

**Center for Family Representation (CFR)  
Oral Testimony of Jennifer Feinberg**

**Presented Before**

**The New York State Senate Judiciary Committee Jointly with the Committee on Children  
& Families**

**Hearing Date: November 1, 2023**

**Subject: Oversight of the Family Court throughout the State, including its resources,  
operations, and outcomes**

My name is Jennifer Feinberg and I'm the Litigation Supervisor for Policy & Government Affairs at the Center for Family Representation. Thank you Chair Hoylman-Sigal and Chair Brisport for holding this hearing today and for allowing us to testify about our experiences practicing in New York City family courts. On a daily basis, we see the family courts fail to deliver the justice, fairness, respect, and support that NY families deserve. Instead, the courts function as an essential arm of the family policing system, bringing family separation and destruction to low-income, Black and Latine communities.

CFR is the county-wide indigent defense provider for parents prosecuted for neglect and abuse by the Administration of Children's Services (ACS) in Queens and Manhattan family courts, and as of last year, a conflict provider in the Bronx. Each client is represented by an interdisciplinary team, including an attorney and social work staff member. Those teams are supported by Parent Advocates, parents who have been investigated and prosecuted by the family policing system and who are able to offer support to our clients based on their own experiences. Since our founding, we've represented over 12,000 parents in family court. 90% of our clients are Black, brown, and people of global majority, and all of them are poor.

As it operates today, the family court does not function as a check on the harms of the family policing system. Despite the right to familial integrity being at stake—a fundamental constitutional right—the family court fails to ensure that the parents before it receive even the most basic protections and due process that the law requires. Three years ago, the Special Adviser of Equal Justice found that New York's family courts provide “a second-class system of justice for people of color in New York State.” Following a pandemic that disproportionately impacted these same communities, this has not changed. Black and Latine families continue to be separated for too long, or even sometimes permanently, as the family courts fail to administer justice. This is by design. From its failure to follow governing laws and ensure due process, to its

prioritization of expediency over fairness, humanity, and just outcomes, the family court functions as a continuum of state power, rather than as a neutral arbiter of fairness and justice.

Too often, family court judges rubber stamp decisions made by family policing agents and fail to hold attorneys representing the family policing system accountable when their actions directly undermine due process and family reunification. Adjournments are regularly granted to family policing attorneys who have failed to obtain discovery, discuss settlement, or subpoena a witness for trial, or when their caseworker simply does not appear, causing unnecessary delays and preventing family reunification for parents who may have had to take off work and lose wages to appear in court. At the same time, there is little tolerance or allowance for parents when they have a last minute emergency or ask for an adjournment based on work or another commitment. Double standards like these are pervasive and an example of the racism experienced by families who must appear in New York's family courts.

The family court system was not built to support struggling families. The solution cannot be to grow it, but rather it must be to invest in solutions that narrow the pathways to the family policing system. In an adversarial legal process, which requires families to affirmatively assert due process rights in order to be heard, an important way to meaningfully address the concerns is to ensure that parents have access to quality legal and social work advocacy from the moment that a family policing investigation begins through the reunification of their families. The State should fully fund interdisciplinary parent defender offices throughout the state to provide early defense and so that they can meet the caseload standards<sup>1</sup> promulgated by the State Office of Indigent Legal Services (ILS) as a way to reduce the pending family court caseloads.

Since our offices began representing parents during family policing investigations in 2020, providing legal and social work advocacy to parents, we have prevented family court filings in 80%, or more, of the investigations. And in all of the cases handled by CFR in FY22, staff avoided placement in the foster system for 92% of children. The success of timely representation is based on our ability to partner with parents as trusted advocates and identify and address each families' particular needs. Timely defense teams can truly partner with parents to identify the specific concerns the parent has and refer the family to resources and services that would most assist the family and avoid the need for further family policing involvement.

Additionally, attorneys representing parents need significantly more funding to provide adequate legal representation once cases reach court. At each of our organizations, experienced attorneys carry caseloads far above the maximum caseload standards issued by ILS, and it is even worse outside of New York City. In addition to safeguarding the due process rights of parents by

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<sup>1</sup> Office of Indigent Legal Services, *Caseload Standards for Parents' Attorneys in New York State Family Court Mandated Representation Cases* (June 4, 2021), <https://www.ils.ny.gov/files/Caseload%20Standards%20Parents%20Attorneys%20NYS%20Family%20Court.pdf>.

providing them with counsel who are not overtaxed with excessive caseloads, providing interdisciplinary defense reduces the amount of time children are separated from their parents, which also cuts down on the pending court caseload and reduces court delays, saving the State money.

For questions, please contact Jennifer Feinberg at [jfeinberg@cfny.org](mailto:jfeinberg@cfny.org).