



COLORADO TRAILS

How a take-the-child-and-run mentality and an obsession with institutions hurt Colorado's vulnerable children.

A Blueprint for Child Safety from the
NATIONAL COALITION FOR
CHILD PROTECTION REFORM

www.nccpr.org

September 7, 2023

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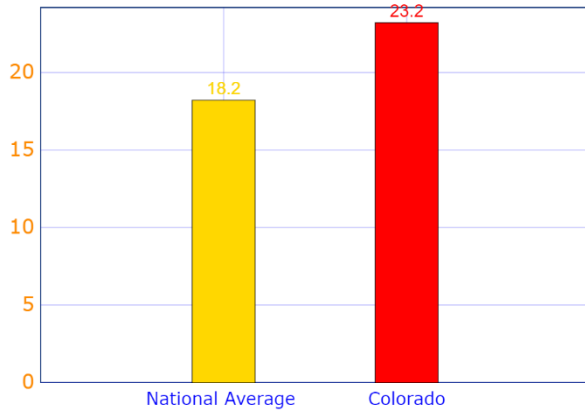
A note about who we are: The National Coalition for Child Protection Reform is a small, all-volunteer nonprofit child advocacy organization dedicated to trying to make the “child welfare” system better serve America’s most vulnerable children. You can read all about our distinguished Board of Directors here <https://nccpr.org/nccpr-board-and-staff/> and about what others in the field say about us here: <https://nccpr.org/what-others-say-about-nccpr/>

A note about where we are from: Colorado’s child welfare establishment is bound to try to deflect all criticism in this report by pointing out that we’re not from Colorado. But the “you’re not from here” argument would make more sense if Colorado were a national leader in getting “child welfare” right. Instead, Colorado trails. So wise public policymaking is likely to be aided by looking beyond the state’s borders to seek out all perspectives and find out where child welfare is done better and what can be learned from it. The states, it is said are laboratories of democracy. We read the lab results. **And we are proud to have as a partner in this effort, Colorado’s leading family advocacy organization, the [MJCF Coalition](#).** The child welfare establishment wants to talk geography because they know they’re wrong on substance.

EXECUTIVE SUMMARY: KEY POINTS AND RECOMMENDATIONS

● Colorado’s Department of Human Services likes to brag about reducing the numbers of children county family police agencies (a more accurate term than “child welfare” agencies) take away each year. **But Colorado still tears apart families at a rate 30% above the national average** when rates of family poverty are factored in. And the national average itself is far too high, since there are systems that tear apart families at lower rates with no compromise of safety.

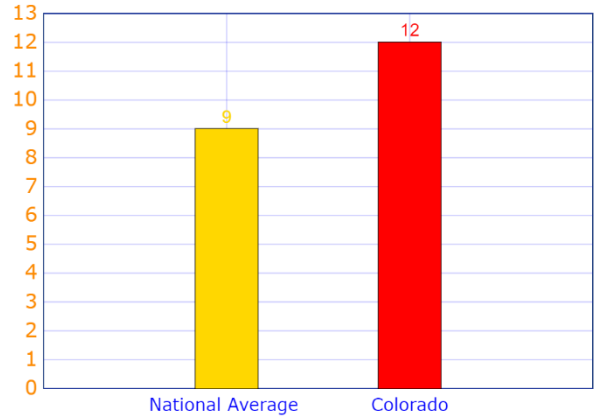
ENTRIES INTO FOSTER CARE PER THOUSAND IMPOVERISHED CHILDREN



● Colorado is one of 13 states in which local governments run family policing. The statewide average figure hides even more disturbing data from some of those counties. As our NCCPR *Colorado Rate-of-Removal Index* makes clear, Mesa and Douglas Counties – the child removal capitals of Colorado - take away children at rates roughly 70% above the national average, with El Paso and Jefferson Counties not far behind.

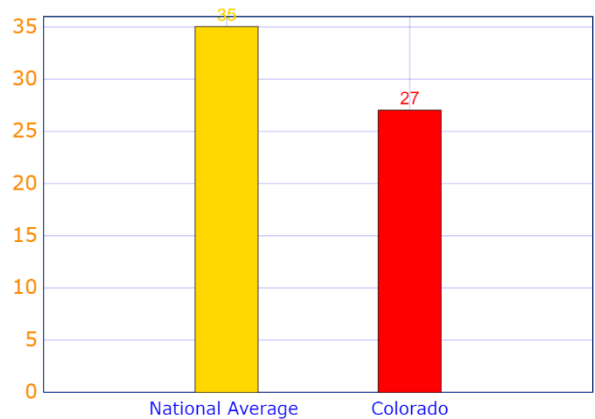
● Colorado’s enormously influential residential treatment industry has ensured that Colorado uses the worst form of substitute care – institutionalizing children -- at a rate **33% above the national average**.

PERCENTAGE OF FOSTER CHILDREN IN GROUP HOMES AND INSTITUTIONS



● At the same time, **Colorado uses the least harmful form of foster care, kinship foster care, at a rate 30% below the national average.**

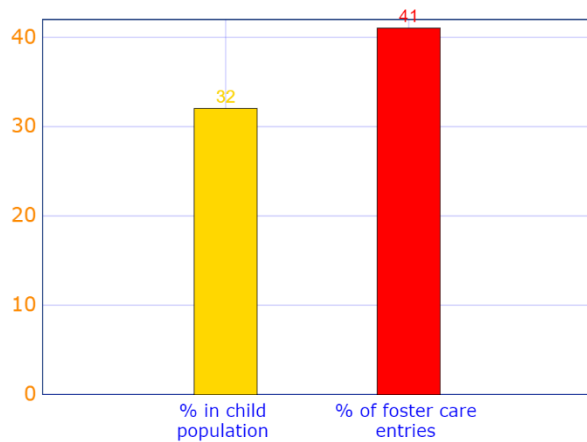
PERCENTAGE OF FOSTER CHILDREN IN KINSHIP FOSTER CARE



● While nationwide, Hispanic/Latino children are not disproportionately in foster care – they are in Colorado; where they are trapped in foster care at a rate nearly 30% above their rate in the Colorado child population.

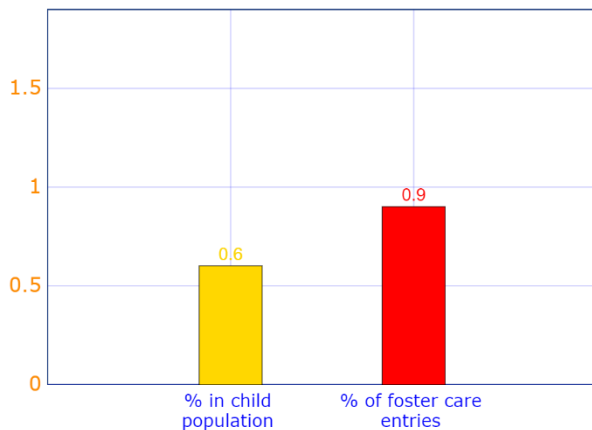
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HISPANIC / LATINO CHILDREN IN COLORADO



● Native American children are taken at a rate 50% above their rate in the general child population.¹

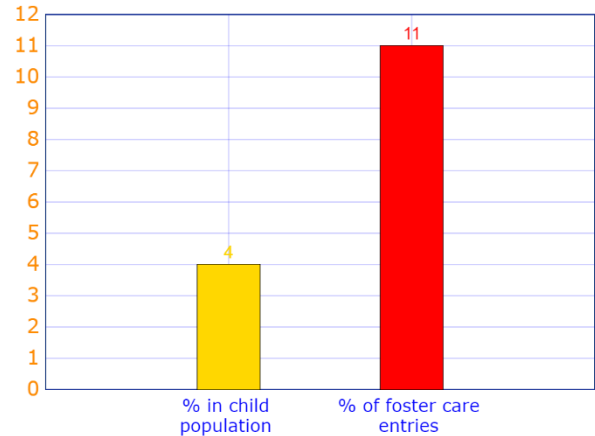
NATIVE AMERICAN CHILDREN IN COLORADO



● And **Black children are torn from their families in Colorado foster care at nearly triple their rate in the child population** – a worse rate of disproportionality than the national average. This is only likely to worsen if Colorado expands the use of “predictive analytics” in family policing. The highly-touted model for the algorithm in two Colorado counties has been shown to be biased – and is reportedly under

investigation by the U.S. Department of Justice.

BLACK CHILDREN IN COLORADO



In short, the name used for the state Department of Human Services data system is sadly appropriate. When it comes to keeping children safely in the place that is best for almost all of them – their own homes – Colorado trails.

There are plenty of examples of how this extremism plays out:

● Colorado is the state where child welfare workers and police -- with guns drawn -- entered a Black woman’s home, hauled her out and hogtied her; her wrists handcuffed behind her back and tied to her shackled legs. All because her two-year-old wandered away during a family gathering.

● Colorado is the state where daycare workers were criminally charged after a 5-year-old boy pulled down his classmates’ pants.

● Colorado is the state where a caseworker tried to claim what amounts to a constitutional right to lie. She lost; but, incredibly, one of three appellate judges actually bought it.

● Colorado is the state where it took

¹ Because of the relatively low number of Native American children in Colorado, this percentage may fluctuate from year to year.

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blatant out-in-the-open racism before a judge who presided over family policing cases finally was pressured to resign. But there is [no real redress](#) for most of the families she victimized.

- And Colorado is the state where a caseworker who allegedly harassed someone against whom she had a grudge with a false, anonymous child abuse report was working on [30 active cases](#) at the time of her arrest (and who knows how many over the course of her career). But an “investigation” gave the county a clean bill of health.

Who is hurt?

The “child welfare” establishment wants us to believe Colorado’s take-the-child-and-run approach is needed to keep children safe. They want us to believe that child safety and family preservation are opposites that need to be balanced. None of that is true. On the contrary. **The problem with Colorado’s approach is not that it hurts parents; the problem is that it hurts children.**

- *It hurts children* because most cases are nothing like the horror stories. More than 80% percent of the children forced into foster care in Colorado are taken in cases where there is [not even an allegation](#) of physical or sexual abuse. The far more common allegation is “neglect.” In rare cases, neglect can be extremely serious. Far more often, poverty is confused with neglect. Colorado’s definition of neglect is so broad that there is hardly an impoverished child in the state who couldn’t be deemed “neglected” at some point during their childhood.

- *It hurts children* by consigning them needlessly to the chaos of foster care. Because most cases are nothing like the horror stories, [study after study](#) finds that, in typical cases, children left in their own homes typically fare better even than comparably-maltreated children placed in foster care. The motivation is different, but a child torn from the arms of her or his mother in Colorado suffers the same trauma as a child taken at the Mexican border. Even when a child is not taken away, children can be severely traumatized by the investigation.

- *It hurts children* because removal to foster care can put children at *higher* risk of abuse. [Multiple studies](#) find abuse in one-quarter to one-third of family foster homes and the rate of abuse in group homes and institutions is even worse.

- *It hurts children* because all the time, money and effort wasted on false allegations, trivial cases and poverty cases is, in effect, stolen from finding the relatively few children in real danger. That overload almost always is the real reason for the horror stories that, rightly, make headlines.

All this is why Colorado’s take-the-child-and-run approach makes all children less safe. You can’t have child safety without family preservation. The recommendations in this report are a blueprint for child safety.

The tapeworm in the system

Colorado’s children are especially burdened by a powerful residential treatment industry. It takes a special kind of chutzpah to admit that there is rampant abuse in residential treatment but claim the solution is to give the industry even more money than the \$250 to \$600 per-day per-child they’re getting now. And it takes a special kind of chutzpah to smear young children with fearmongering about demon homicidal six-year-olds who supposedly have to be institutionalized.

But so far, they’ve gotten away with it.

Even if there were no physical or sexual abuse in residential treatment centers (RTCs) they still would be a horrible option. The evidence is overwhelming that the model itself is a failure – and there is nothing residential treatment can do that can’t be done far better, and at lower cost, with Wraparound services. [In this short video](#), Wraparound pioneer explains how it’s done.

Compounding the problem: RTCs are paid their enormous sums on a *per-diem* basis. So the longer they institutionalize the child and the worse they make the child’s behavior sound, the more money they get.

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Residential treatment is the tapeworm in the system. It consumes all the nutrients – in this case, the funds that could be used to provide genuine help to children and families – leaving the host to starve. Very little will improve until the tapeworm is expelled.

Colorado can lead

Colorado has trailed for decades. But it doesn't have to stay that way. There was a brief time when one Colorado county was a national leader – admired by “child welfare” professionals across the country. There's no reason that can't happen in every Colorado county.

And in recent years, there have been real strides:

- Colorado passed a “reasonable childhood independence” law.
- Though Colorado's rate of removal is way too high, it has been declining in recent years.
- A model of high-quality family defense that has produced outstanding results, reducing needless foster care with no compromise of child safety, is spreading statewide.
- New legislation curbs (though does not end) one of the most pernicious practices discussed in this report, foster parents as “intervenor.” Even more significant, it bolsters the preference for placing children in kinship foster care, giving Colorado a chance to catch up to the nation.

But there is so much more to be done.

RECOMMENDATIONS - A BLUEPRINT FOR CHILD SAFETY

If anyone at a “child welfare” agency says “We already have” anything on this list, please check and see if they have enough of it, and if they're doing it right.

Services

- County “child welfare” agencies need to be laser-focused on providing concrete help to ameliorate the worst harms of poverty. That means childcare to avoid “lack of supervision” charges and rent subsidies or basic home repairs so children aren't torn from their families for lack of housing. Multiple studies show that even small amounts of aid significantly reduce what agencies call “neglect.”
- Where substance use really does impair parenting to the point of endangering children, drug treatment should be available on demand. And when inpatient treatment is necessary, it should be in programs that allow parents and children to live together while the parent gets treatment.
- In the most complex cases, [Intensive Family Preservation Services \(IFPS\) programs](#) have an outstanding track record of safely keeping families together when they rigorously follow the model of the first such program, Homebuilders in Washington State. IFPS now is reimbursable under the federal Family First Act.
- In cases that involve domestic violence, efforts should focus on removing the abuser from the home instead of blaming the survivor and tearing apart families because a child “witnessed domestic violence.” Taking a child from a victim of domestic violence actually is even more traumatic for the child than taking a child under other circumstances.
- Phase out residential treatment. And immediately end *per-diem* reimbursement. Instead, pay RTCs a set amount per child. That reverses the current incentive and creates an incentive to get children out of an RTC and into a home or a foster home more quickly. And no, that doesn't create a risk that children will be sent home “too soon” – because the RTC hasn't been doing the child any good in the first place.

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But none of this will happen without an enforcement mechanism.

Due process

- Step one is ensuring that every family has high-quality interdisciplinary representation. That means a lawyer and a social worker who can propose alternatives to the meaningless – or sometimes worse – cookie-cutter “service plans” agencies come up with. Sometimes these defense teams also have parent advocates who have been through the system themselves. The model is spreading across the state but it’s still only available to fewer than half the families that need it.

- “Mandatory reporting” should be abolished. That does not mean abolishing reporting of child abuse. It means leaving professionals free to exercise their professional judgment.

- Anonymous reporting should be replaced with confidential reporting.

- The state should prohibit counties from using “predictive algorithms” at any point in the family policing process.

- From the age at which they can express a rational preference, children should have lawyers who fight for what the child wants, not “guardians *ad litem*” who decide for themselves what they think is best and may actually work against their own client’s wishes. This does not mean children should always get what they want – it means that all sides should have someone fighting for them, so the judge has as much information as possible before deciding what is “best.”

- [Research shows](#) that the Court-Appointed Special Advocates Program (CASA), the most sacred cow in child welfare, actually prolongs foster care and increases the chances that children will “age out” of the system with no family at all. The role of CASAs should be limited to mentoring foster youth.

- Foster parents should not be allowed to be “intervenor” at any time.

A series of other essential reforms are in NCCPR’s [Due Process Agenda](#). Among the reforms highlighted there:

- Require the equivalent of a “Miranda warning” when caseworkers knock on the door. Families have few rights when facing family police. But they should be informed of the rights they do have – because if you don’t know your rights, you don’t have your rights. [Texas passed such a law this year](#).

- Narrow the definition of “neglect” in Colorado law, including repeal of the provision equating use of a huge number of substances by pregnant women with neglect.

- Raise the standard of proof at all stages of the process, from the initial decision to label a case “founded” onwards, from the current “preponderance of the evidence,” the lowest standard in American jurisprudence, to “clear and convincing” – still a lower standard than that needed to convict a child murderer.

- Require an impartial hearing, with free legal counsel for indigent families, *before* anyone is entered in Colorado’s statewide central registry of alleged child abusers. Wrongly entering a parent in the registry hurts their children by barring the parent from many jobs; that risks driving families who usually are already poor deeper into poverty.

- All interviews conducted by “child welfare” agency personnel in the course of child maltreatment investigations – not just interviews with children – should be recorded. Interviewees must be informed that their statements are being recorded. Information from any interview that is not recorded should be inadmissible in all court proceedings. Families should have the right to make their own recordings and be informed of that right immediately upon a caseworker’s arrival, along with their other “Miranda” rights.

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OVERVIEW

To understand Colorado's system of family policing, a more accurate term than "child welfare," consider two recent cases, 30 miles apart. One case illustrates system failure – the other illustrates *massive* failure that shamed Colorado in front the nation.

In Colorado, [there were lots of news stories](#) about Brinley Sheffield, who took a solo run around her neighborhood in the affluent community of Castle Rock when she was seven years old. She'd previously run the same route with her mother, Christa. Brinley did have a scary experience -- she thought she was being followed. And she was. But not by a kidnapper. She was being tailed by a local busybody who was apparently horrified by the sight of a child getting some exercise in the neighborhood, and then walking into her own home – by herself!

But that was only the first scare for Brinley. The busybody, no doubt proud to be performing her civic duty, called the police. That, of course, was even scarier. The prospect of being under police investigation is enough to scare any seven-year-old – and to make any parent second-guess her or his every move. Both are inherently harmful to children. [As Brinley said:](#) "I started to cry because I was scared. I thought I was going to get in big trouble."

But that is as bad as it got.

Christa Sheffield said the police officer was "respectful and understanding." So the case was closed – in fact, no case was ever opened.

What happened to this family was key evidence when the Colorado Legislature did the right thing – and passed a reasonable childhood independence law. That such a law is even necessary speaks volumes about the harm done by Colorado's family policing agencies – a more accurate term than "child welfare" agencies.

But there's a case that speaks louder – or at least it should.

That case unfolded less than 30 miles north of Castle Rock, in Aurora. Vanessa Peoples was at a family gathering in a park when her two-year-old son wandered away. He was gone for all of a minute, but by then another woman had found him – and called the police.

One month later, police entered Peoples' home – guns drawn – along with child

protective services caseworkers. As family defense attorney Diane Redleaf [wrote in Reason magazine](#), by the time they were done

police had hauled Peoples out of her home and hog-tied her: wrists handcuffed behind her back and tied to her legs, which were in shackles. “You know how you tie a pig upside down and his feet are hanging from the stick?” Peoples tells Reason. “That’s how they carried me.”

But you don’t have to take Ms. Peoples’ word for it. Watch the bodycam footage. After *Reason* broke the story, [NBC News covered it](#). When [CBS News Sunday Morning](#) wanted to illustrate the harm of family policing nationwide, they began with the story of Vanessa Peoples in Colorado. But it did not lead to any new laws in Colorado.

Why the difference both in government response and media attention? Why the difference in how the family police responded? Could it possibly be because Brinley Sheffield is white and Vanessa Peoples is Black?

Nationwide, family policing has come under renewed scrutiny for the harm it does to the children it is intended to protect. And in almost every respect Colorado’s performance, though improving, is even worse than the national average.

Almost certainly yes. The cases illustrate that the family policing system is bad for all children – and worse for children of color.

Further evidence that race was the key factor: Overall, Douglas County, which treated the Sheffields relatively well, takes away children at a rate well above the state average. Adams County, which treated Ms. Peoples so horribly, actually takes away children at a significantly lower rate than most Colorado counties.

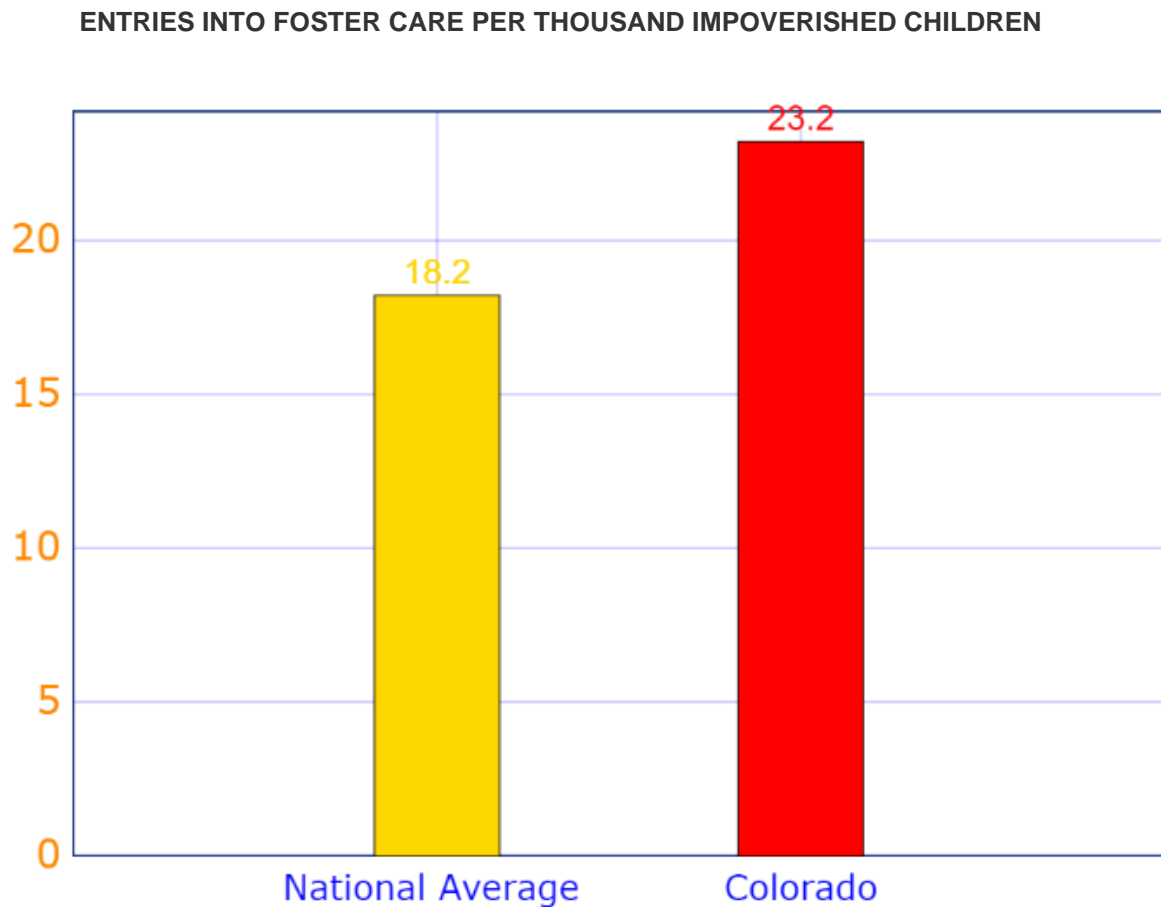
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- Colorado’s Department of Human Services likes to brag about reducing the numbers of children county family police agencies take away each year. But Colorado still tears apart families at a rate [30% above the national average](#) when rates of family poverty are factored in.² And the national average itself is far too high, since there are

² An honest comparison of rates of removal demands factoring in poverty. Family policing agencies intervene almost exclusively in the lives of poor people. So if you compare entries into foster care to total child population any state with lots of prosperous people will have a rate that looks artificially low. That’s the case in Colorado, which has one of the lowest child poverty rates in America.

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systems that tear apart families at lower rates with no compromise of safety.

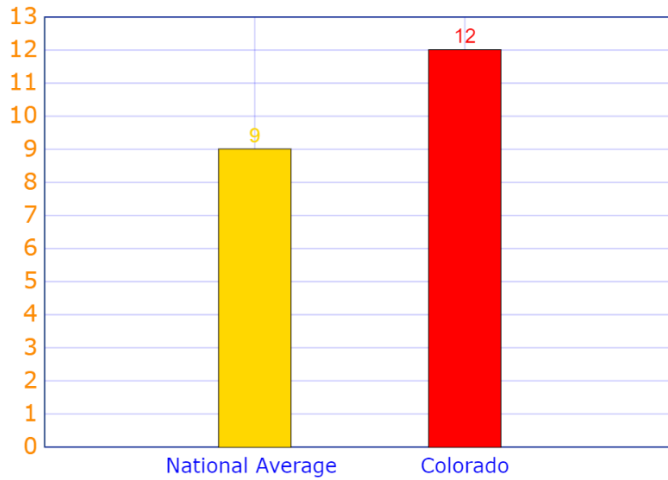


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The deeper you dig, the worse the numbers look.

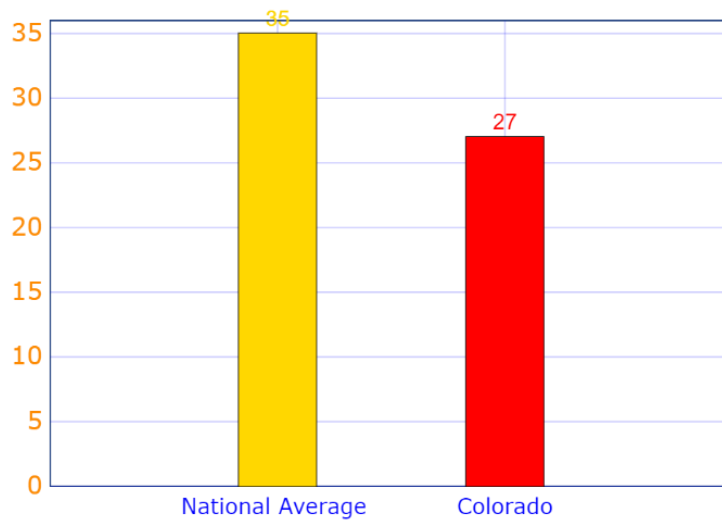
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PERCENTAGE OF FOSTER CHILDREN IN GROUP HOMES AND INSTITUTIONS



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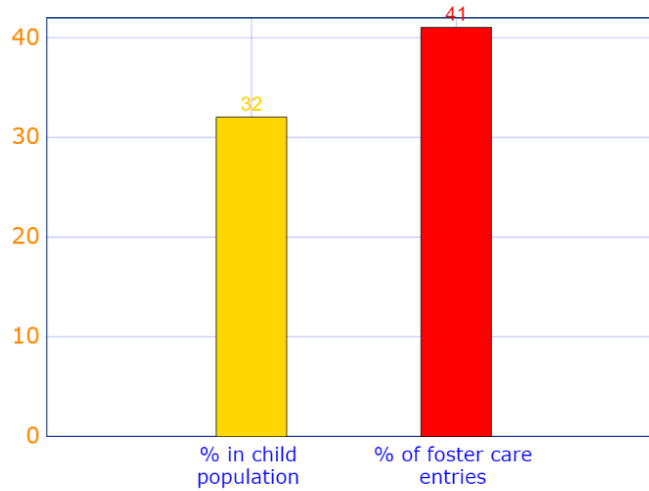
PERCENTAGE OF FOSTER CHILDREN IN KINSHIP FOSTER CARE



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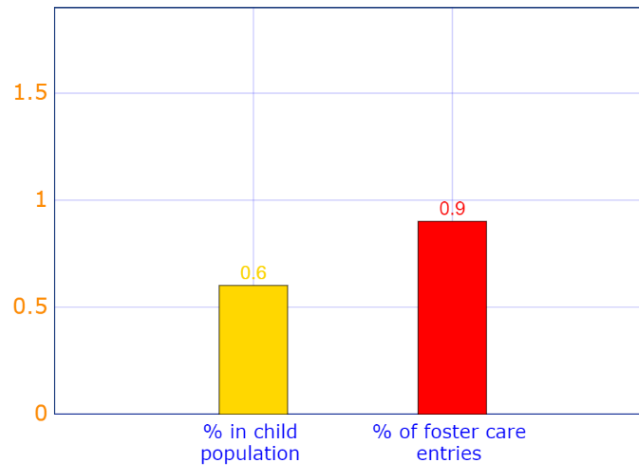
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HISPANIC / LATINO CHILDREN IN COLORADO



• Native American children are taken at a rate 50% above their rate in the general child population.³

NATIVE AMERICAN CHILDREN IN COLORADO

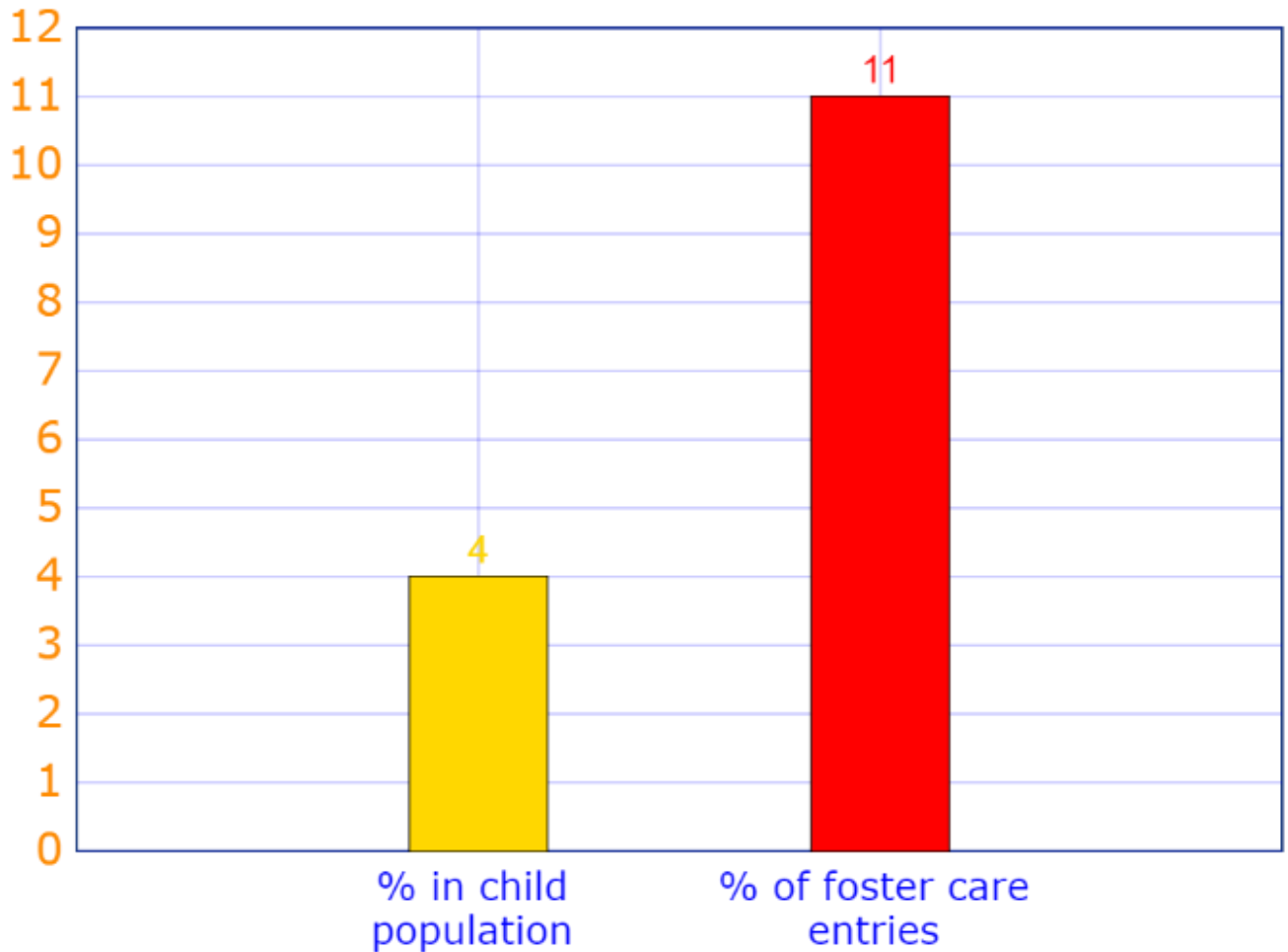


³ Because of the relatively low number of Native American children in Colorado, this percentage may fluctuate from year to year.

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●And Black children are torn from their families in Colorado foster care at nearly *triple* their rate in the child population – a worse rate of disproportionality than the national average.

BLACK CHILDREN IN COLORADO



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There are plenty of examples of how this extremism plays out:

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And in recent years, there have been real strides:

- Though Colorado's rate-of-removal is way too high, it has been declining in recent years.
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But there is so much more to do.

The steps to go beyond this initial progress and make Colorado a leader are neither radical nor expensive. But it will require taking on some powerful political interests – in particular the most harmful single force, the "tapeworm" in the "child welfare" system that harms almost everyone it touches: the residential treatment industry.

WHO IS HARMED BY THE CURRENT SYSTEM?

First and foremost, it's urgent to deal with the Big Lie of American child welfare; the lie that gave us the failed system we have today: It is the lie that says "child safety" and family preservation are opposites that need to be balanced, and that any attempt to keep families together makes children less safe.

On the contrary, the problem with the current system nationwide, and all the more so in Colorado, is not that it hurts parents, though of course, it does. The problem is that it hurts children.

50 years of "health terrorism"

To understand why, it's important first to understand that for decades, we've been given a distorted picture of who is in "the system" and why. It's been aptly called "[health terrorism](#)" -- misrepresenting the true nature and scope of a problem in the name of "raising awareness." Health terrorism is not a term we made up -- we first heard it at a Kempe Center International Conference, from a leader of a group that admits to engaging in health terrorism for decades, Prevent Child Abuse America. (They say they've stopped; [we disagree](#).)

The problem with the current system nationwide, and all the more so in Colorado, is not that it hurts parents, though of course, it does. The problem is that it hurts children.

So we've grown up on stories that begin with the most horrifying case imaginable and then immediately cite statistics about millions of "reports" of "child abuse." And we are told that giving family police vast, unchecked power is simply "erring on the side of the child." In fact, there is only one other phrase in the entire child welfare lexicon that is as dangerous to children as "err on the side of the child."

That's because the typical cases that dominate the caseloads of child welfare workers are nothing like the horror stories. Far more common are cases in which family [poverty is confused with "neglect."](#) Indeed, in Colorado, 82% of foster children are there in cases in which there was [not so much as an allegation](#) of sexual abuse or any form of physical abuse. In 47% of cases, there was not even an allegation of any kind of drug use.

Far more common than allegations of physical or sexual abuse are allegations of neglect. In rare cases, neglect can be extremely serious -- and defenders of the *status quo* will be glad to provide you with horror stories. But Colorado's breathtakingly broad 184-word [definition of neglect](#) includes:

- The child **lacks proper parental care** through the actions or omissions of the parent, guardian, or legal custodian.
- The child's **environment is injurious to his or her welfare.**
- The parent, guardian, or legal custodian fails **or** refuses to provide the child with proper or necessary subsistence, education, medical care, **or any other necessary care.** [Emphasis added.]

There is hardly an impoverished child in Colorado who couldn't be deemed neglected if a caseworker felt like it.

Some state laws specifically say this kind of thing is not neglect if the parent simply couldn't afford to provide "proper parental care" or "proper or necessary subsistence..." etc. Such clauses are routinely ignored, but at least they exist and can be cited by a defense attorney. But Colorado trails. [It doesn't even have such an exemption.](#)

Oh, but you see, defenders of the system will say, the poverty wasn't necessarily *alone*. What about all those other problems the family might have? Sometimes that is true – but usually, those other problems are caused by poverty. How do we know the problem is poverty? Because of the striking number of studies documenting how often [the solution is money](#). Not a lot of money, either; small amounts of additional cash significantly reduce the number of cases child welfare systems brand child neglect. And, again, 82% of foster care cases in Colorado involve no allegation of sexual or physical abuse.

It's a police force

The self-image of key players in the system is built on the notion that they're just kindly helpers who should have vast powers to intervene in families because, after all, they're not here to punish, they're here to help.

But that's not how such agencies really work.

Not only are Colorado's county child protective services⁴ agencies policing agencies, they are policing agencies with even more power than the police in blue uniforms. A police officer can stop a Black child on the street, throw him up against the wall and frisk him. CPS agencies can march right into that child's home, stripsearch him, and walk out with him – or call law enforcement [to take him away](#). Colorado law allows law enforcement to do this without a court order whenever the law enforcement

⁴ Counties use various names for their family police agencies, we will use Child Protective Services (CPS) for these agencies.

officer thinks

“the safety or well-being of a child is immediately at issue and there is no other reasonable way to protect the child without removing the child from the child's home. If such an emergency exists, a child shall be removed from such child's home and placed in protective custody regardless of whether reasonable efforts to preserve the family have been made.”

The family then has to fight to get the child back.

Once there is finally a court hearing, CPS does not have to provide proof “beyond a reasonable doubt” to hold the child indefinitely in foster care. Until the very last stage, they don’t even have to offer “clear and convincing” evidence. The standard of proof is “preponderance of the evidence” – meaning it’s slightly more likely than not that the child should be held in foster care. It’s the same standard used to decide which insurance company pays for a fender-bender.

A police officer can stop a Black child on the street, throw him up against the wall and frisk him. CPS agencies can march right into that child’s home, stripsearch him, and walk out with him – or call law enforcement to take him away.

Presiding is a judge who knows if he sends one child home and something goes wrong, his career may well be over. But he can tear apart hundreds of families needlessly and, while the children might suffer terribly, the judge is safe.

If anyone still has any lingering doubts about just how dangerous it can be to invest an agency that operates in secrecy with vast power, no real accountability, no real due process and a mandate to do whatever it thinks is in “the best interests of the child,” consider: Texas, Gov. Greg Abbott says [what he’s doing](#) to transgender children and their families is in “the best interests of the child.”

The issue is not intentions – it’s results

Most of the people who work in the family policing system, went into this work for the right reasons. They genuinely want to help children. But the issue isn’t intentions. The issue is results. Malcolm X credited the system that forced him and his

siblings into foster care with being “kindly intentioned.” But it was still, in his words, “legal, modern slavery.”

The kindly-intentioned people who created the system, and constantly seek to expand it, have some great applause lines: We’re “child-focused,” they say, we’re putting “child safety” ahead of “parents’ rights,” they say. And of course, as we noted earlier, the classic: Disrupting thousands of families, traumatizing children and tearing some of them away and forcing them into foster care is just “erring on the side of the child.”

But a child abuse investigation is not a benign act, it is an enormously traumatic experience for a child, as the child is pulled aside, or perhaps out of class at school, and asked the most intimate questions about her or his life. Or the worker may arrive [in the middle of the night](#), demand entry and start poking and prying into closets and cupboards.

Again, Texas offers some recent insights. In Texas, white middle-class families are just beginning to find out what this is like – if they have transgender children.

One such parent, Amber Briggie, [described what happened](#) when the family police investigator made two announced, pre-arranged visits. When she got the advance word at her office:

She ran down the hallway, collapsed in the arms of a co-worker, and tried to explain through sobs: It’s happening. CPS has opened an investigation on my family. I’m so scared they’re going to take my kids away. She sank to the floor and felt like she was still falling. The investigator was already on the way to see her, and [she] had half an hour to summon her husband to her office, to hire an attorney, and to prepare for the moment she had dreaded for years. ...

Then came the second visit, to the family home. According to the story:

They answered some of [the investigator’s] questions, and declined to answer others. They did not let her step beyond the doorway of their children’s rooms. “It was such a violation to have her in my space at all and I did not want her violating the rooms of my children.”

In the brief window of borrowed time, the interlude between emergencies, these families are left to face the cumulative toll of being targeted. Amber Briggie wants her family to see a therapist together, to begin to process what they’ve been through – what they’re still going through – but even finding the energy to research the right therapist feels overwhelming.

Meanwhile, she said, her hair has been falling out, and she often has to remind herself to eat. She and [her husband] Adam aren't sleeping well, and they suffer from frequent headaches. [Another mother] describes similar symptoms of stress, and said she's lost 10 pounds since the CPS investigator came to her door.

Horrifying as it was for these white, middle-class families, it is but a fraction of the trauma endured by poor families, especially poor families of color, every day. They don't get visits announced in advance. They don't get time to call a lawyer first, and because they're poor, they almost never can call a lawyer at all. They don't dare refuse to answer any questions. And it's not just the children's rooms that are violated – stripsearching is routine. Again, just compare the treatment of Brinley Sheffield and Vanessa Peoples.

“When my kids were growing up, they weren't afraid of the bogeyman. They were afraid of social services.”

--Julie Reiskin, Colorado Cross-Disabilities Coalition

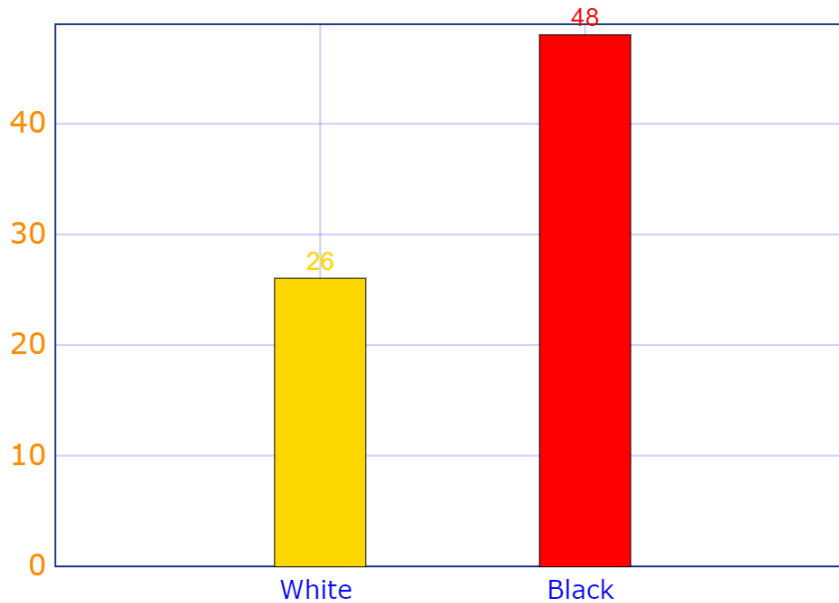
It's no wonder that, in families that are forced to endure this, parents speak of children who, years later, dive under the bed or hide in the closet when there's a loud knock on the door.

But you don't have to go to Texas to learn about the pervasive fear of CPS among any group that isn't straight, white and middle-class:

[As Julie Reiskin](#) of the Colorado Cross-Disabilities Coalition put it: “When my kids were growing up, they weren't afraid of the bogeyman. They were afraid of social services.”

Nearly half of all Black Colorado children [will have to endure this trauma](#) at some point during their childhoods. It will happen to 26% of white children. And when it comes time for a caseworker to check a box on a form declaring a case “founded” – and that's all that “founded” means – the worker is nearly two-and-a-half times more likely to check that box if the child is Black.

**PERCENTAGE OF COLORADO CHILDREN FORCED TO ENDURE
A CHILD ABUSE INVESTIGATION BEFORE THEY TURN 18**



How is this massive infliction of emotional trauma “erring on the side of the child”?

Compounding the emotional abuse

All the trauma is vastly compounded if the child is torn from everyone loving and familiar and consigned to the chaos of foster care.

So, it’s no wonder that multiple studies, [some of them massive in size and scope](#), found that, in typical cases, children left in their own homes typically fare better even than comparably-maltreated children placed in foster care.

But surely that should come as no surprise. Think back to the horror so many of us felt at the separation of children from their parents at the Mexican border. [Listen again to their cries](#) as they were warehoused in shelters.

Yes, there’s a difference: Workers for Colorado’s family policing agencies almost always mean well. But that doesn’t help the children. When a child is separated from their parents in Denver or Pueblo or Colorado Springs their cries of anguish are exactly

the same as those cries from the border. It is, in fact, the ultimate Adverse Childhood Experience, and the trauma can last a lifetime.

Abuse in foster care

All the harm of needless foster care occurs even when the foster home is a good one. The majority are. But the rate of abuse in foster care is far higher than generally realized, far higher than in the general population and far higher than reported in official statistics which involve agencies investigating themselves.

In its official reports to the federal government Colorado DHS claims that less than one-half-of-one-percent of Colorado foster children were abused or neglected in foster care in 2019, the most recent year for which [we could find data](#). That means they are claiming, presumably with straight faces, that if you gathered more than 200 former foster youth in a room and asked “How many of you were abused during the last year you were in foster care?” only one would raise her or his hand.

Nobody seriously believes that. So if any official from Colorado DHS gives you this figure with a straight face you know they’re trying to mislead you.

Multiple studies have found abuse in one-quarter to one-third of family foster homes. The rate of abuse in group homes and institutions is even worse – and that has particular consequences in Colorado with its overreliance on institutionalizing children.

[Multiple studies](#) have found abuse in one-quarter to one-third of family foster homes. The rate of abuse in group homes and institutions is even worse – and that has particular consequences in Colorado with its overreliance on institutionalizing children.

If a child is taken from a safe home or one that could be made safe, only to be beaten, raped or killed in foster care – or in a “residential treatment center” -- how is that “erring on the side of the child?”

But even that isn’t the worst of it. The more that workers are overwhelmed with false allegations, trivial cases and children who don’t need to be in foster care, the less time they have to find children in real danger. So they make even more mistakes in all directions. That’s almost always the real reason for the horror stories about children left in dangerous homes.

How is that “erring on the side of the child”?

You can’t have child safety without family preservation. The take-the-child-and-run mentality that pervades Colorado “child welfare,” compounded by an obsession with institutionalizing children, makes all Colorado children less safe. The recommendations in this report are a blueprint for child safety.

RACISM COMPOUNDS THE PROBLEM

Once upon a time, the family policing establishment denied that poverty had anything to do with who was surveilled and who was consigned to the chaos of foster care. Yes, really.

It was only when Black scholars and Black visionaries; people such as Prof. Dorothy Roberts (a member of NCCPR’s Board of Directors) documented the pervasive racism of family policing systems that the fallback position became: “No, no! We’re not taking all those children because they’re Black; we’re taking them because they’re poor!” Or the most recent version: “There *used* to be racism in America (not anymore of course) and that made Black people bad parents so gosh darn it, we have to take away their kids – or at least keep them under constant surveillance.

When we look at a system that investigates nearly half of all Black families in Colorado, and throws huge numbers of Black children into foster and ask: Is it poverty or is it racism? The answer is: Yes.

But if there’s really no racism in child welfare, then surely the people who attained this rare achievement have a moral obligation to reveal the secret. Because few deny that racism permeates every *other* aspect of American life.

The president of the International Association of Chiefs of Police has [admitted it and apologized](#). And it’s not just police.

- We know there is [racism in medicine](#).
- We know there is [racism in science](#).
- We know there is [racism in journalism](#)

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- We know there is [racism in academic publishing](#).
- We know there is [racism in everything else in academia](#).
- We know there is [racism in housing](#).
- We know there is [racism in hiring](#).
- We know there is [racism in who gets followed around by store security](#).
- We know there is [racism in who can hail a cab](#).
- And sometimes, the racism is - literally - [at our fingertips](#).

Yet somehow, we are told, “child welfare” is the one field filled with people so noble, and so good and so skilled, that it is magically immune. Surely the rest of society would benefit if practitioners would just reveal the secret!

Unless of course, they’re wrong. In fact, multiple studies reveal profound racial bias, over and above the class bias, in all aspects of “child welfare.”

Among them:

- A study of decision-making at 39 pediatric hospitals found that “Black children are more likely to be evaluated for abuse than white children with comparable injuries ...”

- A study of decisions to “substantiate” allegations of maltreatment after they are reported found that caseworkers were more likely to substantiate allegations of neglect against Black and Latino families – and the only variable that could explain the discrepancy is race.

- A study of women whose newborns tested positive for cocaine found that the child was more than 72% more likely to be taken away if the mother was Black.

- A comprehensive federal study of child maltreatment found that “even when families have the same characteristics and lack of problems, African-American children and Latino children, to a lesser extent, are more likely than white children to be placed in foster care.”

- A Texas study found that workers had to find a greater degree of risk to the child before removing a white child, compared with the threshold for removing a Black child. Black children were 77% more likely to be removed from their homes.

- Just this year, a New York City study looked at investigations and foster-care placements [by zip code](#). What they found is that affluence protects white families from family policing, but not Black families. The study found that

Latino, White and Asian children all show lower investigation rates in neighborhoods where child poverty is lower. Neighborhood child poverty rates do not appear to have the same protective effect for Black children. In fact, Black children face extremely high investigation rates in dozens of well-off and majority white neighborhoods ...

In other words, if, instead of being a sitcom, *The Jeffersons* been a *real* New York City family, the New York family police agency would have spent all those years trying to put Lionel in foster care.

- But perhaps most telling is what happens when caseworkers are given hypothetical situations and asked to evaluate the risk to the child. The scenarios are identical – except for the race of the family. Consistently, if the family is Black, the workers say the child is at greater risk.

You can [find summaries and citations for the studies here](#).

The bottom line is this: When we look at a system that investigates nearly half of all Black families in Colorado, and throws huge numbers of Black children into foster and ask: Is it poverty or is it racism? The answer is: Yes.

And the data suggest that when it comes to doing anything about it, Colorado trails.

“PREDICTIVE ANALYTICS” MAKES EVERYTHING WORSE



It is the latest fad in family policing: predictive analytics. But it should really be called computerized racial profiling. It has been tried over and over and failed over and over. And the most highly-touted use of predictive analytics, in Pittsburgh, is now reportedly under investigation by the U.S. Department of Justice. The designers of that model also designed the model in Douglas and Larimer Counties. [Full details on the failure of predictive analytics are here.](#) Here's a summary:

- Predictive analytics already has gone terribly wrong in criminal justice, falsely flagging Black defendants as future criminals and underestimating risk if the defendant is white.

- In child welfare, a New Zealand experiment in predictive analytics touted as a great success wrongly predicted child abuse more than half the time.

The predictive analytics experiment in Pittsburgh – the one that supposedly learned from all the other failures and wouldn't be biased, the one that slaps a “scarlet number” risk score on children, and the basis for the Douglas and Larimer models – [is turning out to be biased.](#)

- A predictive analytics model spreading all over the country, called Rapid Safety Feedback, [failed spectacularly in Illinois.](#)

- In Los Angeles County, another experiment was hailed as a huge success in spite of a “false positive” rate of [more than 95 percent.](#) And that experiment was conducted by the private, for-profit software company that wanted to sell its wares to the county. (Los Angeles has now [quietly dropped](#) this experiment, but still is pursuing predictive analytics.)

- The predictive analytics experiment in Pittsburgh – the one that supposedly learned from all the other failures and wouldn't be biased, the one that slaps a “scarlet number” risk score on children, and the basis for the Douglas and Larimer models – [is turning out to be biased.](#)

[The Associated Press reports](#) that when, finally, this model, known as the Allegheny Family Screening Tool (AFST), faced an independent evaluation, one where the county itself didn't chose the evaluators, they found that the model [had a serious racial bias problem.](#) An earlier "ethics review" [may have been unethical.](#) Yet Douglas County [says](#) it's simply relying on the Allegheny County ethics review instead of doing a truly independent review. **And now the U.S. Department of Justice is**

investigating whether AFST is biased against families where a parent is disabled.

The Allegheny County model also has been found biased by Prof. Virginia Eubanks in her landmark book, [Automating Inequality](#), and by [the American Civil Liberties Union](#).

This should come as no surprise. Even if you could design a workable algorithm, it would be only as good as the humans who create it. The co-designer of these algorithms Emily Putnam Hornstein has an extreme agenda.

- She has gone beyond AFST to design an algorithm that attempts to [stamp a risk score on every Allegheny County child at birth](#).
- Still another of her algorithms [explicitly uses race as a factor](#) in evaluating risk – and again, it is meant to be applied to *every* child.
- She [has declared](#) that "it is possible we don't place enough children in foster care or early enough."
- She has called for forcing every parent of a child not otherwise seen by a mandated reporter to [produce the child for a child abuse inspection](#) – when reapplying for "public benefits" – so we know who's being targeted.
- She has not simply disagreed but [demeaned](#) the work of a leading Black activist.
- She is part of a group that sent a letter defending a [self-proclaimed "race realist" law professor](#) who was a guest on Tucker Carlson's Fox Nation program.
- She devotes her Twitter feed exclusively to the most horrific stories of child abuse deaths – even though they bear no resemblance to 99.9% of what caseworkers actually see – a classic example of health terrorism.

IT ALL STARTS WITH MANDATORY REPORTING

Because we've internalized 50 years of health terrorism, the idea of abolishing, or even curbing mandatory reporting prompts some people to draw back in horror. To them it is unthinkable.

But the real horror is how mandatory reporting has backfired, making all children less safe -- and making the horror story cases more likely. Curbing mandatory reporting is essential; ideally it should be abolished altogether. Like so much else that the family policing system has inflicted on families, mandatory reporting has failed.

- Research shows mandatory reporting drives families away from reaching out for help. Families never know if the people in whom they have confided, or simply from whom they have sought concrete help to deal with poverty, will turn them in to the family police because they believe they have no other choice under the law.

- Mandatory reporting is most cruel to the children of battered mothers; they are among those who are most vulnerable to having their children taken if they seek to leave their abusers – and their children are among those most harmed when they are taken.

- As noted earlier, mandatory reporting also overloads family policing agencies, so workers have no time to investigate carefully the very few cases that really do involve horrible acts of brutality against children. That’s almost always the real reason such cases sometimes are missed until it is too late.

The research is clear: Mandatory reporting makes all children less safe. That’s why, in the decades since it was introduced, more and more one-time proponents of mandatory reporting have changed their minds.

The research is clear: Mandatory reporting makes all children less safe. That’s why, in the decades since it was introduced, more and more one-time proponents of mandatory reporting have changed their minds.

Curbing or even eliminating mandatory reporting is not the same as ending reporting of alleged child abuse. Rather it would leave professionals free to exercise their professional judgment, rather than forcing them to report cases where the real problem is poverty to caseworkers who may have less experience and training than the professionals themselves.

“A policy without reason”

Mandatory reporting was aptly described by the late Prof. Gary Melton of the Kempe Center for the Prevention and Treatment of Child Abuse and Neglect as [“a policy without reason.”](#) Mandatory reporting laws were not the result of careful thought, planning, and scientific testing to see what effects they might have. They were a knee-jerk response to Dr. C. Henry Kempe’s 1962 article “The Battered Child Syndrome.” Within a year the federal government had proposed a model law for the states. By 1965, [47 states had adopted such laws.](#)

Originally, the laws were relatively narrow in terms of both what should be reported – serious physical abuse – and who should be required to report it – mostly

doctors. But, again, even with no evidence that the laws worked, both mandates were expanded. One profession after another was added. Now, in 18 states, *everyone* is a mandated reporter. What must be reported also expanded to include anything in a state's definition of child abuse or neglect. Since, as we've seen, neglect laws like Colorado's make it easy to [confuse poverty with neglect](#), poor families inevitably became the primary target.

All of this was egged on by that [repository for so many bad ideas](#) in child welfare, the federal Child Abuse Prevention and Treatment Act. CAPTA requires states to have mandatory reporting laws and requires that, in some form, they include "neglect."

But, and this is crucial: The only penalty for failing to follow any given provision of CAPTA is the loss of a very small amount of federal funding; an amount so small lobbyists typically refer to such sums as "budget dust." That loss would be more than offset by the savings when workers no longer have to chase down staggering numbers of false reports called in by "mandated reporters" who are afraid to do anything else. So don't be fooled by anyone who tells you CAPTA is forcing Colorado to continue mandated reporting. "CAPTA made me do it" is family policing's equivalent of "the dog ate my homework."

It wasn't long before a lot of proponents of mandatory reporting had second thoughts.

- As far back as 1983, one of the biggest names in "child welfare," Dr. Eli Newberger of Children's Hospital in Boston [wrote that](#) "had professionals, like me, known then what we know now, we would never have urged on Congress, federal and state officials broadened concepts of child abuse as the basis for reporting legislation."

"CAPTA made me do it" is family policing's equivalent of "the dog ate my homework."

- In 1998, the National Research Council [concluded](#) that "Mandatory reporting requirements were adopted without evidence of their effectiveness; no reliable study has yet demonstrated their positive or negative effects on the health and well-being of children at risk of maltreatment, their parents and caregivers and service providers."

- In 2011, in the wake of the scandal involving former Penn State football coach (and [former foster parent](#) and group home operator) Jerry Sandusky, there were calls to vastly expand mandated reporting even further. But another leading one-time proponent of these laws, [Prof. David Finkelhor said](#): "Maybe it's better that people use discretion ... If everybody obeyed the letter of the law and reported a suspicion of abuse, the agencies would be completely overwhelmed with reports." (More recently,

ProPublica took a look at what happened as a result of that expansion and found a deluge of false reports and no improvement in child safety. Their story is headlined: [“Mandatory Reporting was Supposed to Punish Severe Child Abuse. It Punished Poor Families Instead.”](#))

- Even the late Richard Gelles, among [the most fervent](#) proponents of what amounts to a “take the child and run” approach to child welfare, someone who advocated for orphanages and bragged about helping to write the so-called [Adoption and Safe Families](#) Act, [opposed such expansion](#), writing: “Forty years after the first federal mandatory reporting law was enacted, there isn't a single study showing that investigations alone increase the safety of children.”

The new research

Now it's more than 50 years. And now, at last, these laws are being studied. The results are ugly.

For starters, mandatory reporting doesn't make children safer. While it is impossible to compare states with mandatory reporting to states without – because every state has it – one can compare states in which some people are mandatory reporters to states in which everyone is a mandatory reporter.

An [international team of researchers](#) did just that. They studied reports of physical abuse. They looked at the proportion of reports that were “substantiated” (which Colorado calls “founded” and which, again, may mean only that a caseworker decides it's slightly more likely than not that abuse occurred). They found substantiation plummeted in states with universal mandatory reporting (UMR). In other words, it dramatically increased the proportion of false reports. They write:

...our results suggest that, at best, UMR does not appear to be achieving its intended goal of improving identification of children victimized by physical abuse. In fact, UMR can potentially lead to poorer outcomes. For example, more reports made but without sufficient evidence can divert valuable but limited resources from endangered children who are actually in need of protection.

That's only the beginning.

Another study looked at the plight of a group most likely to be harmed when needlessly removed to foster care: children of mothers who are themselves victims of domestic violence.

Under so-called “failure to protect” laws and regulations, one can be labeled a bad mother – and children can be removed – if the mother “allowed” children to witness a husband or boyfriend attacking her.

Taking away a child under these circumstances actually [compounds the trauma](#) of removal for that child. That's why, thanks to [a class-action lawsuit](#), the practice is illegal in New York. (NCCPR's Vice President was co-counsel for plaintiffs in that lawsuit.)

Battered women know the danger their children face if they seek help. [Building on previous research](#), a [study published in December 2019](#) found that mandatory reporting laws drove many women away from seeking help for fear that their children would be taken away. Worse, the fears were justified. According to the study:

Most survivors described severe consequences of [Child Protective Services] involvement, primarily the removal of their children from their care and home. One survivor explained how "CPS was brought in, and my kids were taken away and that was almost life ending." Another survivor illustrates the challenge of CPS involvement in cases of domestic violence, explaining that "[t]hey removed my children from my home and charged me with allowing domestic violence to happen to me."

Abusers know it. If a battered mother threatens to call the police, her abuser can say: Go ahead, call the cops! They'll call Child Protective Services and CPS will take the kids.

As one such mother said [after it happened to her](#): "I called the police for help, but I should have just let my ex-husband beat my ass."

"For many victims of domestic violence, risking continued abuse is less dangerous than having child protection involved and risking losing your children. For survivors of color, the risks of having child protection involved are exponentially greater."

--Jennifer Eyl, executive director, Project Safeguard

That's why Project Safeguard, a Denver area organization that supports survivors of gender-based violence, wants confidential victims advocates exempted from Colorado's mandatory reporting law.

[Says Project Safeguard Executive Director Jennifer Eyl:](#)

"For many victims of domestic violence, risking continued abuse is less

dangerous than having child protection involved and risking losing your children. For survivors of color, the risks of having child protection involved are exponentially greater.”

Eyl said every day her staff sees “the harm this causes and the ways in which it makes children less safe.”

Mandatory reporting laws are a spouse abuser’s best friend.

Mandatory reporting undermines entire poor communities

Perhaps most damning is [the scholarship of Prof. Kelley Fong](#). [As first reported by Rise](#), while Prof. Fong was a Ph.D. candidate in sociology and social policy at Harvard, she interviewed scores of impoverished mothers. They described how mandated reporters are “omnipresent,” and how that spreads fear throughout their neighborhoods - again, for good reason. Though the mothers had not been selected because of involvement with family policing, nearly two-thirds had been subjected to a child abuse investigation.

Here’s one example from the study:

Leslie, a Hispanic mother, asked hospital staff when her newborn twins would be discharged so she could arrange housing for them, sharing that she had been sleeping at her workplace and her mother’s garage apartment. “I was trying to be honest just so I can prepare myself... [but] that backfired on me,” as the hospital notified [child protective services]. “After that moment I learned how to play the game.”

Playing the game means watching every word spoken in front of a mandated reporter – even if that means losing out on help. Another mother decided not to seek public assistance when she found out she’d have to reveal the fact that the family was living in their car.

Some mothers refused voluntary home visiting services for new mothers – an intervention which, when following the [Nurse-Family Partnership model](#), has a solid evidence base. But the visitors are mandated reporters, and the mothers were too afraid the visits could lead to loss of the children.

And you don’t dare reveal to a mandated reporter that you sometimes lose your temper or get depressed. As one mother explained:

I feel like I can’t tell anybody anything because oops, I might’ve said too much. I might have a knock on my door, and somebody might be here to take my kids. That’s one of my biggest fears.

In another study, Prof. Fong documented case after case of the harm [done by mandatory reporting in Connecticut](#). One case involved a mother she called Gaby. You can read [what the system did to Gaby here](#). As you read about it, consider:

- This study was done when Connecticut was a rapidly improving system [with good leadership](#).
- The mandatory reporter who turned Gaby in meant well.
- The investigation was conducted by a caseworker who was experienced, smart and empathetic – something to keep in mind when people try to claim that “training” will fix everything.
- The amount of intrusion into the family was the bare minimum possible when a family policing agency intervenes.

And yet, the family *still* was left worse off.

Prof. Fong’s findings are now in an outstanding book, [Investigating Families: Motherhood in the Shadow of Child Protective Services](#), to be published in October. It should be required reading for anyone involved in anything having to do with “child welfare” systems.

Year after year, decade after decade, we have traumatized millions of children with false allegations, needless investigations and stripsearches and, worst of all, needless foster care – and done nothing to reduce child abuse. In fact, mandatory reporting and the rest of the policing system have undermined child safety.

Year after year, decade after decade, we have traumatized millions of children with false allegations, needless investigations and stripsearches and, worst of all, needless foster care – and done nothing to reduce child abuse. In fact, mandatory reporting and the rest of the policing system have undermined child safety.

Why doesn’t mandatory reporting work?

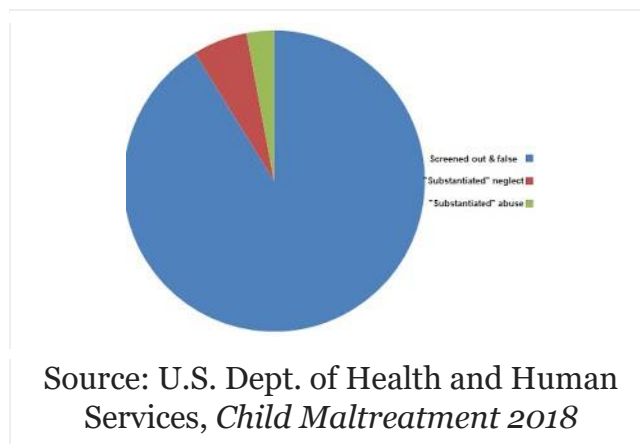
Why has a system built on ever-expanding reporting and surveillance failed to stop the horror stories and failed even to curb the overall rate of child abuse? It seems intuitive that calling in more reports is bound to uncover more cases where intervention

is essential.

But when you look at the actual data about the families vacuumed up by the system the answer is obvious. In a sense, the proponents of this system – the health terrorists -- were so anxious to fool the rest of us, in the name of “raising awareness,” that they ultimately fooled themselves.

Pore over the federal government’s annual [Child Maltreatment report](#) and you find that nationwide, of every 100 calls to child abuse hotlines 91 are either so absurd they are screened out or they are found to be false after an investigation. Yes, defenders of the system sometimes say the reports weren’t false, the workers just couldn’t “prove” them. But no proof is required. As we’ve seen in most states, including Colorado, all that is required to declare an allegation “founded” is a caseworker’s guess that it is slightly more likely than not that what the state considers “abuse” or “neglect” occurred. (In some cases, a supervisor may need to approve the guess.)

The only study we know of to try to second-guess these decisions is quite old. But it found that workers were two to six times [more likely](#) to wrongly substantiate an allegation than to wrongly label one unfounded.



Another six calls involve “neglect.”

That leaves three of every 100 calls with even the potential to be the kinds of horror stories we think of when we hear the words “child abuse.” (In Colorado it’s probably even fewer. In Colorado only 5.6% of reports are “founded” for abuse or neglect.)

The cases we think of when we hear the words “child abuse” are needles in a haystack. And every time you miss one in Colorado, the child welfare establishment comes up with the same idea: Make the haystack bigger. That, after all, was the original impetus behind Colorado’s mandatory reporting task force. But that just makes the

needles harder to find.

That's why mandatory reporting, and the empire of policing, surveillance and child removal it has spawned, does enormous harm to children, in every possible way.

Lessons from COVID

What would happen if we dramatically curbed mandatory child abuse reporting? We know the answer because it happened – not thanks to a law, but thanks to a virus.

It would be hard to find a better illustration of the racism that infects child welfare – and the harm of mandatory reporting - than the hype and hysteria about [child abuse and COVID-19](#). Think of what we heard over and over from the family policing establishment:

Now that fewer mostly white middle-class professional “mandated reporters” have their “eyes” constantly on overwhelmingly poor disproportionately nonwhite children, their parents supposedly will unleash upon their children a “pandemic of child abuse.”

Yes, the pandemic put more stress on everyone. But why did so many rush to assume that, for poor people in general and poor nonwhite people in particular, the only way they'd cope with it was to beat up their children? You can try to sugarcoat it all you want, but the message so many in the family policing establishment really sent was: Nonwhite parents are a greater danger to their children than a deadly disease – and only we white people can save them.

What would happen if we dramatically curbed mandatory child abuse reporting? We know the answer because it happened – not thanks to a law, but thanks to a virus.

- Early on, the claim was challenged by several major news organizations, such as [Bloomberg CityLab](#), [The Marshall Project](#) and the [Associated Press \(twice\)](#). But the pandemic of child abuse myth kept spreading. Then [The New Republic](#) debunked it as well. But it kept spreading.

- The claim was challenged by a bastion of the child welfare establishment, [Chapin Hall](#), the child welfare think tank at the University of Chicago. But it kept spreading.

- The claim was thoroughly [debunked in a study](#) of data from New York City. Not only was there no spike in child abuse reports as children returned to school, the

network of mutual aid groups that sprung up during the pandemic kept children safer than the city's family policing agency.

The head of that agency at the time confirmed it. David Hansell, then commissioner of the Administration for Children's Services, [told the New York City Council](#) that not only was there no evidence of a pandemic of child abuse, the real lesson from the pandemic was that there's been an overreliance on rushing to call child abuse hotlines. But the myth kept spreading.

- Even the specialized journal of the American Medical Association devoted to children, *JAMA Pediatrics* has debunked the myth. The headline says it all: "[Child Physical Abuse Did Not Increase During The Pandemic.](#)" And yet, the myth is *still* spreading.

- And in 2021, even as in-person intrusion by family police agencies resumed and schools reopened, the rate of what caseworkers deemed to be abuse or neglect declined, to [a 30-year record low](#).

So the real lesson of COVID-19 is this: Mandatory reporting was dramatically reduced and the sky did not fall. On the contrary, hundreds of thousands of children were spared the trauma of needless child abuse investigations with no compromise of child safety.

Training won't fix it

Imagine if a special commission were convened to study police brutality in Colorado. Imagine if they said that all the problems could be solved if we just gave the police more training. Imagine if they claimed the problem isn't, say, massive use of stop-and-frisk policing; we just need to give the police more training in whom to stop and how to frisk them.

People would immediately recognize it for what it was: a whitewash – in every sense of the term.

Yet over and over we hear that all the problems of the child welfare surveillance state will be solved, all that wrongful removal of children will end, through the magic of "more training." Similarly, we are told that the problems of mandatory reporting will be solved if we just give the mandated reporters more training – or, in the case of Colorado, if they get *any* training.

But training is no substitute for due process. And that's even if you could do it. Since vast numbers of state residents are mandatory reporters, there's no way you can provide more than a few hours of training, probably online. Right now, in Colorado there is no required training for mandatory reporters. But requiring such training could

actually make things even worse.

Who will design the training? Almost certainly, the same people whose mantra is report anything and everything – so requiring training might indeed make things worse. That is certainly the case in another state, Pennsylvania, where we took one of the [officially-authorized training courses](#) for mandatory reporters. The “training” boiled down to “Report! Report! Report!” New York State, on the other hand, recently revamped its training. The result is a [muddled mess of mixed messages](#). That is certainly an improvement over “Report! Report! Report!” but it’s not going to change much.

But even the perfect training course runs up against a huge problem: There is no penalty for a false report made in good faith. But there are penalties for failure to report. So even if a mandated reporter has taken a wonderful new training course and now understands when *not* to report, they are likely to call anyway – for fear of what might happen to them if they don’t.

There also is a peculiar double standard concerning training. In many cases, mandated reporters have more training than family police caseworkers. When a parent has a substance use issue, why are medical professionals denied the opportunity to use *their* training and *their* professional judgment concerning whether the substance use is endangering a child and whether family police intervention is necessary? Instead, they are forced to turn the judgment over to caseworkers who may be far less qualified.

The terror of mandated reporting belongs in the dustbin of child welfare history.

Mandatory reporting laws perfectly illustrate a double standard that pervades child welfare. If you want to do anything that helps keep families together, you’d better be able to dot every i and cross every t on lots and lots of rigorous studies. In contrast, interventions that tear families apart, whether it’s mandatory reporting, foster care or residential treatment, dominate the field – with no evidence of effectiveness and considerable evidence of harm.

Mandatory reporting laws should be judged by a simple standard: There is no evidence that they work – so get rid of them. The terror of mandated reporting belongs in the dustbin of child welfare history.

The ombudsman’s muddled messages

Unfortunately it seems that Colorado’s Child Protection Ombudsman, Stephanie

Villafuerte, who chairs a “task force” studying mandatory reporting, has taken that option off the table – and tried to smear those of us who favor it.

Her comments on the issue [to the *Colorado Sun*](#) remind us of that New York training course: a masterpiece of mixed, muddled messaging.

When it comes to evidence that mandatory reporting actually protects children from abuse, Villafuerte said: “If you find [such evidence] let me know.” But the whole point of evidence-based practice is: If there’s no evidence for it, you’re not supposed to do it!

But then, in the same interview, Villafuerte says it’s not enough to say “it fails, blow it up.” Really? Suppose a rocket launch went wrong and the rocket was now careening toward a city. Given that kind of failure, wouldn’t it make sense to “blow it up”? In any case, abolishing mandatory reporting doesn’t “blow up” anything. Coloradans will remain free to report to their hearts’ content – and you may be sure, conditioned by all those years of health terrorism, they’ll do just that, sometimes rightly, often not. But at least professionals will be free to exercise their professional judgment.

Villafuerte’s comments on the number of reports the state child abuse hotline should receive are similarly muddled and contradictory. First she says:

“We are experiencing an extraordinary amount of resources on cases that are never founded. You’ve diluted the total workforce that can respond to those calls.”

So we need fewer calls, right? Heavens no! says Villafuerte:

“I think it’s dangerous to say I want to see fewer reports. That isn’t the case. I want to see reports when I believe a child is in danger, you bet.”

So, let’s see if we’ve got this straight. Colorado caseworkers check the “founded” box on only 5.6% of all the reports they investigate. Villafuerte acknowledges this is a serious problem. But she wants workers to keep investigating the same number of reports, if not more.

So, does Villafuerte believe there is a gigantic mass of unreported child abuse and all those good reports should replace all the bad reports? If so, where is the evidence for such a claim? If not, then it is ludicrous not to seek a reduction in the total number of reports.

THE OTHER REPORTING PROBLEM: ANONYMOUS REPORTS

If the charges against former Arapahoe County caseworker Robin Niceta are true, families in Arapahoe County can be grateful for two things:

- Niceta allegedly went after someone who had the power to fight back.
- Niceta did a lousy job of covering her tracks.

Niceta has been charged with maliciously smearing Aurora City Councilwoman Danielle Jurinsky with a false allegation that she had sexually abused her son. Jurinsky had previously called for the firing of Niceta's then-girlfriend.

When Jurinsky made the call, she didn't leave her name or contact information. But that doesn't matter. As in 48 other states, the Colorado hotline accepts calls anonymously. Indeed, the [hotline page](#) on the Colorado Department of Human Services website includes this prominent reminder: "All callers may remain anonymous."

Making it harder to weaponize the family police will make all children safer – both by leaving workers time to find children in real danger, and preventing a cascade of error that can result in the ultimate tragedy.

But the [Colorado Springs Gazette reports](#), police allege the call about Jurinsky came from Niceta's phone and "the search browser on Niceta's laptop included the hotline number and Jurinsky's address."

How many people call in false anonymous reports but are careful about the phone they use and where they do their web searches?

How many other families endure nightmares like that endured by Jurinsky with no redress?

And it's not just the families who are harassed who are hurt. All the time and effort spent investigating Jurinsky was, in effect, stolen from finding some other child in real danger.

Once again, a practice intended to protect children leaves all children less safe.

That's why Colorado should replace anonymous reporting with confidential

reporting. Confidential reporting means that the accused still don't know who accused them – but the hotline and the investigators need to know. That way the hotline can detect patterns of false allegations and investigators can more easily determine if a report was made simply as a means of harassment.

Across the country, anonymous reports are, by far, the least reliable. They are almost never true. Opponents, of course, will seize on the word “almost” and argue that if you replace anonymous reporting with confidential reporting a real case might be missed. That ignores two salient facts:

- There's no reason to believe people who are sincere will be discouraged just because the family police agency itself needs to know who they are. Indeed, any journalist is familiar with a similar dynamic: When a source reaches out with information but doesn't want her or his name used in a story it is common for journalists to say: “I will not use your name in the story. But my editors need to know.” In our own experience in the course of 19 years of newspaper, radio and television reporting, almost always the sources agreed – and those who didn't agree appeared to be the least credible.

- But also: No system can promise to never miss a case. But we miss more cases now by deluging workers with all those false reports. Making it harder to weaponize the family police will make all children safer – both by leaving workers time to find children in real danger, and preventing a cascade of error that can result in the ultimate tragedy.

That's what happened in Texas. Even as it broadened the abuses of its family police regarding the governor's target of choice: transgender children, the legislature narrowed the scope of the agency in other areas – including the nation's first near ban on anonymous reporting, replacing it, in most cases, with confidential reporting.

The bill passed with bipartisan support, but one lawmaker expressed exactly the fears that opponents will raise in Colorado:

I would hate for us to vote for a policy where the tradeoff is ... [having] a child possibly die from abuse or neglect.”

But back in September 2022, before this law was passed, an anonymous report led to six children being torn needlessly from their mother and institutionalized in a filthy shelter. The youngest of the institutionalized children, age 2, [died there](#).

This child didn't die because Texas banned most anonymous reporting. This child may have died because Texas didn't ban anonymous reporting soon enough.

Colorado should not make the same mistake.

REEFER MADNESS – AND OTHER FAILURES OF FAMILY POLICING AND DRUG USE IN COLORADO

They may be the parents most of us would most like to punish: mothers who are portrayed in media accounts as caring so little for their children that they'd rather get high than take care of them; mothers portrayed as unable or unwilling to kick their habit even while they're pregnant.

No one really knows how many there are. The huge numbers bandied about by family police agencies are guesses, and they have a vested interest in guessing high. Furthermore, guesses about the extent of "substance abuse" by parents lump together everything from the parent who runs a meth lab in the basement to the parents who have their children taken for smoking [one marijuana cigarette](#) or [drinking marijuana tea](#) to ease the pain of labor.

In Colorado, family police agencies seem to have a bizarre obsession about marijuana use.

In Colorado, family police agencies seem to have a bizarre obsession about marijuana use. After Colorado legalized marijuana the number of family policing cases involving pot smoking actually increased. [According to The Appeal](#),

After the state voted to legalize cannabis use, its 2014 legalization laws did not address the ways in which cannabis use might continue to be cited as a basis for child welfare involvement. Indra Lusero, staff attorney at National Advocates for Pregnant Women and director of the Colorado-based birth justice organization Elephant Circle, says that perhaps because of legalization, child welfare workers felt that they needed to guard more vociferously against "untrustworthy," "irresponsible" parents with easier access to cannabis—especially pregnant people.

Not all pot-smoking parents, of course. White, middle-class pot-smoking moms have nothing to fear. They even can [brag about](#) their substance use in Facebook groups. [Mainstream publications can celebrate "cannamoms"](#) who consume pot during their children's play dates and share stories about how pot improved their parenting. They know their privileged status gives them immunity from family police surveillance.

There also is a difference between substance use and substance abuse. While drug use certainly can impede parenting, it doesn't have to. But through one "Worst Drug Plague Ever" after another, myths about those who use drugs — and their children — persist.

Every few years, scores of experts on pediatrics and addiction band together to issue [open letters to journalists](#) pleading with them not to keep making the same mistakes. Yet the mistakes keep turning up in news accounts.

Even though the apocalyptic claims about children born with cocaine in their

systems – and their mothers – proved to be false, the same false claims were made again about methamphetamine. And now we’re hearing them about abuse of opioids such as prescription painkillers and heroin.

Over and over we’re told that foster care numbers increased because of opioid abuse. That is not true.

Where opioid use really has led to more foster care, the foster care numbers are increasing not because of drug use, but because of “child welfare’s” typically stupid, knee-jerk take-the-child-and-run *response* to drug use.

And sometimes it’s just an excuse. Family policing officials in Arkansas tried to blame opioid addiction for a sharp increase in the number of children taken from their homes. But [consultants hired by those same officials](#) said the heart of the problem wasn’t a new drug plague or a big increase in actual child abuse of any kind. Rather, the primary cause was “questionable removals” of children who probably could have remained safely in their own homes had their families gotten the right kinds of help.

The problem of drug abuse, like the problem of child abuse, is serious and real. And there is an enormous temptation to punish drug-dependent parents. But, it is extremely difficult to take a swing at those “bad parents” without the blow landing on their children.

If we really believe all the rhetoric about putting the child’s needs first, that means putting those needs ahead of everything, including how we may feel about the parents.

Yet every few years, whenever the newest “Worst Drug Plague Ever” hits, advocates of tearing apart more families come out swinging.

We should know better by now.

The cliché about addiction being a disease happens to be true. It’s not a moral failing. We would not take away children from a parent with cancer. We would not even take that child if the cancer returned after going into remission.

Yet child welfare responds to the use of *some* drugs by *some* people (not some of the legal ones such as alcohol and tobacco, and not the people who use them in wealthy suburban enclaves) with two knee-jerk assumptions:

- The drug use automatically makes them bad parents.
- There is no alternative to taking the children away, at least while those parents get treatment (if we bother offering that at all).

Neither of those assumptions is true. That’s something we should have learned

from that first Worst Drug Plague Ever, crack cocaine:

[In a major study](#) of children born with cocaine in their systems – children often stigmatized with the label “crack babies” – one group was placed in foster care, the other left with birth mothers deemed able to care for them. After six months, the babies were tested using all the usual measures of infant development: rolling over, sitting up, reaching out. Consistently, the children placed with their birth mothers did better. For the foster children, the separation from their mothers was more toxic than the cocaine.

So if we really believe all the rhetoric about putting the child’s needs first, that means putting those needs ahead of everything, including how we may feel about the parents.

And if we really believe all the rhetoric about the need for “trauma-informed” child welfare, we must recognize that one of the worst traumas a child can endure is separation from her or his parents.

False assumptions

The common assumptions about drug use and drug treatment also are wrong.

Much like the debate over child abuse in general, the debate over drug abuse by parents has been dominated by horror stories – the parents who manufacture meth in the basement or die of a heroin overdose with their children in the car.

But just as the horror stories represent a small fraction of child abuse cases, they represent a small fraction of parents who abuse substances.

This can be seen from the fact that the number of Americans who [admit to using illicit substances](#) in just a single month – let alone the actual number – is vastly higher than the number who [actually abuse children](#) over the course of an entire year.

This does not mean that it is good for a parent to abuse prescription painkillers or cocaine or other drugs. But it does mean that some parents can use those substances and still take care of their children – as noted earlier, if they have enough money, they can even brag about it. In such cases, any alleged harm involved in leaving the child at home must be balanced against the known, severe harm of foster care.

Indeed, if one abuses drugs and alcohol and has serious mental health problems to boot, but has the money to cope with it and raise the children, child protective services won’t even knock at the door. At least they never showed up at the door of one of America’s most famous addicts – [Betty Ford](#). America’s impoverished children whose parents use drugs would be far better off if we applied the Betty Ford standard to them as well.

But in Colorado, an infant is automatically considered neglected if that infant tests positive for a breathtaking variety of substances. (Unlike some states that are even worse, Colorado at least exempts drugs that are legally prescribed.)

Where parental substance abuse is so serious that intervention really is needed, then in most cases that intervention should be drug treatment.

[A federal report](#) concluded that one-third of addicts recover on their first attempt and another third recover “after brief periods” of relapse. [Another federal study](#) found that the chances of success increase dramatically when parents are allowed to keep their young children with them during inpatient treatment.

All of this still costs less than foster care.

But it has to be real treatment, not sending a parent off to a 30-day detox program and returning her home to all the pain and misery that may have triggered the drug use in the first place.

In Connecticut, for example, an increase in opioid abuse has not led to a dramatic increase in foster care. That’s because Connecticut chose to respond by increasing use of an [innovative home-based family drug treatment program](#).

Where that is not enough, inpatient programs where parents can live with their children should be easily available.

But what about “meth”?

When use of crack cocaine was at its worst, so was the hype about what it did to children, and their parents.

The claim that children born with cocaine in their systems were doomed to become, in the words of one hyperventilating columnist, “a biological underclass” was false. The claim that crack cocaine destroyed all maternal instincts was false. And the claim that addiction to crack cocaine could not be treated was false.

The same false claims were made about methamphetamine. In fact, methamphetamine addiction can be treated [with just as much success](#) and in the same time frame as addiction to crack cocaine and other substances.

The extent of our blindness

The extent to which our inchoate rage at drug-using parents - well, some drug-using parents, Betty Ford was considered a hero -- harms children can be seen in how medicine and family policing have responded to children born with opioids in their system who are going through withdrawal.

[As *The New York Times* points out](#), what they need most is quiet places with low light, relatively little stimuli – and a lot of love.

So what do we do? We tear them from their mothers at birth and rush them into noisy, brightly-lit neonatal intensive care units far from their mothers and treat them with another drug – morphine. According to the *Times*:

“Increasingly, experts fear that babies are being removed from mothers they need so they can get morphine they do not.”

Some hospitals have belatedly decided to put the child’s needs first. They are giving the children what they need most: Their mothers.

And it’s working.

Perhaps someday America’s family policing systems will try that approach as well.

THUMBS ON THE SCALE OF JUSTICE

Earlier, we noted the many ways in which the deck is stacked against families from the moment a call is made to the moment a CPS agency seeks to terminate children’s rights to their parents (a more accurate way to put it than “termination of parental rights”). It’s how the deck is stacked in most states.

But few states have as many additional thumbs tilting the scales of justice against families as Colorado. Here we discuss three of them:

1. “Intervenors”

Suppose you sent your child to boarding school in September. But he didn’t come home for Christmas vacation. Instead, you received a letter from your child’s gym teacher. He had decided that you were unfit parents – after all, you keep sending your child away to boarding school. But he had “bonded” with your child. And since three whole months had passed, he decided to petition the court to take custody. Now you’ll just have to go to court and try to get your child back.

For affluent stranger-care parents three months of possession may not have been nine-tenths of the law, but it was nearly four-fifths.

That can’t really happen of course – well, not if you’re rich and send your child to boarding school. But if you’re poor and your child was taken away because your poverty was confused with neglect, the foster parents, or as they should be called, stranger-care parents, could behave just like that hypothetical gym teacher. After just three months (now 12 months), they could become “intervenors” – hire their own attorney and try to keep your child for themselves, either in ongoing foster care or as adoptive parents. Even if the family police agency disagreed, three months of possession of your child gave intervening foster parents the same status as you when it comes to who will raise your child.

“Foster parents come into a case as full parties,” Melanie Jordan, case strategy

director for the Colorado Office of Respondent Parents' Counsel [told KUSA-TV](#). "They are able to file motions, call witnesses, cross-examine witnesses, and participate fully in all aspects of the case."

If anything, the stranger-care parents, who are almost always going to be richer (since they need to afford their own lawyer) and are likely to be whiter, have a *more* privileged status. Before the recent change in the law, on average, 60% of families were reunited after a child was placed in foster care. But if stranger-care parents intervened, that figure plummeted to 22%. If your child was taken and the strangers with whom he was placed had the money to hire that lawyer and intervene, the odds were less than one in four that your child would ever live with you again. For affluent stranger-care parents three months of possession may not have been nine-tenths of the law, but it was nearly four-fifths. This despite everything we know about the inherent trauma to children that comes when their rights to their parents are terminated.

What accounts for this? Probably the fact that once the stranger care parents are parties, it encourages judges to engage in comparison shopping. In fact, no one should be considered for adoption until a parent has been proven to be unfit. But once stranger-care parents are parties it can be an irresistible temptation for judges to persuade themselves the birth parents are unfit, when really the judges are simply identifying with the people who are more likely to be of the same race and class as they are. The broad, vague standard of "best interests of the child" becomes a "better off" standard – as in, surely this child will be "better off" with all the material advantages that the people I can identify with can offer. And that's why "best interests of the child" is the most dangerous phrase in the "child welfare" lexicon.

If someone kidnaps your child at birth, flees to Mexico, takes really good care of him, and then returns two years later, the kidnapper should be allowed to keep him, right? After all, they're *bonded*.

But if that is to be our standard, why wait for an allegation of abuse or neglect? If money trumps love in deciding what's best for a child, why not simply confiscate poor children at birth and hand them over to more affluent strangers? Appalling as that prospect may seem, it is little different than allowing strangers to become intervenors after three months or 12 months or any amount of time.

It's not just the option of living with their parents that is foreclosed to children when stranger-care parents "intervene," it also cuts out extended family. In a case highlighted by KUSA-TV, a grandmother was ready and willing to take in her grandson. But the stranger-care parents intervened, the judge decided he or she liked the stranger-care parents better and they were allowed to adopt.

In another case, the stranger-care parent intervention dragged out the process for years, which allowed them to pull another common stunt when middle-class stranger-

care parents want to keep poor people's children for themselves: [playing the bonding card](#). It works like this: You stall and stall and stall and then say: "You can't send this child home, we're the only parents he's ever known!"

By that logic of course, if someone kidnaps your child at birth, flees to Mexico, takes really good care of him, and then returns two years later, the kidnapper should be allowed to keep him, right? After all, they're *bonded*.

Sure, when stranger-care parents "intervene" they're doing nothing illegal. But that's not the point – if a traditional view of bonding takes precedence over everything, then surely it would be contrary to "the best interests of the child" to take the child from "the only parent he's ever known" regardless of how that came to be.

And bonding [is more complicated](#) than this view, based on 1950s theories, makes it out to be. We are learning more and more about "relational permanence," the urgent need for children to have lifelong connections to their own families, rather than be cut off and thrown in with strangers. As Jordan points out: "We know all of the research shows us that children do better long term when they are placed with their families."

And one more thing about pandering to middle-class entitlement and rescue fantasies: It's expensive. Even though they pay for their own lawyers, the ancillary expenses add up. Jordan said that when stranger-care parents intervene, the average cost of a case for taxpayers more than doubles. And that doesn't include all the money Colorado is shelling out to the stranger-care parents to pay them for providing the foster care that they are prolonging.

The new law will force stranger care parents to wait 12 months before becoming formal "intervenor" and it will stop them from filing motions to interfere with parent/child visits.

Among other good things, the law also toughens requirements for seeking out kin and prohibits the use of factors like socioeconomic status when judges decide whether to choose kin or a stranger.

All that is likely to help. But beware: In some cases, particularly where the stranger-care parents and the caseworker are allies, it may simply encourage stalling tactics to stretch out the placement for 12 months. Making stranger-care parents formal parties to a case at any point is simply another manifestation of the racial and class bias that permeates "child welfare."

2. Guardians *ad litem*

The intervenor clause – whether at three months or 12 months -- does something else. Once the stranger-care parents are allowed to intervene they actually have more right to be heard in court than the children themselves.

Indeed, Colorado's system of child "representation" can silence the child.

That's what happened to Makita Cotto. As [Colorado Newsline reported](#), when she was 15 and in foster care a judge barred her from ever even speaking to her own mother and brother. The judge didn't do that because the family policing agency asked for it. The judge did it because Cotto's own lawyer went behind her back and asked the judge to do it. Cotto had no recourse – because her own lawyer was not required to fight for what she wanted.

That's because in Colorado children don't get lawyers in the sense that we understand the term – someone who fights for what their client wants. Instead, they get guardians *ad litem* (GALs) – who fight for what the guardians *ad litem* want. In other words, they are tasked with deciding what *they* think is in the child's "best interests" and making the strongest possible case for it, no matter what the child actually wants – up to and including things like persuading a judge to threaten one of their own clients with "contempt" if she spoke to her own mother.

Imagine that you are on trial for some heinous crime, facing decades in prison. Your lawyer gets up and says: Well, your honor, I am obligated to tell you that my client says he's innocent – but I think he's guilty as sin and you should throw the book at him! Would you be satisfied with that kind of representation?

So if, say, a Black child desperately wants to return home, but his white, middle-class guardian *ad litem* thinks that child should stay in foster care, then tough luck kid: You are silenced. (The reverse also is true. If a child wants to stay in foster care and the guardian *ad litem* thinks the child should return home, the child also is silenced and that is equally wrong.)

Oh no, say, defenders of this system, that's not true: GALs still tell the judge what the child wants.

Next time you hear that one, imagine that you are on trial for some heinous crime, facing decades in prison. Your lawyer gets up and says: Well, your honor, I am obligated to tell you that my client says he's innocent – but I think he's guilty as sin and you should throw the book at him! Would you be satisfied with that kind of representation?

Children need a *real* voice in court. Instead of a GAL, every child needs a lawyer who will fight *not* for what the lawyer wants, but for what the child wants – it's called "expressed wishes representation." That's the view of the [American Bar Association](#), and in some states that's already required for any child old enough to express a rational

preference.

Last year, legislation was introduced in Colorado to provide expressed wishes representation for any child age 12 and older. In fact, even younger children are capable of expressing a rational preference and should have someone fighting for that preference.

Even for the youngest children, there's [an alternative](#) to GAL-style “best interests” representation, known as “legal interests representation.”

The objection to expressed wishes representation is that children might want something that is not good for them. (Somehow this claim seems to come up far more often when the children want to go home.)

But the fact that a child wants something and has someone advocating for it doesn't mean she or he will get it. Rather, it means that all sides will have someone vigorously advocating for what they want. That is the best way for the judge to decide what is best for the child – and that is what judges are for.

It also means that even when young people don't get what they want, they at least know they had someone in their corner fighting for them. And that in itself can cushion some of the blow from foster care placement.

Chris Henderson, executive director of the state's Office of the Child Representative, told *Colorado Newsline* about a conversation with a former foster youth who'd had expressed wishes representation:

“(She) told us that she never got what she wanted,” Henderson recalled. “She didn't get to go home, she didn't get any of her requests granted, but she was able to live with it because someone fought for it. She was a party in the proceeding, just like her parents and everyone else, and even though it didn't go the way she wanted, she could live with it, because she had a true advocate in the courtroom fighting for what she wants.”

Surely a state that bends over backwards to make stranger foster parents full parties in these proceedings should be able to do the same for the children they're fostering.

3. Court-Appointed Special Advocates (CASA)

It is probably the most sacred cow in child welfare. But notwithstanding all the feel-good rhetoric, the research is overwhelming: The Court-Appointed Special Advocates program – CASA -- hurts the children it is intended to help.

Multiple independent studies find that CASA:

- Prolongs foster care.
- Reduces the chances that children will reunify with their families.
- Increases the chances that children will age out with no home at all.

Indeed, when a group of scholars surveyed the research literature to answer the question: Is CASA an evidence-based practice? Their answer was: No.

Full details and citations are available in NCCPR's 2021 presentation about CASA to the Kempe Center's annual conference. [The text is available here.](#)

CASA is a program in which overwhelmingly white middle-class volunteers with no special qualifications and maybe 40 hours of “training” are empowered to investigate families who are overwhelmingly poor and disproportionately nonwhite and pass judgement upon them. What could possibly go wrong?

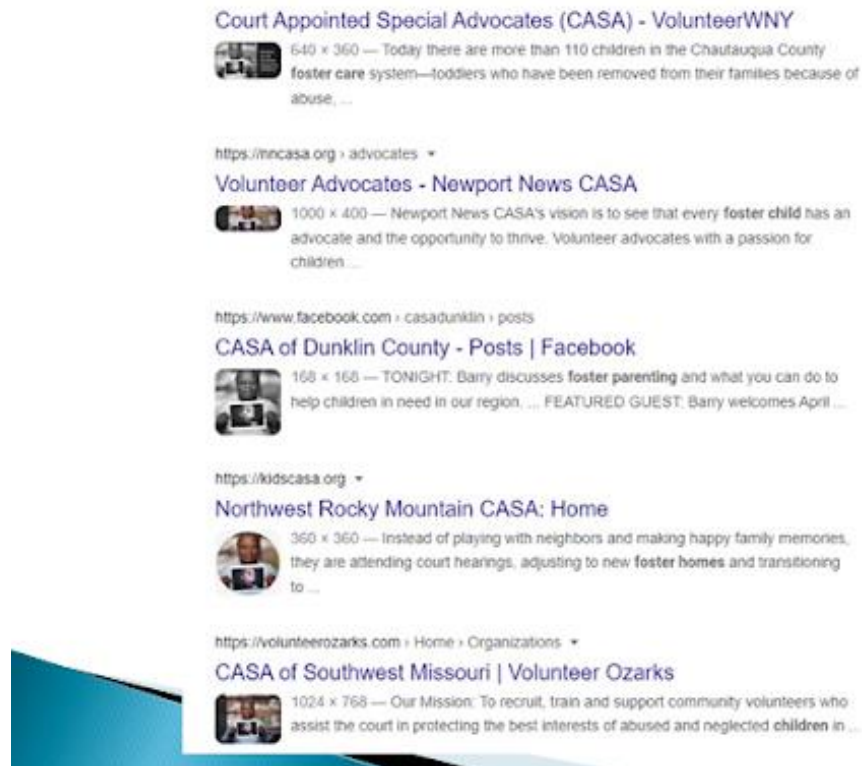
CASA's one true benefit, if you can call it that, is that it makes all those overwhelmingly white, middle-class volunteers feel so good about “rescuing” children. But indulging white, middle-class rescue fantasies is precisely the problem.

CASA is a program in which overwhelmingly white middle-class volunteers with no special qualifications and maybe 40 hours of “training”⁵ are empowered to investigate families who are overwhelmingly poor and disproportionately nonwhite and pass judgement upon them. CASA brags about how often judges rubber-stamp their recommendations.

⁵ Plus in-service – they hate it when you don't mention the in-service – because, clearly, that changes everything, right?

What could possibly go wrong?

The bias is so much an inherent part of the model that one law review article aptly calls CASA “[an act of white supremacy.](#)” Indeed CASA is so white that, in 2021, when Northwest Rocky Mountain CASA wanted to show a Black volunteer, they did what many others did: They used a stock photo.



But instead of acknowledging this failure and changing its program to do the one thing it can do well – mentor foster youth – here’s what Colorado CASA did: They invented their own method of self-evaluation and – great news everybody – according to their own evaluation, they’re doing a wonderful job!

And though CASAs sometimes claim to be a child’s voice in court, often they are anything but. Like guardians *ad litem*, CASAs advocate for what the CASA thinks is best. If the child disagrees, the child is effectively silenced.

Of course CASAs don’t always recommend continued foster care and oppose reunification. Neither do guardians *ad litem*. But both groups should be challenged to produce data on that, in particular, when they disagree with county family policing agencies:

It’s a simple two-question test of bias:

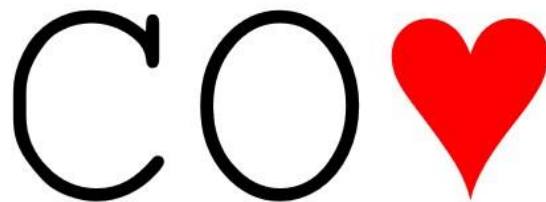
COLORADO TRAILS/50

- When the family police agency says place the child in foster care, keep the child in foster care or terminate the children's rights to their parents, how often do you disagree? (Supporting termination instead of foster care does not count as disagreement in this context.)

- When the family police agency says don't place the child in foster care, or return the child home how often do you disagree?

We're willing to bet that far more often, CASAs and GALs disagree with decisions to keep children at home or reunify them. We think the answers will show that, over and over, children who want to go home or stay home are up against any or all of the following, depending on how many are present: The family policing agency, the guardian *ad litem*, the intervenor *and* the CASA.

TAPEWORM IN THE SYSTEM



INSTITUTIONS

Most of the time when industries want more money from government, they cite their success. It takes a special kind of chutzpah to make the case for more taxpayer money based on your own failure. It's the same kind of chutzpah that demonizes young children with fearmongering tripe about [homicidal 6-year-olds](#) (or sometimes it's 5-year-olds) who supposedly will be rampaging through Colorado unless they're institutionalized.

Yet that's the snake oil the residential treatment industry has been selling in Colorado. Unfortunately, a lot of politicians and media have been buying it.

News accounts have documented a [litany of failure](#), from abuse of institutionalized children to runaways dying. Such failures have been exposed all over the country. It's been [one scandal after another](#), after [another](#) after [another](#). Most of the time, the industry trots out cliches about "rotten apples" and insists that most institutions are free of rampant abuse. Occasionally someone lets the truth slip, as when a top executive of Devereux, a nationwide chain of what should be called McTreatment centers, [told The Philadelphia Inquirer](#):

"This is not an aberration that happens at Devereux because of some kind of lack of control or structure. This is an industry-wide problem."

This is striking both for the acknowledgement of widespread abuse, and for calling residential treatment what it is: an industry.

It takes a special kind of chutzpah to make the case for more taxpayer money based on your own failure.

But in Colorado, the industry goes even further. They don't bother to deny that the problems are rampant. Instead, they say the solution is to [pump even more money](#) into these places because they can't scrape by on a mere \$250 to \$600 per-day per-child. (That's an average of \$155,000 per child per year.) The industry says we also should [make residential treatment more like jail](#), allowing locked doors and physical force against youth. They're also complaining about the minimal standards institutions must meet under the federal Family First Act so states can get federal aid for stashing kids in such places.

Similar themes have been sounded across the country (usually minus the candid admission of widespread abuses). And, as in Colorado, the claims have been ramped up as children are forced into terrible makeshift placements such as offices, hotels and emergency rooms. The argument is that there are not enough family placements and, in any case, only institutionalization will work on some children.

Now the industry has reached a new low – conjuring up nightmare visions of demon homicidal six-year-olds in order to justify institutionalizing even the youngest children.

So the head of the industry's trade association, Becky Miller Updike, [told a Colorado legislative committee](#): "We're seeing suicidal, homicidal 6-year-olds ... and they do not belong in foster care." (Later she changed the age to 5.)

Apparently, no one asked Updike for evidence of a plethora of 6-year-old likely murderers in Colorado. But it turns out, there's been a little bit of research on this. While, of course, no one knows for sure and [the database we found](#) is short on citations, that database found ten children age 6 and under have committed murder – over the past 131 years. Ten children in the entire world. None was from Colorado.

And if young children are depressed enough to contemplate suicide, those children desperately need a loving family; the worst thing you can do is institutionalize them. They absolutely *do* belong in foster care – or, far better, in their own homes.

What the research tells us

Institutionalization is among the worst things you can do to any young person. [The research is overwhelming](#): Even when residential treatment centers are not rife with abuse, they are terrible for children. Institutionalization is inherently harmful, inherently traumatic and almost never necessary. (Wherever a link is not included in the following list of studies, [a citation is available here.](#))

If young children are depressed enough to contemplate suicide, those children desperately need a loving family; the worst thing you can do is institutionalize them.

- A review of the scholarly literature by the office of the U.S. Surgeon General found only “weak evidence” for the success of residential treatment.
- A second review found “when community-based services are available, they provide outcomes that are equivalent, at least [to residential treatment centers (RTCs)].”
- [Still another review](#), published in 2020, found that “the dearth of research supporting the effectiveness of interventions delivered in [residential treatment] should be alarming to families, advocates, practitioners, and policymakers.”
- Yet another study, of children institutionalized for mental health problems, found that seven years after discharge from residential treatment, 75 percent of the children were back in the only settings they could understand: institutions. They were in psychiatric centers or jails.
- Even Shay Bilchik, former President of the Child Welfare League of America, a trade association for residential treatment centers and other agencies holding children in substitute care, has made a startling admission: Bilchik admitted that they lack “good research” showing residential treatment’s effectiveness and “we find it hard to demonstrate success...” (In fairness, he said they would be successful, if only they rushed to institutionalize children sooner. In other words, if the kids don’t have any problems – we can cure them!)

So it’s no wonder even the thoroughly mainstream child welfare litigation group Children’s Rights says institutionalization is so awful [it needs to be drastically curbed](#).

• And when Think of Us, a group run by former foster youth canvassed young people who had been institutionalized, what they said was so harrowing that [the report they issued](#) had to begin with this astounding list of warnings:

“This report contains descriptions of:

Physical violence

Sexual violence

Emotional and verbal abuse

Drug and alcohol abuse

Eating disorders

Mental health and mental illness

Suicide and self-harm

Racism

Ableism

Homophobia and transphobia

Islamophobia.”

Because that is the real world of “residential treatment.”

None of this should come as any surprise. The residential treatment model is based on the idea that if you put young people who supposedly have the worst behavior problems all in one place and cut them off from their families and communities, right at the age when they are most vulnerable to peer pressure, they will get better. Who seriously thinks that’s a good idea?

Per diems make everything worse

As bad as *how much* residential treatment centers are paid is *how* they are paid. RTCs have the ultimate perverse financial incentive to claim that the children are too difficult for any other placement and to claim that the difficulties require prolonged institutionalization: They are paid for each day they hold a child. The longer they can hold on to the child – by persuading everyone that, really, the child’s problems are just so intractable they have to stay for a long, long time or “Who knows who that six-year-old is going to murder if he ever goes home!” – the more money they get. That is, as long as the young people aren’t really *too* difficult.

The claim that RTCs are needed for “the most difficult kids” rings especially hollow when it turns out that Colorado’s RTCs actually refuse to take the most difficult

kids. It would appear that Colorado does not believe in no-eject no-reject contracts. Instead, the legislature has been forced to make even more money available in the form of [“incentive payments”](#) to get RTCs to actually take what the news story revealing the payments calls “hard-to-place kids.”

It appears some RTCs are engaging in a common industry practice known as “creaming” – as in skimming the cream. Use scare stories about “the most difficult kids” to get more money – and then turn them away.

The residential treatment model is based on the idea that if you put young people who supposedly have the worst behavior problems all in one place and cut them off from their families and communities, right at the age when they are most vulnerable to peer pressure, they will get better.

And, contrary to the industry myth-making machine, there are alternatives. At the root of all Colorado’s child welfare problems is the take-the-child-and-run mentality discussed earlier. And Colorado loves institutionalization. News organizations repeatedly write about residential beds closing. But Colorado still institutionalizes children at a rate [33% above the national average](#).

Get the children who don’t need to be in foster homes back into their own homes and there will be plenty of room in good safe foster homes for children who really need them – without having to institutionalize them.

As for the claim that all those children (including the homicidal five- and six-year-olds) are simply too difficult for families – that’s only true if you don’t help those families. There’s nothing an institution can do that can’t be done far more humanely and at far less cost with Wraparound programs that bring anything a family for foster family needs right into the home. They’ve done it for young people [far more challenging](#) than any 6-year-old. [In one video](#), wraparound pioneer Karl Dennis explains how wraparound kept safely at home a youth so difficult that even the local jail couldn’t handle him. There are more details about [the success of Wraparound here](#).

The stacked-deck “task force”

The Colorado residential treatment industry hasn’t completely gotten its way yet. But last year they got the legislature to create a [“task force”](#) with a budget of nearly \$100,000 run – once again -- by Stephanie Villafuerte. It’s supposed to spend two years determining “the root causes of why children run away from out-of-home placements” and figure out how to stop them from running.

Allow us to save the state a little money and a lot of time: Children run away from out-of-home placements *because they are in out-of-home placements*. You stop children from running away from awful places by not putting them in awful places.

Colorado's residential treatment task force is like a task force to study climate change that includes no environmentalists but lots of representatives of the fossil fuel industry.

There are two main ways children wind up institutionalized. One is when family policing agencies take them from their parents. The other is when desperate parents feel they have no alternative — a false impression the residential treatment industry is eager to exploit. [As The New York Times put it](#): “The industry depends on desperate, often compassionate parents, some of whom fall for slick marketing.”

So the industry tells us for some youth nothing else works. After all, these young people have, to use the industry's own offensive term, “blown out” of foster homes. But that's because “child welfare” systems fail to provide the intensive help children's own families or foster families need.

How successful has this exploitation of desperate parents been? Consider what happened when Colorado closed a residential treatment center [with an appalling history](#):

In 2019, state regulators identified 83 potential licensing violations, including that illicit drugs, such as LSD, spice and Xanax, were smuggled into the facility. Many of the complaints involved runaways, lax supervision, fights between youth and inappropriate use of restraints, or physical altercations between staff and kids.

But a father whose 17-year-old son ran away when the center was closed said he actually was sorry to see the place shut down, because he couldn't imagine any other way to handle his son and when he was restrained he only “occasionally had bruises.”

This father couldn't imagine anything else because the residential treatment industry has so monopolized the debate that Colorado media almost never mention that alternatives exist.

The younger the child the worse the effects of institutionalization. The Colorado task force is named after Timothy Montoya, a boy institutionalized at the age of 12. He was killed when he ran away and was hit by a car. His mother has bravely shared his story and, in an act of incredible courage, is willing to relive the trauma to help others, by serving on the task force. We applaud her for her effort. The father of that 17-year-old

who only “occasionally had bruises” is showing the same courage and doing the same.

But the deck is stacked. **The task force** is filled with foster parents and residential treatment providers, and an assortment of state and local government agency representatives. But there is no parent on it who had a child needlessly taken away against that parent’s will, and ultimately institutionalized. Nor is there a lawyer who regularly represents such parents.

The Rule of Residential Treatment is simple: If you build it, they will come. If you leave it open, they will stay. If you leave it open long enough, it will become a hellhole. The only way to create a genuine continuum of care is to expel the tapeworm from the system.

In a state where Black children enter foster care at nearly triple their rate in the general population and Native American children enter foster care at a rate 50% above their rate in the general population, the task force began its work with not one Black or Native American member. Villafuerte’s office told us it was trying to find at least one of each to join the task force. We don’t know if they succeeded. But the fact that they were comfortable moving full-speed ahead without them is like a neon sign flashing “tokenism.”

In contrast, the task force does include, as a voting member, the aforementioned Becky Miller Updike. In short, Colorado’s residential treatment task force is like a task force to study climate change that includes no environmentalists but lots of representatives of the fossil fuel industry.

All that will make it all but impossible for the task force to face up to the hardest truth: Timothy Montoya might be alive today if his mother could have gotten Wraparound services in her own home — but none were available where the family lived. That’s not an argument for spending more on places like the ones that failed Timothy; that’s an argument for more alternatives — or for just giving parents the \$250-to-\$600-a-day to buy their children whatever help they need.

The residential treatment industry will make sure that when the task force issues its report it will include claims that the industry is all for Wraparound and they love foster families and they really, truly want to keep children in their own homes “whenever possible.” They’ll say they just want a “full continuum of care.”

But what stands in the way of a full continuum of care is – the residential treatment industry.

Residential treatment is not care. And it is as expensive as it is ineffective. It's the tapeworm in the child welfare system. As long as the tapeworm is consuming all the body's nutrients – in this case, money – the body will starve. Instead, Colorado should phase out residential treatment and pour the vast amounts of money it consumes into Wraparound and other safe, proven alternatives. Or just give it to the parents, who undoubtedly could find better ways to help their children with \$155,000 per year.

The Rule of Residential Treatment is simple: If you build it, they will come. If you leave it open, they will stay. If you leave it open long enough, it will become a hellhole. The only way to create a genuine continuum of care is to expel the tapeworm from the system.

We know exactly how the residential treatment industry will respond when asked about this. So we've provided as an appendix to this report the All-purpose Residential Treatment Industry excuse checklist.

BEWARE OF “WE ALREADY HAVE THAT”

Before getting to solutions a word of warning, particularly about solutions involving services: Family policing agencies love to respond to any call for an innovative service by saying “We already have that.” Sometimes it's true. But when they say that it's worth checking on a couple of things:

- Do they have enough of it to meet the need?
- Are they doing it right?

So, for example, I know Colorado's Department of Human Services has training videos about Wraparound. But clearly, there isn't enough of it, since Colorado institutionalizes children at such high rates. Recall how Timothy Montoya's mother could not get that kind of help, so her child was institutionalized. And you can call anything “Wraparound.” Is it really available 24/7? Is it really custom-tailored to each child, and not an off-the-shelf set of programs?

Similarly, Colorado has programs that have the word “intensive” in them. But if they don't have a program that rigorously follows the Homebuilders model (discussed below) then it is not, in fact, Intensive Family Preservation Services. And Colorado's high rate-of-removal makes clear whatever they have, they don't have enough of it.

As to why they may not have enough of a given better option – don't forget, there's a tapeworm in the system.

REAL SOLUTIONS – A BLUEPRINT FOR CHILD SAFETY

Real solutions come in two forms: Solutions oriented toward services and solutions oriented toward due process. Transformation requires both. NCCPR has publications explaining both on our website. Here we highlight some that are particularly relevant to Colorado:

Services

- *Go back to the future.* A quarter of a century ago, one Colorado county, El Paso, transformed itself into a national leader. Visionary leaders were among the first in America to understand that most of what we call child neglect is either poverty or caused by poverty.

So, by 2003, the [Center for Law and Social Policy reported](#) that

“the Temporary Assistance for Needy Families (TANF) program in El Paso County, considers itself a child abuse and neglect prevention program, while the child welfare program considers itself an anti-poverty program.”

Before the changes workers in the child welfare program said they could provide families with substance abuse treatment and mental health services – but not concrete help to deal with poverty such as job opportunities, transportation and childcare. The TANF workers said the opposite. A combination of visionary leadership and, probably, a willingness to bend some rules, led to a system that could “provide seamless family-centered services” regardless of how the families came to the attention of the Department.

That should be the norm in Colorado. “Child Protective Services” should become Child Poverty Services – with one change from the El Paso model. Well-founded suspicion of CPS is now so ingrained that the help offered to families should come from community-run community-based agencies unaffiliated with the family police.

The services generally don’t have to be elaborate. As we noted earlier, study after study has shown that even small amounts of cash assistance significantly reduce what family police agencies call “neglect.” And this kind of help more than pays for itself in reduced foster care costs.

- Where substance use really does impair parenting to the point of endangering children, drug treatment should be available on demand. And when inpatient treatment is necessary it should be in programs that allow parents and children to live together while the parent gets treatment.

- In the most complex cases, [Intensive Family Preservation Services \(IFPS\)](#)

[programs](#) have an outstanding track record of safely keeping families together when they rigorously follow the model of the first such program, Homebuilders in Washington State. IFPS is now reimbursable under the federal Family First Act.

- In cases that involve domestic violence, efforts should focus on removing the abuser from the home instead of blaming the survivor and tearing apart families because a child “witnessed domestic violence.”

- Phase out residential treatment. And immediately end per-diem reimbursement. Instead, pay RTCs a set amount per child. That reverses the current incentive and creates an incentive to get children out of an RTC and into a home or a foster home more quickly. And no, that doesn’t create a risk that children will be sent home “too soon” – because the RTC hasn’t been doing the child any good in the first place.

But none of this will happen without an enforcement mechanism. When the visionary leaders left El Paso County, for example, the reforms appear to have withered away. Today, even by Colorado standards, El Paso County trails. That means there’s a need for comprehensive due process reforms.

Due process reforms

Step one is ensuring that every family has high-quality interdisciplinary representation. That means a lawyer, a social worker who can propose alternatives to the meaningless – or sometimes worse – cookie cutter “service plans” agencies come up with, plans that often are just hoops for families to jump through. Sometimes these defense teams also have parent advocates who have been through the system themselves.

No, this is not to get “bad parents” off. It’s to come up with alternatives to the knee-jerk take-the-child-and-run approach that makes all children less safe.

And it works. In New York City almost all families get this model of representation. [A large-scale independent evaluation](#) found that it reduced foster care with no compromise of safety.

In Colorado, the Office of Respondent Parents’ Counsel has significantly improved family representation. After beginning as a pilot, their interdisciplinary model is now available statewide – and that is a key example of Colorado improving. But it still is only available to a minority of families.

In the pilot counties, ORPC reports, [an outside evaluation](#) finds it’s achieved impressive results:

According to a program evaluation conducted by professors at Metropolitan State University of Denver's Social Work Program, parents who are assigned a lawyer and a social worker have a 22 percent higher chance of family reunification when compared to similar high-risk cases in the same county. [Click here to read the program evaluation].

The families who received the interdisciplinary team approach saw their children spend fewer days in out-of-home care – a month shorter, on average.

In El Paso County ... children whose parents had interdisciplinary representation achieved reunification at over twice the rate of the state and county averages in 2017 and 2018.

Colorado should expand this program so every family in every corner of the state gets this kind of representation. And it should go New York City one better and follow the lead of jurisdictions like New Jersey, where families get this representation as soon as child protective services enters their lives, instead of only at the first court hearing.

As for cost, the program is likely to pay for itself. For starters, in many cases, the federal government [will pay half the cost](#). And the rest should be covered by the savings in reduced foster care. Indeed, the savings may be greater in Colorado than in most states – because of Colorado's penchant for overusing what is not only the worst but also the most expensive form of "care" – institutionalization.

In addition, as already noted:

- The legislature should narrow the definition of neglect, including repeal of the provision equating use of a huge number of substances by pregnant women with neglect.
- Mandatory reporting should be abolished, leaving professionals free to exercise their professional judgment.
- Anonymous reporting should be replaced with confidential reporting.
- The state should prohibit counties from using "predictive analytics" at any point in the family policing process.
- Children should have lawyers who provide expressed wishes representation.
- The role of CASAs should be limited to mentoring foster youth.
- Foster parents should not be allowed to be "intervenors" at any time.

A series of other essential reforms are in NCCPR's [Due Process Agenda](#). To its credit, Colorado has long had one of them: Court hearings in family policing cases are open to the media and the public. That at least increases the potential for justice to be done, because it allows for a crack in the wall of secrecy agencies use to cover their mistakes. But there is far more to be done.

Other reforms highlighted in NCCPR's Due Process Agenda include:

- Require the equivalent of a “Miranda warning” when caseworkers knock on the door. Families have few rights when facing family police. But they should be informed of the rights they do have – because if you don't know your rights, you don't have your rights. [Texas passed such a law this year](#). Montana passed a weaker version of a Miranda rights law, but it's a start.

- Raise the standard of proof at all stages of the process from the initial decision to label a case “founded” onwards from the current “preponderance of the evidence,” the lowest standard in American jurisprudence, to “clear and convincing” – still a lower standard than that needed to convict a child murderer. That standard now is required only at the point where the court is deciding to terminate children's rights to their parents, and that took a United States Supreme Court ruling.

- Require an impartial hearing, with free legal counsel for indigent families, *before* anyone is entered in Colorado's statewide central registry of alleged child abusers. Wrongly entering a parent in the registry hurts their children, by barring the parent from many jobs. That risks driving families who usually are already poor deeper into poverty.

- All interviews conducted by “child welfare” agency personnel in the course of child maltreatment investigations – not just interviews with children – should be videotaped. Interviewees must be informed that their statements are being recorded. Information from any interview that is not recorded should be inadmissible in all court proceedings. Families should have the right to make their own recordings and be informed of that right immediately upon a caseworker's arrival, along with their other “Miranda” rights. As you consider this recommendation, please ask yourselves: If Vanessa Peoples had told you her story, but there was no bodycam footage, would you have believed it?

CONCLUSION

As we noted at the beginning, nobody goes into the field of “child welfare” because they want to hurt kids. And on the frontlines, they certainly don't go into it for the money. But good intentions aren't good enough when you keep getting bad results.

America's family policing systems almost universally fail. Some fail more than others. There are worse systems than Colorado's out there – and Colorado has done some things right. But compared even to a dismal average, Colorado trails.

This Blueprint for Child Safety can help the good people in these systems and in the public at large turn that around.

We look forward to the day when we can release a report called “Colorado Leads.”

**SEE FOLLOWING PAGE FOR THE ALL-PURPOSE RESIDENTIAL
TREATMENT INDUSTRY EXCUSE CHECKLIST**

APPENDIX:

All-Purpose Residential Treatment Industry Excuse Checklist

While we can't reproduce the unctuous tone, we can guarantee the content of the excuses that residential treatment centers and other institutions will offer to justify their existence – because we've heard them all so many times before. So we've supplied a handy checklist of excuses you will hear from the foster care-industrial complex – and why they don't wash.

____ **Excuse #1:** We have no choice. There's a shortage of foster homes, children are sleeping in hotels, on office floors and other terrible makeshift placements. We have to institutionalize more children.

RESPONSE: Children are sleeping in makeshift placements because family policing agencies are taking away so many children needlessly – in the case of Colorado, a rate 30% above the national average when rates of child poverty are factored in. Colorado doesn't have too few foster parents, Colorado has too many foster children. Get the children who don't need to be in foster care back home and there will be plenty of room in good, safe foster homes for the children who really need them – and no child will need to be institutionalized in a “residential treatment center.”

____ **Excuse #2:** We've already tried foster homes with these children. They blow out of foster homes.

RESPONSE: Aside from how revealing the offensive language is in terms of how the residential treatment industry really views children, the reason children sometimes don't stay in family homes is that the homes themselves don't get the support they need. When children are served by Wraparound and similar programs they don't “blow out” of foster homes, or their own homes. But Wraparound programs rarely are available because the institutions are scarfing up all the money. And in Colorado, the RTCs themselves apparently won't take youth they deem too difficult unless they get special “incentive payments.”

____ **Excuse #3:** Of course we believe in prevention, and we'd much rather children stay in their own homes. But there always will be some children who need to be institutionalized. We just want to make sure there is a full continuum of care. The people who disagree with us believe in “one size fits all.”

RESPONSE: Whatever number of foster children might need to be institutionalized, if any, we know that the number is so tiny that the overwhelming majority of institutional beds can be closed. [There are examples from across the country.](#) It is, in fact, the residential treatment industry that believes in one size fits all – substitute care, instead of a variety of safe, proven alternatives. And the reason there is no “continuum of care”

is that, again, the institutions are using up all the money. Residential treatment is the tapeworm in the “child welfare” system. It consumes all the nutrients – in this case money – leaving the body to starve. The body cannot be healthy until the tapeworm is expelled.

___ **Excuse #4:** But what about this case in which [insert claims about a child’s horrible behavior here]? How would you keep him in his own home or a foster home?

RESPONSE: This kind of fearmongering perfectly illustrates who really believes in one-size-fits-all. There is no off-the-rack five-point plan for every child who displays certain behavior. The whole point of Wraparound is that it is custom-tailored based on why a particular child is behaving as he is. That kind of custom-tailoring is illustrated [in this video](#) about how Wraparound worked in just the kind of case the industry will claim requires institutionalization. But the next child who shows exactly the same behavior may need a totally different set of interventions. Wraparound can do that. Residential treatment centers cannot.

___ **Excuse #5:** We’re not an institution. We’ve got “house parents” and “cottages” – or at least really pretty grounds. We’re *home-like*.

RESPONSE: You know that stuff people sometimes put on bread to lose weight? Stuff called “buttery spread” or “buttery light” but it always tastes like liquid plastic? People know the difference between “buttery spread” and butter. And children know the difference between “home-like” and home. It’s not the buildings in a child’s life that bring stability, it’s the people. House parents typically quit every year or so, making institutions just as “unstable” as a succession of foster homes. And many institutions still rely on shift staff, which is, of course, even worse. Children don’t need Potemkin Village families, they need real families.

___ **Excuse #6:** When a state uses alternatives to institutions it’s because they don’t care about the kids. When they use alternatives, they’re just trying to save money.

RESPONSE: This may be the most offensive claim of all. The tapeworm is now criticizing the host for not feeding it enough! People who say others care only about money stay alive by charging states and localities huge amounts, on a *per diem* basis. So the longer they hold a child in their institutions the more money they make. Talk about glass houses ...

At NCCPR, we tend to be tax-and-spend liberals and proud of it. But it is obscene to criticize a program just because, in addition to helping children, it also happens to save money. In fact, when it comes to child welfare, in general, the better the option, the less it costs.