

FAMILIES RESIST HANDBOOK

*Prepared by: California Families Rise (CFR), EMPACT, and POOR
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WHY WE CREATED THIS HANDBOOK

We are a coalition of system-impacted parents and advocates who believe in a collective power to free us from the oppressive practices of the family regulation system. As it stands, the so-called child welfare system is a racist institution that disproportionately targets families based on their race and socio-economic status. This handbook's purpose is to demand reform, inform families of their rights, and shed light on the state sanctioned violence enacted on families across California and the United States.

WHAT IS THE FAMILY REGULATION SYSTEM?

The family regulation system, or inaccurately known as the child welfare system, is an extension of the police state. The system scrutinizes and terrorizes vulnerable families through the enforcement of unforgiving family separation policies. The family regulation system disproportionately targets and separates Black, Indigenous, and poor families with its cruel history dating back to the inception of America.

The “child welfare system” and the “child protection system” are misleading descriptors of a system that demonizes parents and traumatizes families. This framing is inaccurate and harmful, as it stigmatizes system-impacted parents to the wider public.

We refuse to use the language of the oppressors that paints state sanctioned violence and surveillance as child protection. We use the term family regulation system to expose the reality of a system that separates rather than supports.

ADOPTION AND SAFE FAMILIES ACT

In 1997 Bill Clinton signed into law the Adoption and Safe Families Act (ASFA) during the peak of the War on Drugs. ASFA created a performance-based funding system which encourages state agencies to adopt out children rather than prioritizing child reunification.¹ ASFA includes provisions that allow states to develop any number of exceptions to deny reunification services to families.² The exceptions are considered aggravated circumstances that are unfairly broad, allowing the state to forego the reunification process and open the child up for adoption. When reunification services are required, ASFA instills arbitrary, unrealistic, and discriminatory timelines for parents to complete the reunification process. Most parents are unable to meet these short timelines and become vulnerable to losing their child permanently.

ASFA is a continuation of America's deep-rooted history of family separation. California must take the first step in protecting families by rejecting the violent practices enforced under AFSA. We demand the repeal of AFSA and all financial incentives geared at family separation.

SNAPSHOT OF CALIFORNIA'S FAMILY SEPARATION

As of July 1, 2021, there are 58,789 children in foster care in California.³ The most recent national report, as of September 30, 2019, shows that there are 423,997 children in foster care across America.⁴ California accounts for roughly 14% of the children in foster care.

California is supposed to be a progressive leader in this country, yet families disproportionately experience racist and discriminatory violence within the family regulation system. Despite laws intended to protect Indigenous children from family removal, nearly half of Indigenous children in

California will be victimized by the family regulation system before they turn 18.⁵ “Black children make up 27.8% of children in the L.A. County Department of Children and Family Services’ (DCFS) custody, despite only making up 7.5% of children in the county.”⁶ Communities living at the intersections of violence experience high rates of family separation impacting their ability to thrive and live liberated lives. Families belong together.

PARENTS’ CURRENT RIGHTS

The courts of California carve out rights for parents who have their child taken away from them.⁷ Often these rights are violated or ignored by case workers or used to further oppress parents. Although we will be advocating for the abolition and reform of many of these rights, we still believe it is important for parents to have access to their rights.

Parents currently have the right to:

- A court appointed lawyer to assist in court hearings.
- Go to court.
- An interpreter if you do not speak English.
- Access to services to assist in child reunification process unless aggravated circumstances apply to bypass reunification efforts.

LIST OF DEMANDS

- 1. Removing a child must be the last, not first course of action.** *Investigations into allegations should be conducted while the child is still under the care of the parents or kin, unless aggravated and immediate risk of abuse to the child.*
- 2. State legislators must prioritize the voices of Black and Indigenous communities who have been directly impacted by family separation, by creating an advisory committee to provide community oversight over the family regulation system.** *The committee will hold CPS accountable by reviewing complaints against CPS and implement community education trainings for case workers led by Black, Indigenous and poor system-impacted families.*
- 3. CPS must stop separating families based on discriminatory practices that target families living in poverty, including houselessness and housing insecurity.** *Families living in poverty are at higher risk of losing their children due to visibility bias. Visibility bias refers to families experiencing higher rates of CPS intervention due to increased exposure to mandated reporters. Although poverty alone is not a basis for removal, the broad definition of neglect allows the state to remove a child based on issues nearly exclusive to poverty.*
- 4. Eliminate mandatory reporting of families seeking medical attention, shelter, and public health resources.** *Families should not be separated for seeking health and safety support including but not limited to housing, domestic violence assistance programs, or addiction resources.*
- 5. Domestic violence survivors should not be held responsible or punished for their abuser's actions, or the steps they take to secure an environment free from abuse.** *California should take a statewide approach by carving out an exception to 'Failure to Protect' statutes for domestic violence survivors.*
- 6. Expand and extend Bringing Families Home (BFH) Program by increasing funding to apply to all California counties and tribes. Provide houseless families with direct aid in the form of cash assistance.** *BFH was established in 2016 and will run through June 2022. BFH is a program that provides permanent housing support to unhoused and housing insecure families. BFH's purpose is to support the family reunification process and prevent foster care placement. BFH currently has 22 participating counties and one tribe. California should extend this program to be available statewide and increase its funding to provide direct aid to families.*
- 7. Right and immediate access to effective and competent counsel from the onset of investigation.** *Government funding should be allocated in the forms of grants to develop independent non-profit legal organizations geared at representing system-impacted parents.*
- 8. Contemporaneous with child removal, parental rights must be made explicit, read in full, and written copies must be provided with easily accessible translation services and disability accommodations.**

- 9. Permit families to record interactions with all institutional actors to ensure accuracy and transparency of case related information.**

- 10. Mandate a moratorium on pre-existing child support orders from CPS impacted parents, who are no longer in the custody of their children, and termination of all newly established orders.** *The government should not charge parents for the system's forced reunification services. Parents with children in foster care are charged "anywhere from \$25 to \$1,000+ per month, with \$250 being the median cost in California."⁸ Over half of system-impacted parents have an annual income below \$10,000.⁹ Forcing parents to pay for their child's stay in foster care is an unjust barrier to family reunification that must be eradicated.*

- 11. Families must have access to supportive resources for as long as necessary while working towards reunification.** *Eliminating the twelve-month and six-month time limits to complete court ordered requirements will give parents the room needed to prepare for reunification without the fear of permanent separation.*

- 12. Close the loopholes that allow state actors to bypass child reunification services.** *Exceptions based on aggravated circumstances are unfairly broad and punish parents for past actions that have no bearing on their current parental abilities. The family regulation system's definition of aggravated circumstances should be limited to violent felony convictions involving sexual or physical abuse of children.*

REFERENCES

- ¹ Adoption in Child Time, “Summary of the Adoption and Safe Families Act of 1997 (P.L. 105-89),” <https://adoptioninchildtime.org/bondingbook/summary-of-the-adoption-and-safe-families-act-of-1997-pl-105-89>.
- ² Child Welfare Information Gateway, “Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children,” <https://www.childwelfare.gov/pubpdfs/reunify.pdf>.
- ³ CCWIP, “Point in Time/In Care,” 2021, <https://ccwip.berkeley.edu/childwelfare/reports/PIT/MTMG/r/ab636/s>.
- ⁴ ACF, “The AFCARS Report,” June 23, 2020, <https://www.acf.hhs.gov/sites/default/files/documents/cb/afcarsreport27.pdf>.
- ⁵ Ariana Rodriguez, “Family Separation is as American as Mass Incarceration,” ACLU SoCAL, Nov. 15, 2021, <https://www.aclusocal.org/en/news/family-separation>.
- ⁶ *Id.*
- ⁷ All rights listed are provided by the Judicial Council of California and the Children’s Bureau; See Judicial Council of California “The Juvenile Dependency Court and You: A Guide for Parents,” 2014, <https://www.courts.ca.gov/documents/juvenile-dependency-court-and-you.pdf>; See also Children’s Bureau “Reasonable Efforts to Preserve or Reunify Families and Achieve Permanency for Children,” 2019, <https://www.childwelfare.gov/pubPDFs/reunify.pdf>.
- ⁸ Isaac Bryan, “AB 1686: Child Welfare Agencies: Enforcement,” ALLIANCE FOR CHILDREN’S RIGHTS, March 3, 2022, <https://allianceforchildrensrights.org/wp-content/uploads/AB-1686-Fact-Sheet-3.10.pdf>
- ⁹ *Id.*