

The Far-Reaching Impact of ACS's Discriminatory Investigations on Women of Color and Survivors of Gender-Based Violence

An Advocacy Report

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About Manhattan Legal Services' Economic Justice Work

Manhattan Legal Services, a program of Legal Services NYC, is committed to the pursuit of economic justice for our clients and the communities that we serve. Our Economic Justice Unit works to remove barriers to equal economic opportunity and increase access to income for our clients, while also challenging the systems and structures that are designed to oppress our clients and keep people in poverty. To this end, the Economic Justice Unit has projects dedicated to worker's rights, barriers to employment, unemployment insurance advocacy, consumer rights, and small businesses and community economic development.

Our Workers' Rights Project enforces the rights of low-wage workers, helps low-income workers earn a living wage, and prevents employers from discriminating against and taking advantage of vulnerable workers. We represent clients with issues related to wage theft, employment discrimination, medical and family leave, and workplace retaliation. We also have a project dedicated to providing legal assistance to domestic workers in New York City.

Our Barriers to Employment Project aims to address discrimination and resulting unemployment that disproportionately impacts low-income communities by helping to remove barriers to employment for low-income New Yorkers. We represent clients who are having trouble getting or keeping jobs because of a criminal/arrest history or an indicated report on the New York State Central Register (SCR).

EXECUTIVE SUMMARY

The family regulation system harms low-income communities, especially Black and Brown families. One of these harms is that family regulation creates barriers to employment which exacerbate disparities that keep low-income care workers trapped in a cycle of poverty. In New York State, the State's Central Register serves as a database which holds the names of people who have been found "indicated" of having committed child abuse or maltreatment (neglect). Employers, predominantly those of care workers, then use this database as a means to deny employment.

Given the detrimental consequences of these indicated reports on people's civil liberties and economic access, the Economic Justice Unit at Manhattan Legal Services made a Freedom of Information Request (FOIL) to New York City's Administration for Children's Services (ACS) to determine the extent and impact that its reporting and investigations are having on low-income communities of color.

The FOIL data revealed a disturbing image of ACS's discriminatory targeting of low-income people of color and survivors of gender-based violence.

Some of the key findings in this report show that:

- ACS disproportionately targets low-income communities of color. While only 48% of NYC's population identifies as Black or Hispanic¹, they comprise 81% of ACS investigations and 83% of indicated reports in NYC.
- Community districts with high poverty rates have experienced substantially higher levels of family policing.
- Survivors of domestic violence are over represented in ACS investigations, with 28% of all ACS investigations in the months between January 1, 2020 and July 31, 2022 flagged for domestic violence.

While being overrepresented in the State Central Register, Black and Hispanic women are also the primary demographic who help care for the most vulnerable New Yorkers, comprising more than 50% of all of the City's careworkers. As a result, not only are Black and Hispanic women more likely to be investigated by ACS and thus "indicated" (meaning ACS believes it has found a preponderance of evidence to support the claim that a child has been abused or maltreated), they are more likely to experience barriers to employment as a result. Indicated reports are disproportionately keeping New Yorkers from the very carework positions that help keeps families economically afloat and off the State Central Register.

To address some of the harms caused by ACS's discriminatory investigations, advocates support greater transparency in both reporting and investigations. Currently, there is proposed legislation in New York to end the anonymous reporting of alleged child maltreatment and to require child protective services' workers to advise parents of their rights at the start of a child welfare investigation.

INTRODUCTION

In New York, the State Central Register (SCR) operates a hotline through which anyone can report alleged child abuse or neglect. From there, any report that the hotline operator believes “could reasonably constitute” actual child abuse or neglect if true, is referred to the Administration for Children’s Services (ACS) for investigation.² Despite the very low burden of proof required to initiate an investigation, the process has severe consequences on the civil liberties and economic well-being of the families that are investigated. ACS investigators will frequently visit a family’s home unannounced, show up to children’s schools and interview the children and their teachers, and/or dig up medical and mental health records.³

Once ACS completes their investigation, the report is either “indicated” or “unfounded.” When ACS indicates report, it means that ACS believes there is a preponderance of evidence to support an abuse or neglect claim. According to data uncovered by Manhattan Legal Services in FOIL request, ACS indicated one-third of all investigations between January 1, 2020 and July 31, 2022.⁴ However, of all children in investigations between January 1, 2020 and July 31, 2022, ACS only sought judicial intervention through filing an abuse or neglect petition (Article 10) for approximately 8%.⁵ In fact, the overwhelming majority of indicated reports involve allegations that stem from poverty. In 2022, for example, more than 70% of indicated reports were categorized as neglect.⁶ Neglect,

as defined by ACS, includes lack of medical care, inadequate food/clothing/shelter, inadequate guardianship, lack of supervision, malnutrition, and failure to thrive.⁷ In other words, much of what ACS categorizes as neglect, involves a parent’s capacity to provide for their child.

Indicated reports for neglect remain on the SCR for eight years, while indicated reports for abuse remain on the SCR for up to twenty-eight years.⁸ Individuals with indicated reports are often barred from jobs such as care work, teaching positions, and social service jobs.⁹ Even when indicated reports are not a bar to employment, many employers will use indicated reports as a reason to deny employment. Indicated reports can severely limit a parent’s access to income for a minimum of eight years, perpetuating the cycle of poverty. This barrier to employment predominantly impacts care workers who are mostly women and who, “relative to non-care workers, New York City’s care workers are less likely to be white, to have attended college, or to have been born in the United States.”¹⁰ In 2021, for instance, 89% of NYC care workers were women; only 13% were White, while 26% were Hispanic and 27% were Black.¹¹ Together, this shows that the women who are more likely to be targeted by ACS for investigation are also more likely to face harsh economic consequences of those investigations and any resulting indicated reports.

Women of color, who are more likely to be targeted by ACS for investigation, are also more likely to face harsh economic consequences of those investigations and any resulting indicated reports.

This report offers research on ACS’s practices through statistical analyses and mapping which paint a disturbing image of ACS’ discriminatory targeting of low-income communities of color and survivors of gender-based violence. We did so by analyzing ACS produced data related to investigations closed between January 1, 2020

and July 31, 2022, during when ACS conducted 114,602 investigations, of which 38,182 (or 33%) were indicated. We sought to understand who comprised the 114,602 investigations, who initiated the investigations, and reasons reports were indicated.



TARGETS OF ACS INVESTIGATIONS

Low-Income Communities of Color

ACS disproportionately investigates low-income communities of color. As shown in Figure 1,¹² while 31% of the NYC population identifies as White, they comprise only 9% of subjects investigated by ACS. On the other hand, while 48% of NYC's population identifies as African American or Hispanic, they comprise 81% of ACS investigation subjects in NYC.

A similar discrepancy can be seen in the data on indicated reports. As seen in Figure 2,¹³ of all indicated reports in NYC, 83% are for African American and Hispanic individuals, while only 9% are for White individuals.

Figure 1
Racial Composition in NYC and among Investigations
■ % of Investigations ■ % of NYC population

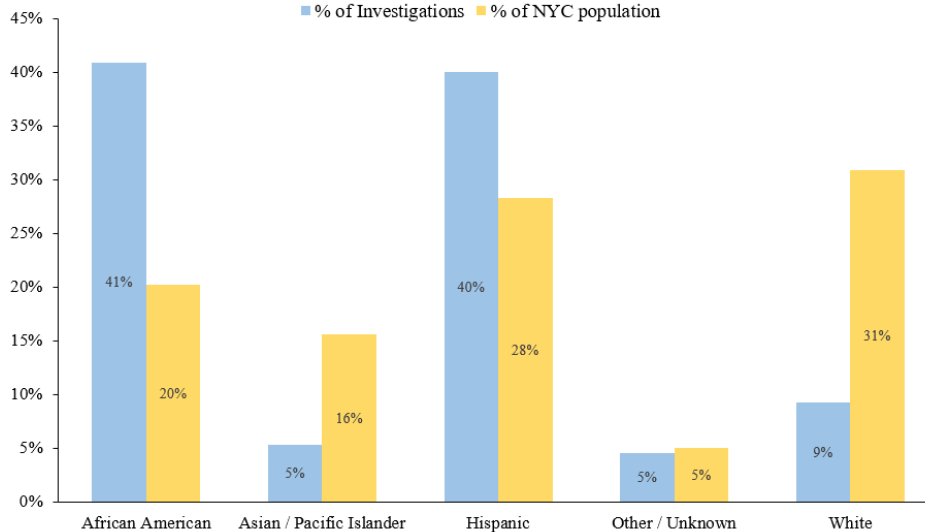
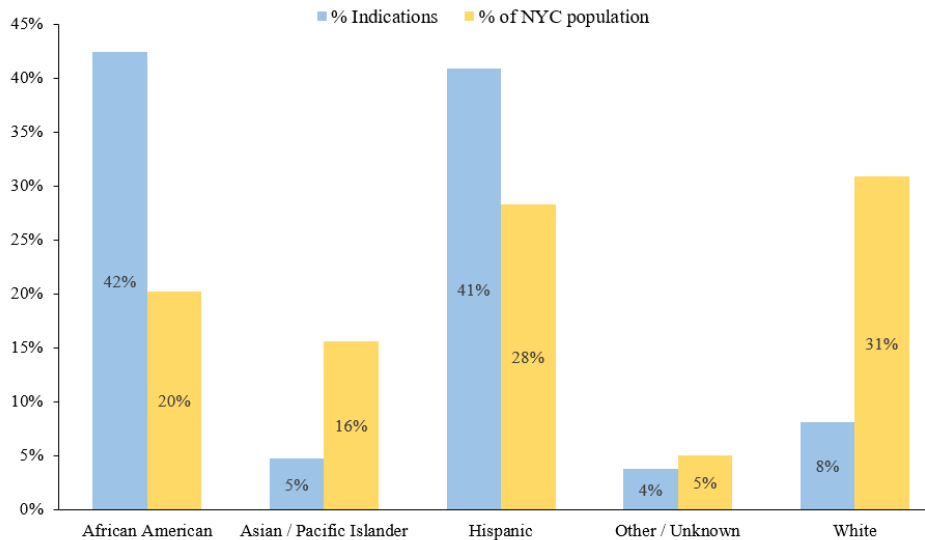


Figure 2
Racial Composition in NYC and among Indications
■ % Indications ■ % of NYC population



Not only does the data show that ACS investigations target predominantly Black and Hispanic families, the data also shows these same investigations occur most among areas with the highest poverty rates. To this end, the data in Figure 3 reveals a strong correlation between a community's poverty rate and the number of investigations that ACS conducts in that community.¹⁴ ACS has conducted an average of 13 investigations per 1,000 people in NYC.¹⁵ Community districts with high poverty rates have experienced substantially more investigations. For example, the district of Brownsville has a 39% poverty rate and has been subjected to over 31 investigations per

1,000 people. **That is more than 2.5 times the city average.** Similarly, East Harlem has a 38% poverty rate and has been subjected to over 24 investigations per 1,000 people, twice the city average.

Inversely, community districts with the lowest poverty rates have experienced substantially fewer investigations. For example, the district of Greenwich Village has a poverty rate of 7.1% and was subjected to only 3 investigations per 1,000 people. **That is one quarter of the city's average, and less than 10 percent of the investigations per person in Brownsville.**

Figure 3
Investigations and Poverty Rate in the Districts with the Lowest and Highest Poverty Rates in NYC

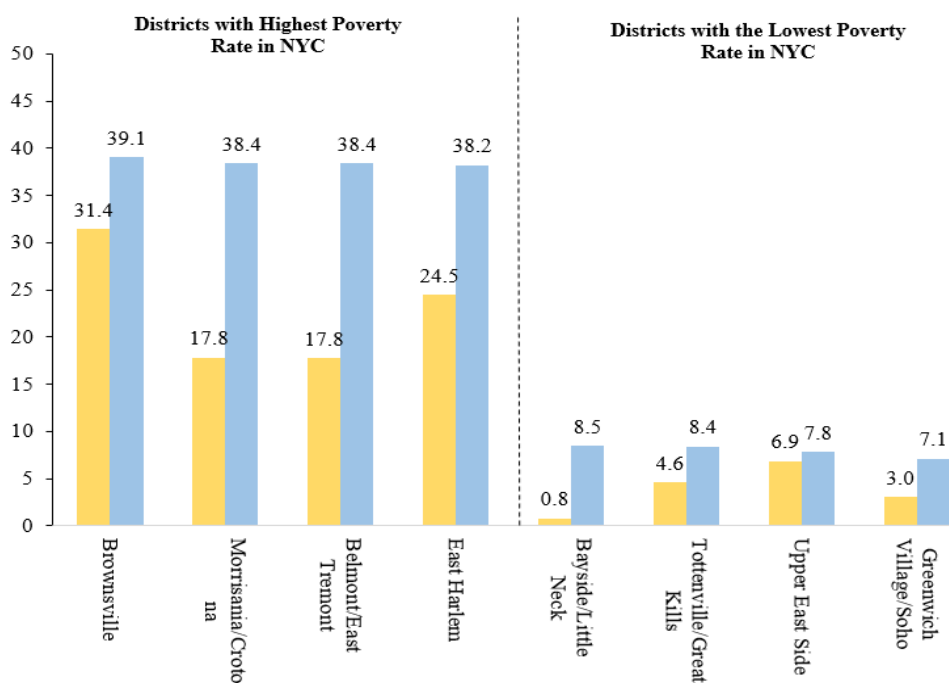
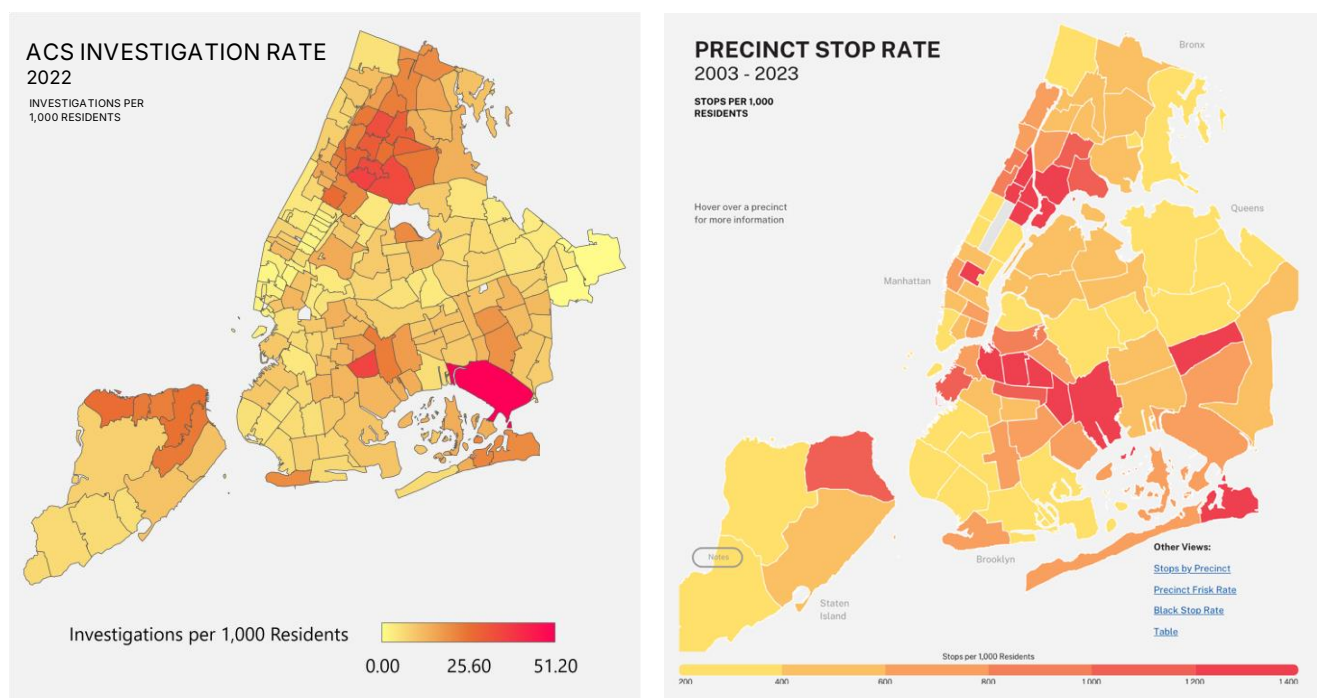


Figure 4: Mapping of Rate of ACS Investigations in Contrast to Rate of Stops



While public discourse has recognized that stop and frisk discriminatorily targets Black and Hispanic communities, those same communities are still being targeted by ACS. As the maps above highlight,¹⁶ the communities that ACS targets are the same communities that have been historically over-policed through stop and frisk. We see similar over-policing in areas such as Harlem, the Bronx, North Staten Island, East Brooklyn, and South Queens.¹⁷ Understanding

that many ACS investigations involve poverty in the form of, for example, a lack of medical care, inadequate food/clothing/shelter, or malnutrition (i.e. neglect), the above data demonstrates the unfair targeting of low-income communities of color. This disproportionality keeps people from attaining meaningful work, perpetuating the circumstances that may have brought about the investigation in the first place.



Survivors of Gender-Based Violence

ACS also disproportionally investigates survivors of domestic violence. Twenty-eight percent of all ACS investigations in the two and a half years after January 1, 2020 were flagged for domestic violence, for a total of 31,849 investigations with a DV flag during this period. For context, in 2021, the New York State Division of Criminal Justice Services (DCJS) reported a total of 34,927 survivors of domestic violence in New York City.¹⁸ In 2022, DCJS reported a total of 39,224 survivors of domestic violence in New York City.¹⁹ This drastic over representation highlights that domestic violence survivors are likely being investigated for reasons associated to the domestic violence they experienced, including after they have reported the domestic abuse they are suffering.

This practice is especially harmful to women of color since they are disproportionally impacted by gender-based violence. In 2021, NYC residents who identified as female were 2.4 times more likely than male residents to report an intimate partner violence (IPV) incident, and Black female residents 6.1 times more likely than White female residents to report an IPV felony assault.²⁰

Low-income communities in NYC are also disproportionately impacted by domestic and gender-based violence. Data shows that a significant number of domestic and gender-based violence incidents in New York City occur in communities with high rates of poverty, low median household income, and high rates of unemployment.²¹ For example, in Manhattan, Community District 11 (East Harlem) has the

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highest poverty rate (31.2 percent) and Community District 2 (Greenwich Village and Soho) has the lowest poverty rate (7.8 percent).²² In 2021, East Harlem had more than five times the number of intimate partner domestic incident reports (DIRs) per person as compared to Greenwich Village/SoHo.²³

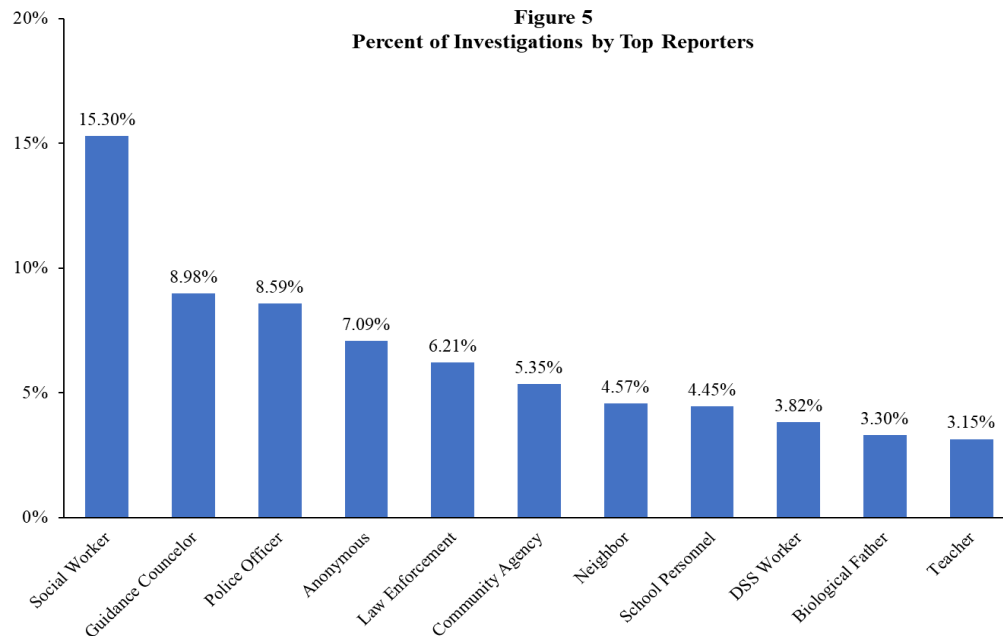
The harsh economic consequences of an indicated report are especially harmful to survivors of domestic violence. According to the National Network to End Domestic Violence, economic abuse occurs in 99% of domestic violence cases. Additionally, abuse directly impacts survivors' ability to find and keep employment. According to a survey by the Institute for Women's Policy Research, 83% of survivors surveyed reported that their abusive partners disrupted their ability to work.²⁴ Among those who reported experiencing one or more disruptions, 70% said they were not able to have a job when they wanted or needed one and 53% said they lost a job because of the abuse.²⁵ We know this first hand as we have many clients with indicated reports associated to domestic violence who are subsequently at risk of losing employment, inhibiting their capacity to escape abuse and provide for their children. Over-investigation by ACS thus only serves to create additional barriers to financial stability for survivors of gender-based violence, which can lead to greater risk of harm.

Abuse can directly impact survivors' ability to find and keep employment. According to a survey by the Institute for Women's Policy Research, 83% of survivors surveyed reported that their abusive partners disrupted their ability to work.

ARBITRARY REPORTING STANDARDS

The State Central Register's (SCR) current reporting system and its lack of transparency facilitate the over-policing of low-income communities of color and survivors of domestic violence in particular.

Figure 5 highlights the percent of investigations by top reporters.²⁶ The data is illustrative for many reasons.



Note: top reporters are those categories that have reported more than 3% of all investigations.

First, over 7% of investigations in NYC stem from an anonymous report. Any reported allegations that the hotline operator believes “could reasonably constitute” actual child abuse or neglect if true is referred to ACS for investigation.²⁷ This standard provides discretion to hotline workers to refer reports for investigation based on very limited information and without having ever met the alleged subjects of the report or the reporter. Most calls to child protective hotlines do not end up being verifiable neglect. Some of the limited data available in varying local systems shows that anonymous reporting has an even lower substantiation rates than an average call.

For NY State in 2022, only 8% of child neglect reports made anonymously were found credible, compared with roughly 21% of all calls.²⁸ Given the far-reaching consequences of ACS investigations and the limited amount of information required to initiate an investigation, the lack of transparency in reporting may be exploited by abusers to harass survivors, as some survivors have already experienced.²⁹

Second, school personnel (comprising teachers, guidance counselors, etc.) initiate the highest number of investigations. This over-policing of the educational space can negatively impact a

families' motivation to attend school, and a child's sense of belonging and safety at school.

Finally, law enforcement officials initiate the second highest number of ACS investigations. According to a 2021 survey of survivors' experiences with law enforcement conducted by the National Domestic Violence Hotline, 21% feared police would threaten them or report them to Child Protective Services. Police called CPS in 15% of cases of those who responded to the survey.³⁰ Considering that 28% of ACS investigations are linked to domestic violence, this national data highlights that many survivors are being investigated by ACS for being

survivors of abuse themselves. This data further points to the overlap in the over-policing of Black and Hispanic communities by both the criminal legal system and the family regulation system.

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CONCLUSION

Taken as a whole, the data reveals how the family regulation system in New York City disproportionately harms low-income families of color, who are more likely to be investigated and indicated by ACS. Similarly, survivors of gender-based violence, of which a majority are women of color, are disproportionately investigated by ACS through a system that is riddled with transparency issues. Low-income women of color are also more likely to experience serious economic harm as a result of the family regulation system, facing heightened barriers to employment and access to income. The system thus operates to punish already vulnerable communities for their very state of vulnerability, while simultaneously further entrenching them into poverty.

Meaningful, transformative changes to the family regulation system are essential to achieving racial and economic justice. To address some of the harms caused by family regulation, advocates in this space are currently pushing for greater transparency in both reporting and investigations.

In the context of reporting, Representative Jabari Brisport introduced the Anti-Harassment in Reporting Bill (also known as the Confidential Reporting Bill, NY State Senate Bill S902B), which would end the anonymous reporting of alleged child maltreatment by requiring all reporters to identify themselves, thereby deterring false and/or malicious reporting.

In the context of investigations, Representative Brisport also introduced the Family Miranda Rights Act (NY State Senate Bill S901A), which would require workers to advise parents of their rights at the start of a child welfare investigation. This piece of legislation would ensure that parents are aware of the rights already guaranteed by New York State law and the Constitution, such as the right to remain silent, speak to an attorney, or not permit entry into their home.

ENDNOTES

¹ This report uses Hispanic throughout to mirror the language of the demographic data that is analyzed within the report.

² Burrell, Michelle. "What Can the Child Welfare System Learn in the Wake of the Floyd Decision?: A Comparison of Stop-And-Frisk Policing and Child Welfare Investigations." *Cuny L. Rev.* 22 (2019), at p. 130.

³ *Id.*, at p. 131.

⁴ FOIL data, at p. 1

⁵ *Id.* at 6.

⁶ NYC Administration for Children's Services, "Child Welfare Indicators Annual Report CY 2022," at p. 14, *available at* <https://www.nyc.gov/assets/acs/pdf/data-analysis/2022/CityCouncilReportCY2022.pdf> (last accessed December 30, 2024).

⁷ *Id.*

⁸ Prior to 2022, indicated reports for neglect and abuse could remain on the State Central Register for up to 28 years. Reforms passed in 2022 also increased heightened the "some credible evidence" standard to a "preponderance of evidence," and reduced the number of years it takes to seal a report for neglect to eight years.

⁹ N.Y. Soc. Serv. Law § 424-a(1)(a)–(b)(i).

¹⁰ NYC Controller, "Spotlight: Care Workers and the New York City Economy," Mar. 21, 2023, *available at* <https://comptroller.nyc.gov/reports/spotlight-care-workers-and-the-new-york-city-economy/> (last accessed December 30, 2024).

¹¹ *Id.*

¹² FOIL data, at p. 2; NYC Planning Population FactFinder, *available at* <https://popfactfinder.planning.nyc.gov/explorer/cities/NYC?censusTopics=%2CmutuallyExclusiveRaceHispanicOrigin&compareTo=1&showCharts=false> (last accessed December 30, 2024).

¹³ *Id.*

¹⁴ FOIL data, p. 1; NYU's Furman Center New York City Neighborhood Data Profiles, *available at* <https://furmancenter.org/neighborhoods> (last accessed December 30, 2024).

¹⁵ According to the U.S. Census data, the population of NYC in April 2020 was 8,804,199. Since there were 114,602 investigations, this means there were 13 investigations per 1,000 residents. See U.S. Census Bureau, QuickFacts New York city, New York, *available at* <https://www.census.gov/quickfacts/fact/table/newyorkcitynewyork/PST045223> (last accessed December 30, 2024).

¹⁶ FOIL data, p. 1; New York Demographics, "New York Zip Codes by Population (2024)", *available at* https://www.newyork-demographics.com/zip_codes_by_population (last accessed December 30, 2024); NYCLU ACLU of New York, "A Closer Look at Stop-and-Frisk in NYC," Dec. 12, 2022, *available at* <https://www.nyclu.org/data/closer-look-stop-and-frisk-nyc> (last accessed December 30, 2024).

¹⁷ It is worth noting that given the difference in time range, only the the Investigations Rate map takes gentrification into account. Had the Stop Rate map been limited to 2022, it would likely have even more overlap with the Investigations Rate map.

¹⁸ NY State Comptroller, Domestic Violence: Recent Trends in New York, October 2023, *available at* <https://www.osc.ny.gov/files/reports/pdf/domestic-violence-recent-trends-10-23.pdf> (last accessed December 30, 2024)

¹⁹ *Id.*

²⁰ NYC Mayor's Office to End Domestic and Gender-Based Violence, "2020-2021: Domestic Violence, Race/Ethnicity and Sex Report," Sept. 2022, *available at* <https://www.nyc.gov/assets/ocdv/downloads/pdf/2021-Domestic-Violence-Race-Ethnicity-and-Sex-Report.pdf> (last accessed December 30, 2024), at pp. 4-5.

²¹ NYC Mayor’s Office to End Domestic and Gender-Based Violence: 2020-2021: Domestic Violence, Race/Ethnicity and Sex Report, *available at* <https://www.nyc.gov/assets/ocdv/downloads/pdf/2021-Domestic-Violence-Race-Ethnicity-and-Sex-Report.pdf> (last accessed December 30, 2024).

²² NYU’s Furman Center New York City Neighborhood Data Profiles, *available at*: <https://furmancenter.org/neighborhoods/> (last accessed December 30, 2024).

²³ Intimate Partner Violence Snapshots: New York City Community Board Districts, *available at* <https://www.nyc.gov/assets/ocdv/downloads/pdf/2021-community-board-snapshots-ipv.pdf> (last accessed December 30, 2024).

²⁴ Hess, C., & Del Rosario, A. (2018). *Dreams Deferred: A Survey on the Impact of Intimate Partner Violence on Survivors’ Education, Careers, and Economic Security*. Institute for Women’s Policy Research. https://iwpr.org/wp-content/uploads/2020/09/C475_IWPR-Report-Dreams-Deferred.pdf. (last accessed December 30, 2024).

²⁵ *Id.*

²⁶ FOIL data, at p. 7.

²⁷ Burrell, at p. 130.

²⁸ Loudenback, J, *More States Seek To Curb Anonymous CPS Reports Against Parents*, Imprint News, *available at*: <https://imprintnews.org/top-stories/more-states-seek-to-curb-anonymous-cps-reports-against-parents/245884> (last accessed December 30, 2024).

²⁹ *See e.g.* “Shavona Warmington said she got the courage to leave an abusive partner after suffering years of domestic violence and giving birth to a baby girl. But then, she said, a new kind of abuse began: her ex called in allegations to the statewide child abuse registry.” as well as “Another domestic abuse survivor, Dana Hanuszczak, said an anonymous caller to CPS claimed she was doing illicit drugs. When child protective services came to her door, she had just returned from a shift at the hospital where she works.” Hunt, Madison, ‘*Weaponizing’ Calls to CPS Hotline: New York Legislation Would Deter False Reports*, Imprint News, *available at* <https://imprintnews.org/child-welfare-2/new-york-bill-false-hotline-reports/65267> (last accessed December 30, 2024).

³⁰ Goodmark, Leigh, *Law Enforcement Experience Report*, National Domestic Violence Hotline, *available at*: https://www.thehotline.org/wp-content/uploads/media/2022/09/2209-Hotline-LES_FINAL.pdf (last accessed: December 30, 2024).