Report, *supra* n. 1 at 33.
- 12 *Id.* at 38.
- 13 The Bronx Defenders ("BXD") employs a groundbreaking system of holistic representation to provide criminal defense, family defense, immigration defense, civil legal services, social work support and advocacy to indigent people in the Bronx. The attorneys, social workers, and parent advocates in BXD's Family Defense Practice represent parents and caregivers in Bronx County Family Court. BXD has represented over 6,000 parents and caregivers and represents an additional 1,000 parents each year.
- 14 In 2023, 639 of 1500 emergency removals in New York City occurred in the Bronx; 804 of the 2,324 children who entered foster care in New York City resided in the Bronx. See <https://www.nyc.gov/assets/acs/pdf/data-analysis/2023/CityCouncilReportCY2023.pdf>.

15 See, e.g., Hansell Testimony, *supra* n. 8 at 19 (“ACS seeks to administer equitable child welfare and juvenile justice systems in which a child or family’s race, ethnicity, national origin, immigration status, gender, gender identity and sexual orientation do not predict how they fare.”); Civil Rights Report, *supra* n. 1 at 45 (“Commissioner Dannhauser noted that ‘CPS responses have a disproportionate impact on Black children and families. ACS is very concerned about the impact these calls and subsequent investigations are having on Black families.’”).

16 “From the initiation of an investigation through potential court proceedings and supervision, staff and advocates describe a system that gives preferential treatment to white parents. White parents are more likely than Black and Brown parents to seek legal counsel, receive favorable court judgments, and experience leniency with respect to removals and reunifications. ... When asked why white families receive preferential treatment, many simply pointed to racism and pervasive anti-Black stereotypes about the abilities of Black and Brown parents to provide for their children. They also described how white parents are presumed to be innocent and are repeatedly given opportunities to fail and try again, while Black and Brown parents are treated at every juncture as if they are not competent parents capable of providing acceptable care to their children. In this way, white parents are presumed to pose less risk to their children are thus more likely to be treated in ways that empower parents to create safety for themselves and their families. Black and Brown parents are generally presumed to be a risk to their children and are often stripped of their abilities to make decisions about their families.” Audit Report, *supra* n. 9, at 14-15.

17 “Participants described how poverty is criminalized, as signs of poverty are often seen as indicators of neglect.” *Id.* at 15. “ACS staff and leadership spoke about how the ‘minimum degree of care’ standard for neglect does not take poverty into account and how subjective the process can be for determining neglect.” *Id.* at 28. Because all participants, including ACS staff and leadership in ACS’s 2020 audit identified the connection between allegations of neglect and poverty, the external auditor recommended that “ACS should systematically parse poverty from neglect and imminent risk through a racial equity lens.” *Id.* at 29. “CPS primarily targets families living in poverty, in effect, criminalizing poverty.” Civil Rights Report, *supra* n. 1 at 61.

18 NYC Family Policy Project, “Racial Disparities,” *supra* n. 4; Civil Rights Report, *supra* n. 1 at 64-65.

19 The criminalization and punishment for poverty is ironic, given that ACS investigation and prosecution negatively impact a parent’s ability to provide for their family, both at the time of ACS involvement and afterward. See *id.* at 44, 46-47 (“Having an indicated report in the [State Central Register] can seriously limit a parent’s employment prospects, further destabilizing families often already struggling with poverty.”).

20 All names used in this report are pseudonyms.

21 The police called in the case after being alerted by the medical clinic where Rita initially brought Aaron. That medical clinic referred Rita to the hospital and did not call in a case to ACS. When ACS interviewed the police officers, the officers reported that they “did not suspect anything malicious,” that “nothing was suspicious,” and that “it was an accident.” The police are mandated reporters, and as the ACS Commissioner recently noted, mandated reporters may feel pressured to call in cases to the State Central Registry to avoid liability in not calling. See Jess Dannhauser, Testimony to New York State Assembly (Sept. 27, 2023), https://nystateassembly.granicus.com/player/clip/7735?view_id=8&redirect=true. New York’s Office of Children and Family Services runs the State Central Register and is responsible for screening calls for investigation by local departments. The Register rejects roughly 25% of the calls made, much below the national rejection rate of 50%. NYC Family Policy Project, “No Filter,” <https://familypolicynyc.org/report/scr/>; see NYC Family Policy Project, Written Testimony to New York Assembly Committee on Children and Families, Oct. 9, 2024, <https://www.familypolicynyc.org/wp-content/uploads/2024/10/FPP-SCR-Testimony-Written-FINAL.pdf>.

22 See Audit Report, *supra* n. 9, at 14-15.

23 ACS must get approval from a family court judge either before or immediately after taking a child from their parent. See N.Y. Fam. Ct. Act §§ 1022; 1024; 1027.

24 See Audit Report, *supra* n. 9, at 15 (participants “also described how white parents are presumed to be innocent and are repeatedly given opportunities to try and fail again, while Black and Brown parents are treated at every juncture as if they are not competent parents capable of providing acceptable care to their children”).

25 In testimony before the United States Commission on Civil Rights, Assemblymember Hevesi testified that the “presumption of dangerousness, and guilt is racist, and rooted in a racist system.” Civil Rights Report, *supra* n. 1 at 77.

26 While medical racism is a significant problem that is outside the scope of this report, the field of child abuse pediatrics has come under increasing scrutiny more recently. In New York, child abuse pediatricians work in Child Advocacy Centers, funded by the Office of Children and Family Services, the same state office that funds ACS. At least one child-abuse pediatrician working at a New York City Child Advocacy Center has recognized the racial bias inherent in the practice: “we have often felt complicit witnessing our physician and other health-care colleagues dismiss an abuse diagnosis easily within middle-class white families while over-evaluating and subsequently reporting Black and Brown children for, say, accidental falls from bed.” Jocelyn Brown & Sayantani DasGupta, *The Art of Medicine: Abolitionist Child Protection*, *The Lancet*, Vol. 404, 1096-97 (Sept. 21, 2024), [https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736\(24\)01931-7.pdf](https://www.thelancet.com/pdfs/journals/lancet/PIIS0140-6736(24)01931-7.pdf). ACS’s unquestioning reliance on any doctor claiming abuse, despite contrary medical opinions and evidence, is troublesome given that “[d]octors overdiagnose abuse in children they perceive as being lower-income or nonwhite.” Stephanie Clifford, *When the Misdiagnosis is Child Abuse*, *THE ATLANTIC*, (Aug. 20, 2020), <https://www.theatlantic.com/family/archive/2020/08/when-misdiagnosis-child-abuse/615337/>.

27 See, e.g., Andy Newman, *Is N.Y.’s Child Welfare System Racist? Some of its Own Workers Say Yes*, *N.Y. TIMES* (Nov. 22, 2022), <https://www.nytimes.com/2022/11/22/nyregion/nyc-acs-racism-abuse-neglect.html>.

28 *Matter of Blair D. v. Taylor T.*, N.Y.L.J., Aug. 31, 2020 (Bronx Fam. Ct., Aug. 7, 2020), <https://www.law.com/newyorklawjournal/almlID/1598611351NYredacted/>.

29 In a recent federal court decision, a judge found that a hospital social worker’s use of the words “aggressive” and “defiant” to describe a Black mom, whom the social worker reported to ACS, raised an inference of discrimination. See *Walston v. City of New York*, 2024 WL 1376905, *16, 1:22-cv-10002 (S.D.N.Y. 2022), report and recommendation adopted sub nom. *Walston v. City of New York*, 2024 WL 1374837 (S.D.N.Y. 2024).

30 The “welfare queen” trope stereotypes Black women as “purposefully having children to take advantage of public assistance programs, and as being unable to have the financial resources to adequately care for their children.” Lisa Rosenthal &

Marci Lobel, “Stereotypes of Black American Women Related to Sexuality and Motherhood,” *Psychol. Women Q.* 2016 Sept.; 40(3): 414-427, <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5096656>.

31 See Jess Dannhauser, Testimony to New York State Assembly (Sept. 27, 2023), https://nystateassembly.granicus.com/player/clip/7735?view_id=8&redirect=true.

32 Non-white people, particularly Black Americans, have been unfairly associated with drug use, when, in fact, white and Black people use drugs at similar rates. See Julie Netherland and Helena Hansen, *The War on Drugs That Wasn't: Wasted Whiteness, 'Dirty Doctors,' and Race in Media Coverage of Prescription Opioid Misuse*. 40 *CULT MED PSYCHIATRY*, 664-686 (Dec. 2016), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5121004>; Robin Scherlalter, *A Racist Stereotype Is Shattered: Study Finds White Youth Are More Likely to Abuse Hard Drugs than Black Youth*, *SALON*, (Apr. 6, 2016), https://www.salon.com/2016/04/06/this_racist_stereotype_is_shattered_study_finds_white_youth_are_more_likely_to_abuse_hard_drugs_than_black_youth_partner/; N.Y. Times Editorial Board, *Slandering the Unborn*, *N.Y. TIMES*, (Dec. 28, 2018), <https://www.nytimes.com/interactive/2018/12/28/opinion/crack-babies-racism.html>.

33 ACS commits other due process violations against Black and Latine parents, including illegally searching families' homes. Two recent civil rights lawsuits challenge ACS's behavior. See *L.B. v. City of New York*, et al., Case No. 1:23-cv-8501, complaint available at <https://bds.org/assets/files/LB-vs.-City-of-NY-Complaint-AS-FILED.pdf>; *Gould v. City of New York*, Case No. 1:24-cv-1263, complaint available at <https://static1.squarespace.com/static/61e433b8f098d83c2489a38a/t/65d4a0c54e322174257ca7b4/1708433605612/Gould+et+al.+v+City+of+New+York.pdf>; see also Hager, Eli. *Police Need Warrants to Search Homes. Child Welfare Agents Almost Never Get One*, *PROPUBLICA* (Oct. 13, 2022), <https://www.propublica.org/article/child-welfare-search-seizure-without-warrants>. In *L.B.*, the district court recently held that plaintiff's claims, alleging Fourth Amendment and procedural due process violations, could proceed. “The state law identified by defendants impose an obligation on the City to investigate reports of child abuse, but they do not require ACS investigators, in the course of those investigations, to perform nonconsensual and warrantless searches, seizures, and medical examinations in violation of the Fourth and Fourteenth Amendments.” 2025 WL 788662, *9 (E.D.N.Y. 2025). ACS also violates other laws meant to protect parents, such as the Marihuana Regulation and Taxation Act. See *Rivers v. City of New York*, 1:23-cv-4084, complaint available at <https://www.bronxdefenders.org/wp-content/uploads/2023/05/Rivers-v.-NYC-Complaint-1.pdf>.

34 See Fam. Ct. Act § 1026(c). Even when ACS has the parent's consent to remove children from the home, ACS must still get approval within 3 days. See Fam. Ct. Act § 1021.

35 See Melissa Russo and Kristina Pavlovic, *NYC Moves to Protect Children at Foster Care Intake Center After I-Team Report*, *NBC NEWS 4* (Mar. 18, 2019), <https://www.nbcnewyork.com/news/local/nyc-moves-to-protect-children-after-i-team-report-asc-nicholas-scoppetta-childrens-center/1567649/>.

36 ACS has an “alternative, non-investigatory” response to certain cases when ACS determines there is no immediate or impending danger to the child. The goal of the program is for the ACS worker to assess safety, encourage families to develop solutions to challenges, and identify supportive resources. See Administration for Children's Services, “The Collaborative Assessment, Response, Engagement & Support (CARES) Approach,” <https://www.nyc.gov/site/acs/child-welfare/cares.page>. ACS often lauds the CARES program as “critical component” in its work to address racial disparities. See Admin. of Children's Serv. Press Release, “Administration for Children's Services Doubles Number of ‘CARES’ Units in Just Two Years,” (Jan. 23, 2024), <https://www.nyc.gov/assets/acs/pdf/PressReleases/2024/number-of-cares-units-double.pdf>. Yet Dayanara's case reveals that the CARES program is another surveillance program, not a program of safety and support for Black and Brown families.

37 When ACS removes children, they often go initially to a facility before being placed in foster care. The main facility is in Manhattan, although there is at least one satellite facility in the Bronx. Children have been further traumatized in these facilities. See Russo & Pavlovic, *supra*. 35.

38 ACS was legally required to provide Teresa written notice of her rights, something the agency did not do. See Fam. Ct. Act § 1021. Moreover, the need for families to know their rights has created tension between ACS and the communities the agency polices. The 2020 audit recommended that ACS provide “Miranda warnings” – information about parents' rights – at the inception of the investigation. See Audit Report, *supra* n. 9, at 26. Despite this recommendation, ACS has opposed legislation requiring information sharing at the inception of the case. See Eli Hager, *NYC Child Welfare Agency Says It Supports “Miranda Warning” Bill for Parents. But It's Quietly Lobbying to Weaken It*, *PROPUBLICA* (June 5, 2023), <https://www.propublica.org/article/new-york-families-child-welfare-miranda-warning>.

39 *Duchesne v. Sugarman*, 566 F.2d 817, 833 (2d Cir. 1977) (quoting *Trimble v. Gordon*, 430 U.S. 763, 769 (1977)).

40 Andy Cerda, *Family Time Is Far More Important Than Other Aspects of Life for Most Americans*, *PEW RESEARCH CENTER*, (May 26, 2023), <https://www.pewresearch.org/short-reads/2023/05/26/family-time-is-far-more-important-than-other-aspects-of-life-for-most-americans/>.

41 *Lassiter v. Department of Social Servs. of Durham Cty.*, 452 U.S. 18, 27 (1981) (quoting *Stanley v. Illinois*, 405 U.S. 645, 651 (1972)). Decisions regarding “the upbringing of children are among associational rights [the Supreme] Court has ranked as of basic importance in our society . . . rights sheltered by the Fourteenth Amendment against the State's unwarranted usurpation, disregard, or disrespect.” *Tenenbaum v. Williams*, 193 F.3d 581, 593 (2d Cir. 1999) (quoting *M.L.B. v. S.L.J.*, 519 U.S. 102, 116 (1996)) (internal quotation and citation omitted). Thus, parents maintain “a constitutionally protected liberty interest in the care, custody and management of their children.” *Id.* (collecting Supreme Court and Second Circuit cases supporting this liberty interest); see also *Troxel v. Granville*, 530 U.S. 57, 65 (2000) (“The liberty interest at issue in this case — the interest of parents in the care, custody, and control of their children — is perhaps the oldest of the fundamental liberty interests recognized by this Court.”).

42 *Santosky v. Kramer*, 455 U.S. 745, 753 (1982).

43 See generally Dorothy Roberts, *TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD*, Basic Books New York (2022); Alan Detlaff, *CONFRONTING THE RACIST LEGACY OF THE AMERICAN CHILD WELFARE SYSTEM*, Oxford University Press (2023); Jeffrey Robinson, *America Was in the Business of Separating Families Long Before Trump*, *ACLU* (July 6, 2018), <https://www.aclu.org/news/racial-justice/america-was-business-separating-families-long-trump>.

44 Civil Rights Report, *supra* n. 1 at 33.

45 ACS Racial Equity Report, *supra* n. 6 at 12.
 46 *Id.* at 22.
 47 *Id.*
 48 See N.Y.C. Local Law § 132 (2021), <https://intro.nyc.gov/local-laws/2021-132>.
 49 Off. Of Children and Family Serv. Admin. Directive, 20-OCFS-ADM-19 (Oct. 14, 2020). See PRESS RELEASE, Office of Children and Family Serv., The New York State Office of Children and Family Services Announces Policies to Promote Racial and Social Equity and Justice in Child Welfare (Oct. 19, 2020), <https://ocfs.ny.gov/main/news/for-release.php?idx=12268>. Some have critiqued the anonymous removal process as not effective over the long-term and not addressing poverty and lack of access to resources. See New York State Bar Association, *supra* n. 8 at 13-14. ACS has not publicly commented on the agency's plan for adopting or rejecting the anonymous removal process, or the reasons for doing so. Rather, it appears the agency has chosen to pretend it does not exist.
 50 PRESS RELEASE, *supra* n. 49 at 3.
 51 See Nat'l Innovation Serv., Racial Equity Systems Design Slide Deck (on file with author).
 52 In its most recent equity report, published sometime after August 12, 2024, ACS did not mention the recommendations in the audit, including the 5-step process. See Admin. of Children's Servs., Local Law 174 Reporting (August 2024), https://www.nyc.gov/assets/opportunity/pdf/LL-174_2023-report-final-8.12.24.pdf.
 53 Then-Commissioner Hansell testified to ACS's partnership on the audit in October 2020. See Hansel Testimony, *supra* n. 8 at 19. In January 2021, ACS pointed to the audit as an effort to examine and address racial inequity in the agency's policies and procedures. See Admin. for Children's Serv., "FY 2020 Foster Care Strategic Blueprint Progress Report," at 16, <https://www.nyc.gov/assets/acs/pdf/data-analysis/2020/FosterCareBlueprintFY2020.pdf>. In July 2021, ACS highlighted its involvement in the audit, despite knowing, at that time, of the damning audit report. See ACS Local Law Reporting 2021, *supra* n. 8 at 6.
 54 In emails produced in a Freedom of Information Law ("FOIL") litigation, ACS leadership chose not to publicize the 2020 audit report and did not give it to the public outside of a FOIL request.
 55 See N.Y.C. Local Law § 174. Assessments available here: <https://www.nyc.gov/site/opportunity/reports/local-law-174-equity-assessments.page>. ACS's 2023 update, due July 1, 2023, became available sometime after August 12, 2024. The Mayor's office has also failed to timely publish a voter-mandated racial equity plan, outlining strategies and goals for agencies, including ACS, to decrease racial disparities. See Arya Sundaram, NYC Voters Ok'd Racial Equity Reforms in 2022. Required 'Fix It' Plans Are Overdue, GOTHAMIST, (July 1, 2024), <https://gothamist.com/news/nyc-voters-okd-racial-equity-reforms-in-2022-required-fix-it-plans-are-overdue>.
 56 In 2015, an internal ACS audit found that "[e]ven when child welfare practitioners are people of color, they are required by their employer to perform in a way that is consistent with their white counterparts and that of the established organizational and institutional culture, which are part of the established system." ACS Racial Equity Report, *supra* n. 6 at 9. In 2020, "[f]rontline staff and lower-level managers [at ACS] identified a clear racial hierarchy within ACS, which means that Black and Brown staff don't have the power to have to inform policies and practices and voice their experiences of racism." Audit Report, *supra* n. 9 at 21.
 57 See Vivek Sankaram, *A Cure Worse Than The Disease? The Impact of Removal on Children and Their Families*, 102 MARQ. L. REV., 1163-94 (2019), <https://repository.law.umich.edu/articles/2055/>; Eli Hager, *The Hidden Trauma of Short Stays in Foster Care*, THE MARSHALL PROJECT, Feb. 11, 2020, <https://www.themarshallproject.org/2020/02/11/the-hidden-trauma-of-short-stays-in-foster-care>.
 58 See Jonah E. Bromwich & Andy Newman, *Child Abuse Investigators Traumatize Families, Lawsuit Charges*, N.Y. TIMES, (Feb. 20, 2024), <https://www.nytimes.com/2024/02/20/nyregion/acs-nyc-family-trauma-lawsuit.html>; Doriane Lambelet Coleman, *Storming the Castle to Save the Children: The Ironic Costs of a Child Welfare Exception to the Fourth Amendment*, 47 Wm. & Mary L. Rev. 413, 441 (2005) (describing reporting and investigation as "an enormous intrusion on individual and family privacy."). ACS workers described an investigation as being stopped and frisked for 90 days. Audit Report, *supra* n. 9 at 17.
 59 Melissa Friedman & Daniella Rohr, *Reducing Family Separations in New York City: The Covid-19 Experiment and a Call for Change*, 123 COL. L. REV., at 60 (2023), <https://www.columbiajournaloflawreview.org/content/reducing-family-separations-in-new-york-city-the-covid-19-experiment-and-a-call-for-change/>. In "marginal" cases — cases in which investigators disagree about whether a child should be removed — "children who remain with their caregivers clearly fare better." *Id.* at 61.
 60 See Civil Rights Report, *supra* n. 1 at 83; see also *id.* at 85; Shanti Trivedi, *The Harm of Child Removal*, 43 N.Y.U. REV. OF L. & SOC. CHANGE 523 (2019), https://scholarworks.law.ubalt.edu/cgi/viewcontent.cgi?article=2087&context=all_fac; Sankaram, *supra* n. 47; Karen Broadhurst, et al., *Child Removal as the Gateway to Further Adversity: Birth Mother Accounts of the Immediate and Enduring Collateral Consequences of Child Removal*, 19 QUALITATIVE SOC. WORK, 15-37 (2020), <https://doi.org/10.1177/1473325019893412>; Hager, *supra* n. 57.
 61 Friedman & Rohr, *supra* n. 59 at 60.
 62 Abuse and neglect of children in foster care is a significant problem that only further hurts the most vulnerable children. The most recent official statistics, from 2021, indicate that 1.38% of foster children will be maltreated while in foster care. See <https://cwoutcomes.acf.hhs.gov/cwodatasite/pdf/new%20york.html>. Yet this number grows larger when former foster children report their experiences in foster care. See Nat'l Coal. for Child Prot. Reform, "Foster Care v. Family Preservation: The Track Record for Safety and Well-being," https://drive.google.com/file/d/0B291mw_hLAJsV1NUVGRVUmdyb28/view?resourcekey=0-tBFng8l-FIQ13H7kkC871A; Morton, Brenda, *Seeking Safety, Finding Abuse: Stories from Foster Youth on Maltreatment and Its Impact on Academic Achievement*, GEORGE FOX UNIV. SCHOOL OF ED., Paper 146 (2015), https://digitalcommons.georgefox.edu/cgi/viewcontent.cgi?article=1146&context=soe_faculty. In fact, when the Child Victims Act allowed former foster children to sue for sexual abuse while in foster care, the foster care agencies sought a bailout to handle the influx of lawsuits. See Susanti Sarkar, *New York Lawmakers Reject State Bailout for Child Welfare Agencies Facing Abuse Lawsuits*, THE IMPRINT, (May 21, 2024), <https://imprintnews.org/top-stories/new-york-lawmakers-reject-abuse-bailout/249569#:~:text=New%20York%20Lawmakers%20Reject%20State.agencies%20that%20once%20served%20them>. Children in institutionalized settings or facilities are especially vulnerable to physical and sexual abuse. See Abigail Kramer, *New York Closed Psych Beds for Youth in Crisis. Now, Foster Care Programs and Host Towns Are Being Pushed to the Limit*, PROPUBLICA, (Jan. 3, 2024), <https://www.propublica.org/article/pleasantville-cottage-campus->

[new-york](https://assets.website-files.com/60a6942819ce8053cefd0947/60f6b1eba474362514093f96_Away%20From%20Home%20-%20Report.pdf); Think Of Us, “Away from Home: Youth Experiences of Institutional Placements in Foster Care,” (July 2021), https://assets.website-files.com/60a6942819ce8053cefd0947/60f6b1eba474362514093f96_Away%20From%20Home%20-%20Report.pdf.

Finally, New York does not properly record or investigate allegations of abuse and neglect of children in foster care. See U.S. Dep’t of Health and Human Serv., Office of Inspector General, “New York Did Not Always Ensure That Allegations and Referrals of Abuse and Neglect of Children Eligible for Title IV-E Foster Care Payments Were Recorded and Investigated in Accordance with State Requirements as Required by Federal Law,” (October 2017), <https://oig.hhs.gov/oas/reports/region2/21502014.pdf>.

63 The recent Commission on Civil Rights found that “Extensive testimony and data presented to the Committee revealed that higher rates of maltreatment of children by Black parents simply cannot account for Black families’ overrepresentation at every stage of the child welfare process – from reporting, to investigation, to removal, to termination of parental rights.” Civil Rights Report, *supra* n. 1 at 7. A former ACS Commissioner, who now runs a foster care agency, admitted that “we have been undermined by our history of enslaving Black people and massacring Indigenous people, we cannot overstate how much this context matters and must be rectified.” *Id.* at 33. Moreover, claims that people of color harm their children trace their roots back to slavery and beyond. As scholars such as Professor Dorothy Roberts have exposed, “US family policing has revolved around the racist belief that Black parents are unfit to raise their children. Beginning with chattel slavery and continuing through the Jim Crow, civil rights, and neoliberal eras, the white power structure has wielded this lie as a rationale to control Black communities, exploit Black labor, and quell Black rebellion by assaulting Black families.” Roberts, *supra* n. 43 at 124; Detlaff, *supra* n. 43.

64 See Audit Report, *supra* n. 9 at 14.

65 *Id.* at 21.

66 *Id.* at 14-15 (“From the initiation of an investigation through potential court proceedings and supervision, staff and advocates describe a system that gives preferential treatment to white parents. White parents are more likely than Black and Brown parents to seek legal counsel, receive favorable court judgments, and experience leniency with respect to removals and reunifications.”).

67 Poverty is frequently linked with ACS involvement, as “signs of poverty are often seen as indicators of neglect.” *Id.* at 15. As described by one family in this report, ACS continued to prosecute them for roaches and mold in their apartment, when they attempted to have the landlord fix the problems.

68 The United States Commission on Civil Rights “found that poverty alone cannot account for these racial disparities.” Civil Rights Report, *supra* n. 1 at 7.

69 ACS involvement can cause economic instability for all families. Wealthier families face the risk of losing employment, either due to the case or the time spent in meeting ACS’s conditions. Poorer families risk losing housing and benefits when children are removed. See Audit Report, *supra* n. 9 at 15. Any employment they have is typically less flexible regarding timing, and ACS involvement may prohibit future employment opportunities.

70 See, Jess Dannhauser, Testimony to New York State Assembly (Sept. 27, 2023), https://nystateassembly.granicus.com/player/clip/7735?view_id=8&redirect=true.

71 Once ACS begins an investigation, the agency is 1.24 times more likely to find Black children maltreated, 1.49 times more likely to file a case involving a Black family, and 1.21 times more likely to place Black children in foster care. See Jess Dannhauser testimony to U.S. Comm’n on Civil Rights, “Examining the New York Child Welfare System and Its Impact on Black Children and Families,” (May 19, 2023), <https://usccr.app.box.com/s/qb8g1i2fqhauirdg8gr1641fcml8bdd6/file/1536620903800>.

72 For the 2021 fiscal year budget report, ACS described the significant decline in hotline reports and what ACS would do about it. “In response to decreasing rates of reporting, ACS has strengthened collaboration with other mandated reporters, such as the Department of Homeless Services, Department of Education, and Health+Hospitals. ... Furthermore, ACS launched two new public campaigns, ‘Coping Through COVID’ and ‘Teens Take on COVID,’ as well as through a Public Service Announcement on 311 and social media postings to remind New Yorkers about the importance of SCR reporting.” Admin. for Children’s Serv., “Note on the Fiscal 2021 Executive Budget for the Administration for Children’s Services to Committee on General Welfare and Committee on Justice System” (on file with author). Yet attorneys for children in New York City have outlined how the decrease in removals during the early stages of COVID did not cause safety risks to New York City children. See *generally* Friedman & Rohr, *supra* n. 59.

73 Admin. for Children’s Serv. Press Release, “Administration for Children’s Services, NYC Public Schools & New York State Office of Children and Family Services Announce Strategies to Address Racial Disproportionality in the Child Welfare System” (Oct. 19, 2023), <https://www.nyc.gov/assets/acs/pdf/PressReleases/2023/address-racial-disproportionality.pdf>.