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**Center for Family Representation (CFR)  
Submitted Testimony for  
The New York City Council General Welfare Committee**

**Hearing Date: June 15, 2022**

Center for Family Representation (CFR) is grateful for the opportunity to submit testimony to the City Council Committee on General Welfare. We thank Chair Ayala and the Committee for holding this hearing, and Council Member Ung for introducing Int. 294-2022, a crucial step in ensuring that parents are informed of their rights at the commencement of an investigation by the Administration for Children's Services (ACS).

**Overview of CFR**

CFR is the county-wide assigned indigent defense provider for parents who are facing ACS prosecutions in Family Court Act (FCA) Article 10 proceedings in Queens and New York counties. We intake new cases every day, and since our founding in 2002, we have represented about 12,000 parents with more than 23,000 children. We represent parents on their original ACS case and on any related cases like custody, guardianship, visitation and termination of parental rights proceedings. Our goals are always to prevent a foster placement, or when one is unavoidable, to shorten the time children spend away from their family and to prevent re-entry into placement after reunification.

CFR employs an interdisciplinary model of representation, marrying in court litigation to out of court advocacy: every parent is assigned an attorney and a social work staff member beginning at intake, which is generally the first day a parent is summoned to court. These teams are supported by paralegals, supervisors, and parent advocates, who are parents who have direct experience being investigated and prosecuted by the family regulation system.<sup>1</sup> We estimate that we have saved

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<sup>1</sup> Throughout this testimony, CFR will refer to the "child welfare" system as the "family regulation" system to recognize that the system "is designed to regulate and punish Black and other marginalized people." Dorothy Roberts, *Abolishing Policing also Means Abolishing Family Regulation*, IMPRINT (June 16, 2020, 5:26 AM) [hereinafter Roberts, *Abolishing*], <https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480> [<https://perma.cc/3VAJ-H8WP>].

taxpayers \$50 million in reduced foster care costs since our founding. In 2015, the New York State Bar Association gave CFR its Award for Promoting Standards of Excellence in Mandated Representation, noting that CFR “exemplifies and defines the highest professional practice standards, is a recognized innovator in parent representation and is a tireless advocate for legislative and policy reform.” The federal Administration for Children, Youth and Families specifically cited CFR in the addendum to its January 2017 Memorandum on High Quality Legal Representation, issued to all fifty states.

To address collateral issues that often undermine family stability, CFR launched its Home for Good Initiative in 2015 to expand its work to provide families with additional holistic assistance in immigration, housing and public benefits, as well as criminal matters. In 2019, CFR created its Community Advocacy Project, thanks to City Council funding for the Right to Family Advocacy Project, to prevent family separation and court prosecutions by representing parents during an ACS investigation and to increase employment opportunities by representing parents in hearings to amend their records in the State Central Register of Child Abuse and Maltreatment (SCR). In 2019, CFR also expanded the scope of its work by launching its Youth Defense Practice, representing young people in Manhattan and Queens criminal and family courts, with the goal of avoiding youth incarceration.

### **Parents are Unaware of the Rights that Protect Them during Harmful ACS Investigations**

For twenty years, CFR’s family defense teams have been meeting parents and caretakers on the first day a neglect or abuse petition is filed in family court, usually after an extensive and invasive investigation by ACS investigators. Our clients describe the initial knock at the door - the confusion, fear, anxiety, and panic that struck them. Parents are not aware that they do not need to let the investigator into their home, often in the middle of the night, without a court order. Caregivers repeatedly say that the investigator told them they would return with police, go to court, and/or remove their children if they did not allow them into the home, to interview the children and to observe their naked bodies. Parents are typically unaware of their right to speak to an attorney. Under threat and often to the detriment of the family, parents and caregivers, particularly poor parents without the means to access an attorney, comply with all of the requests of the ACS investigator, professionals trained to interrogate parents.

An ACS investigation is a confusing, terrifying, and destabilizing process for families, even when it does not result in long-term intervention or court involvement. Families first become involved with ACS when a child maltreatment report is made to the SCR. ACS is required to investigate all credible

reports of child maltreatment and those investigations typically remain open for a minimum of 60 days even when there is no evidence of child maltreatment at the initial visit. During an investigation, a family regulation worker will visit the home, usually unannounced, a minimum of two times per month, but often more frequently. In addition to interviewing the parents and each child, the family regulation worker may request that the child undress so the worker can observe his/her body, inspect the home, open cabinets and the refrigerator, speak to extended family, neighbors and employers, call medical providers and the children's school, and request that a parent submit to a drug and alcohol screen. These investigations place significant stress on families, with the threat of family separation looming.

The role of the family regulation worker is primarily to find evidence of neglect or abuse, not to identify needs and provide support and resources to parents. Even in cases where there is no evidence of neglect, many children express being traumatized by the investigation and continue to be fearful of being taken away from their parents after the conclusion of the investigation. Families subject to investigation often lose their housing, livelihood, and any sense of stability they built for themselves, because of the surveillance and overreaching of the family regulation system. An "indicated" case of abuse or neglect can lead to extended surveillance of the family, court intervention, and in the worst-case scenario, the removal of a child.

Parents who do not speak English, or for whom English is not their primary language, are even more disadvantaged when the investigator knocks on their door. Investigators often rely on language line services, but will sometimes request that other family members, even the children, translate for the parent or caregiver. For parents who speak some English, investigators often forego interpretation services, believing that the parent is fluent enough to understand. Many parents are too scared or confused to let the investigator know they do not understand or need an interpreter. The added confusion that stems from failing to provide proper interpretation services severely harms families and places them at greater risk of prolonged surveillance, involvement in the family regulation system, family court, and family separation.

When our family defense attorneys first meet the parents and caregivers we represent in court, they often express confusion about the family regulation investigation and court process. They tell us they were never informed why the initial report was made against them, or explain that the initial report was false, called in by an angry ex-partner, neighbor or landlord. Many times, the allegations alleged in the ACS petition have nothing to do with the initial report to the SCR, but are based on information the parent provided in the hope the investigator was actually there to help their family. ACS regularly weaponizes requests for assistance against parents, using these requests as grounds for a court

filing. A request for a mental health referral, assistance with obtaining food, or support for a troubled teen, often land parents in family court facing allegations of neglect.

Over 90% of CFR clients are People of Color. 27% are immigrants and 13% are non-English speaking. 100% are poor. While Black and Latine children make up only 60% of the total population of children living in New York City,<sup>2</sup> they account for 90% of children named in investigations, placed in foster care, and engaged in preventive services.<sup>3</sup> The system was designed to “save children from harm,” but in reality, the vast majority of indicated cases of maltreatment are for poverty related neglect and the system itself delivers more trauma and harm to children than their parents ever could.

CFR’s CAP practice, funded by the City Council’s Right to Family Advocacy Speaker’s Initiative, allows CFR legal and social work teams to represent parents and caregivers during an ACS investigation and experience firsthand the treatment of parents by ACS and the tactics used to gain full access to every detail of our clients’ lives. CFR’s teams are able to advise parents of their rights and help them navigate the family regulation investigation in a way that is least harmful to their families. CFR was able to divert a court filing in 80% of our cases. When an investigation did result in a family court filing, CFR’s early advocacy allowed families to remain together, and avoid the foster system, in 76% of cases. Every parent deserves to know their rights and that they have the right to speak to an attorney. City Council funds CFR, Bronx Defenders, Brooklyn Defender Services, and Neighborhood Defender Services to provide early representation to parents and caregivers during an ACS investigation. Parents deserve to know.

### **City Council must ensure that all Families Know Their Rights**

CFR calls upon the City Council to pass Int. 294, what advocates refer to as the Family Miranda Bill, with amendments to enumerate the existing rights of families. This bill, with the proposed amendments, does not create any new rights for families; it simply advises families of rights that already exist under current laws. It is crucial for families to have knowledge of their rights during an ACS investigation so they are able to make informed decisions about what is best for their families, or contact an attorney for support. Rights are meaningless if families are unaware of them and unable to invoke them. Int. 294 must be clear that:

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<sup>2</sup> *Keeping Track Online: The Status of New York City Children*, Citizen’s Committee for Children of New York (viewed June 18, 2022), available at <https://data.ccnewyork.org/data/map/98/child-population#11/17/3/18/62/a/a>.

<sup>3</sup> *Hearing Before the Comm. on the General Welfare*, N.Y. CITY COUNCIL (Oct. 31, 2019) (written testimony of David Hansell, Commissioner of the Administration for Children’s Services, at 9), available at <https://perma.cc/ZAY5-YS86>.

1. Parents have the right to know the allegations being investigated.
2. Parents are not required to release confidential health information or submit to a toxicology screening absent a court order.
3. Parents have the right to know that any statement they make can and will be used against them.
4. Parents have the right to speak to an attorney and have an attorney present during the investigation.
5. Parents have the right to refuse entry to their homes absent a court order.
6. Parents have the right not to speak to the family regulation worker.
7. Parents have the right to deny the family regulation worker permission to interview or examine a child absent a court order.
8. Parents have a right to know what resources, including legal services providers, are available to assist during the investigation.

Information is power. The family regulation system currently takes advantage of parents who do not have the necessary information and knowledge to protect their families. All parents, and particularly the Black and Latine families most directly impacted by the family regulation system, deserve to know their rights during an investigation that could lead to the separation of their families. Parents and caregivers who do not speak English as a first language, who are even more vulnerable to misunderstanding the purpose and scope of an ACS investigation, must be provided information about their rights in their preferred language.

City Council must take action to combat the structural racism of the family regulation system and ensure that families know their rights and are able to exercise them. Parents should be able to make important decisions for their families from a place of knowledge and empowerment, not a place of confusion and fear. CFR urges the General Welfare Committee and City Council to pass Int. 294, with the rights of parents clearly enumerated.

We are grateful for the invaluable opportunity to share our thoughts about these important issues and look forward to being a part of this ongoing conversation. If you have any questions, please do not hesitate to reach out to CFR's Litigation Supervisor for Policy and Government Affairs, Jennifer Feinberg, at [jfeinberg@cfrny.org](mailto:jfeinberg@cfrny.org).