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Presented before

**The New York City Council
Committee on Women and Gender Equity**

Oversight Hearing on Free Child Care

September 21, 2023

My name is Laura Gomez, and I am the Associate Director of Social Work in the Family Defense Practice at Brooklyn Defender Services (BDS). BDS is a public defense office whose mission is to provide outstanding representation and advocacy free of cost to people facing loss of freedom, family separation and other serious legal harms by the government. For over 25 years, BDS has worked in and out of court, to protect and uphold the rights of individuals and to change laws and systems that perpetuate injustice and inequality. We thank the Committee on Women and Gender Equity and Chair Caban for the opportunity to address the Council about access to affordable childcare and its impact on the families we serve.

We represent approximately 22,000 people each year who are accused of a crime, facing loss of liberty, their home, their children, or deportation. Our staff consists of specialized attorneys, social workers, investigators, paralegals, and administrative staff who are experts in their individual fields. BDS also provides a wide range of additional services for our clients, including civil legal advocacy, assistance with educational needs of our clients or their children, housing, and benefits advocacy, as well as immigration advice and representation.

BDS' Family Defense Practice is the primary provider of representation to parents charged with abuse or neglect in Brooklyn's family court. We use a multidisciplinary approach that offers our clients access to social workers, advocates and civil and immigration attorneys who work to

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minimize any collateral impact of our clients' court cases. Our Family Defense Practice represents about 2,300 parents and caretakers each year. We have represented over 14,000 parents and caretakers in Brooklyn's family court and have helped more than 30,000 children remain safely at home or leave foster care and reunite with their families.

A lack of affordable, accessible, and flexible childcare for low-income parents in New York is a prominent driver of families into the family policing system¹. In 2019, nine percent of reports made against New York City families involved allegations of "lack of supervision."² When parents and caretakers do not have the resources to pay for needed childcare, are not able to access available childcare, or cannot find childcare for night and weekend times, they face the possibility not only of losing employment and the ability to provide for their children, but also face the very real possibility of experiencing a traumatic investigations by the Administration for Children's Services (ACS), prosecution in family court, and even the removal of their children into the foster system.

These investigations subject families to invasive, stressful, and traumatic treatment. Similar to the ways in which the criminal legal system was exposed for using pretext to "stop-and-frisk" a person based on their race or the neighborhood they live in, an initial investigation can leave to further invasive involvement by the family policing system, including surveillance of a family, and even the removal of children from their home.³ This type of pretextual surveillance and punishment within the family policing system may apply to a range of behaviors or indicators of poverty that are stigmatized and "othered."⁴ Families living in homeless shelters, under incredible economic stress, are living under the fear that one argument between parents or one moment of impatience with a child may lead to a knock on their door from an ACS worker. School attendance interrupted by homelessness, or an angry landlord seeking to evict a family illegally can result in a call to the family policing authorities and begin an investigation into a family.

Given the persistence and trauma of the family policing system, it is vital that any provision of childcare be made easily accessible to families who may be struggling and juggling many other bureaucratic systems to access housing, schooling, insurance, and other benefits. Currently, poor and marginalized families are often forced to access childcare through ACS. Families should be able to access this vital resource without fear or interacting with a system that may cause them

¹ Many, including scholar Professor Dorothy Roberts, refer to the so-called "child welfare" system as the family regulation system, given the harms historically and currently perpetuated by the system. *See, e.g.*, Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation*, The Imprint (June 16, 2020), available at <https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480>

² Data retrieved from the NYC Family Policy Project, Data Brief on Hotline Calls (2019), provided by the NYC Administration for Children's Services (ACS).

³ Burrell, Michelle. "Child Welfare Needs to Have It's 'Stop-And-Frisk Moment.'" *The New School Center for New York City Affairs*. <http://www.centernyc.org/child-welfare-needs-to-have-its>. June 27, 2018.

⁴<https://imprintnews.org/child-welfare-2/time-for-child-welfare-system-to-stop-confusing-poverty-with-neglect/40222>



harm. As such, any expansion of free and affordable childcare should be made available in a safe and accessible manner.

Impact on Families

Based on our experience working with thousands of parents and families facing investigation and prosecution by ACS, we share the below experiences to highlight the need for affordable, accessible, and meaningful childcare.

When BDS first began to work with Ms. C, she was facing the removal of her son to the foster system. In spite of ACS' efforts to remove her son from her custody, Ms. C persisted and fought to keep her son in her care. After many months of complying with ACS supervision and engaging in court ordered classes, Ms. C was able to secure a conditional dismissal of the family court case. Despite ACS's involvement with Ms. C's family for months, Ms. C struggled to secure the affordable and flexible childcare she needed for her family. As a single working mother with a limited support network, ACS sought to remove her son a second time based on concerns that she was leaving her son with allegedly inappropriate or "unapproved" caregivers. While Ms. C and her legal team were again able to keep her son in her care, ACS continued to delay providing her with a childcare voucher. After advocacy by Ms. C and her legal team, she finally received a childcare voucher but has struggled to find an eligible provider.

Ms. C's case illustrates that even with ACS and family court involvement, families struggle to access the childcare they need, which might have prevented their ACS case in the first place. Low-income families should not have to be under ACS supervision and surveillance to access necessary childcare. Currently, low-income, and marginalized families are often forced to access childcare through the Administration for Children's Services (ACS).

Conclusion

BDS supports efforts to make childcare free for low-income New Yorkers, regardless of immigration status. Any program to expand childcare access must include outreach strategies to under-resourced communities to ensure they can access high-quality free childcare. It is critical that provision of childcare be available in the neighborhoods where low-income people live and work and be accessible to families who may be juggling many other bureaucratic systems to access housing, schooling, insurance, and other benefits.

We are grateful to the City Council for highlighting concerns about access to childcare for all New Yorkers. We see every day how families struggle to find adequate care for their children. We welcome the opportunity to work with the Council to find ways to invest in strengthening access to childcare and keeping families together. If you have any questions, please contact Nila Natarajan, Associate Director of Policy and Family Defense, at nnatarajan@bds.org.