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# Foster Care as Punishment: The New Reality of 'Jane Crow'

By STEPHANIE CLIFFORD and JESSICA SILVER-GREENBERG JULY 21, 2017

Maisha Joefield thought she was getting by pretty well as a young single mother in Brooklyn, splurging on her daughter, Deja, even though money was tight. When Deja was a baby, she bought her Luvs instead of generic diapers when she could. When her daughter got a little older, Ms. Joefield outfitted the bedroom in their apartment with a princess bed for Deja, while she slept on a pullout couch.

She had family around, too. Though she had broken up with Deja's father, they spent holidays and vacations together for Deja's sake. Ms. Joefield's grandmother lived across the street, and Deja knew she could always go to her great-grandmother's apartment in an emergency.

One night, exhausted, Ms. Joefield put Deja to bed, and plopped into a bath with her headphones on.

"By the time I come out, I'm looking, I don't see my child," said Ms. Joefield, who began frantically searching the building. Deja, who was 5, had indeed headed for the grandmother's house when she couldn't find her mother, but the next thing Ms. Joefield knew, it was a police matter.

"I'm thinking, I'll explain to them what happened, and I'll get my child," Ms. Joefield said.

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women in her circumstances — living in poor neighborhoods, with few child care options — the consequences can be severe. Police officers removed Deja from her apartment and the Administration for Children's Services placed her in foster care. Police charged Ms. Joefield with endangering the welfare of a child.

She was caught up in what lawyers and others who represent families say is a troubling and longstanding phenomenon: the power of Children's Services to take children from their parents on the grounds that the child's safety is at risk, even with scant evidence.

The agency's requests for removals filed in family court rose 40 percent in the first quarter of 2017, to 730 from 519, compared with the same period last year, according to figures obtained by The New York Times.

In interviews, dozens of lawyers working on these cases say the removals punish parents who have few resources. Their clients are predominantly poor black and Hispanic women, they say, and the criminalization of their parenting choices has led some to nickname the practice: Jane Crow.

"It takes a lot as a public defender to be shocked, but these are the kinds of cases you hear attorneys screaming about in the hall," said Scott Hechinger, a lawyer at Brooklyn Defender Services. "There's this judgment that these mothers don't have the ability to make decisions about their kids, and in that, society both infantilizes them and holds them to superhuman standards. In another community, your kid's found outside looking for you because you're in the bathtub, it's 'Oh, my God'" — a story to tell later, he said. "In a poor community, it's called endangering the welfare of your child."

Lawyers for parents say the spikes in child removals tend to occur after high-profile failures in the system, and this could well describe the pattern now: In December, the agency administrator resigned after two children who were being monitored by the agency were beaten to death in separate incidents.

As a result, an independent monitor is now assessing the agency, and the new commissioner, David Hansell, has promised to reform it.

Mr. Hansell said in an interview that Children's Services has been trying to shift from ordering removals to offering support. He supplied figures showing that emergency removals of the kind that took Deja from her mother were about the same, a little over 300, in the first two months of 2017 as during the same period in 2016.

Vivek Sankaran, a professor at the University of Michigan Law School, has examined short-term placements of children in foster care. He learned that in the 2013 federal fiscal year, 25,000 children nationwide were in foster care for 30 days or fewer, about 10 percent of the total removals.

"We've inflicted the most devastating remedy we have on these families, then we're basically saying, within a month, 'Sorry, our mistake,'" he said. "And these families are left to deal with the consequences."

After Ms. Joefield was released from jail, she had a court hearing, and Deja was returned to her after four days. Still, the case stayed open for a year, during which she had to take parenting classes, and caseworkers regularly stopped by her apartment to do things like check her cupboards for adequate food supplies and inspect Deja's body for bruises. "They asked me if I beat her," Ms. Joefield said. "They're putting me in this box of bad mothers."

"It's a slap in your face to have someone tell you what you can and cannot do with a child that you brought into this world," she said, wiping tears away.

"I still get nervous," she said. "You're afraid to parent the way you would normally parent."

## Birth and Then Shackles

In the spring of 2015, Elizabeth Latimer, then a public defender, was working a shift at Brooklyn Criminal Court when she was told she had a new client.

The woman was in a cell in the back of court, wearing a hospital gown and bleeding heavily. Ms. Latimer's notes about the client read, "Just gave birth Sunday." It was Tuesday.

The woman's medical files show that she had been in her apartment with her 6-year-old daughter when she started bleeding, and felt numbness in one leg.

Her due date was still weeks away. Frightened, she called an ambulance. Then she realized her boyfriend, who was at nearby job-placement program and didn't have a cellphone, would have no way of knowing if she went to the hospital. So she left her phone with her daughter, told her to stay in their apartment, and walked to the boyfriend's training site, about eight blocks away.

"I'm like, I understand I'm not supposed to leave my daughter, but it's an emergency," said the woman during an interview. Her lawyers asked that she not be named, because her case is still open.

Doubled over with contractions, it took her about 40 minutes to get to the site and back. When the couple returned to the apartment, it was swarming with people. Emergency workers had arrived as she'd requested; finding the daughter alone, they had called the police.

By the time the woman was taken to the hospital, her contractions were four minutes apart, medical records reviewed by The Times show. While she was in labor, police officers stood by her bedside. When a nurse explained to her that she was under arrest, she asked, "How?"

Once she had delivered, her feet were shackled and her hands cuffed to her bed, the records show. Her only reprieve: an officer agreed to take off the cuffs while she breast-fed her newborn son, she said. She was discharged from the hospital with a fever, breast pain, severe abdominal pain and instructions to take various medications. Officers took her from the hospital to criminal court, where, after waiting for hours, she was charged with endangering the welfare of her 6-year-old.

In New York, authorities pursue child neglect cases on two tracks. The district attorney can file a criminal charge of child endangerment; separately, the Administration for Children's Services can file a family court case, often asking that the child be removed from parental care to the home of a relative, or to foster care. Either police officers or agency workers can take a child from a home if they find

imminent risk; agency workers must file a petition in family court by the next court date, at which time they must justify the removal at a hearing.

During her criminal arraignment, the woman sat slumped in a chair, unable to stand.

“I was in pain, I was in badly pain, ready to pass out,” she said.

She found out then that Children’s Services had put her daughter in foster care, but the woman didn’t know where. Because she had tested positive for marijuana, and because of the child endangerment case involving her daughter, she was not allowed to take her newborn son home.

Released from court, she walked 30 minutes each way to the hospital to nurse the baby twice a day. Her breasts became overfull. “I was walking like this on the street,” she said, folding her arms over her chest.

As soon as he was medically cleared to leave the hospital, her newborn son was placed in foster care.

After the woman filed an emergency petition, both children were returned to her after 30 days.

Her criminal case was to be dismissed if she attended parenting classes, while her family court case had no such stipulation. Confused by the conflicting requirements, the woman didn’t attend classes. Three months ago, she was arrested on a warrant for not taking the parenting classes; her case remains open.

Her daughter, interviewed at their apartment, said that she was “sad” when she was sent to the foster home.

Back home, she said, she was “happy.”

She pulled at some Silly Putty. “I get to spend time with my mommy,” she said.

## A Lasting Effect

Even short-term removals that are reversed can have lasting effects on vulnerable children. It “poses a pretty big threat to their development,” said Kristin Bernard, an assistant professor of psychology at Stony Brook University. A brief stay in foster care like that of Ms. Joefield’s daughter, Deja, can profoundly upset family life.

Mr. Hansell, the commissioner, said the agency was trying to steer away from removing children from the home.

“With increasing frequency over the past six months or so,” he said, “the outcome of our involvement with family court has not been removal of children but court-ordered supervision, under which families are required to participate in services to address the risks that we’ve identified.”

As Ms. Joefield, 32, talked in her Brooklyn apartment, the living room was filled with happy familial chaos. Her toddler shook a box of cereal, her cat’s collar bell tinkled, and Deja, now 13, climbed on the couch, trying to get the cat’s attention.

According to court records from Ms. Joefield’s case, a passer-by found Deja, who was then 5, out on the sidewalk at midnight. The records noted that Deja appeared well looked after. Deja told interviewers that she attended school daily and usually ate pancakes for breakfast.

Deja’s pediatrician told the agency that “Ms. Joefield is very attentive” and that “Deja is a smart kid.” Administrators at Deja’s school said they had no concerns. And Children’s Services, in a report on the family, noted that Ms. Joefield was in college; Deja’s father, who lived nearby, was employed and involved; Deja was “very intelligent for her age”; and there was plenty of family support.

Still, the agency pushed for Deja to be removed, though records show the great-grandmother called the agency asking that Deja be sent to her. Deja’s father was also available.

“This is my opinion: they factored in my age” — she was 25 at the time — “where I lived, and they put me in a box,” Ms. Joefield said.

In Ms. Joefield’s case, a judge decided that “the risk of emotional harm in removal” outweighed the risk of neglect. Deja was returned to her mother.

The Administration for Children's Services declined to comment on specific cases.

But those four days in 2010, Ms. Joefield said, had produced long-lasting effects.

First, her name remained on a state registry of child abusers for years, preventing Ms. Joefield, a former day care worker, from working with children. Most important, she said, speaking of Deja, the experience had "changed her."

When her daughter came home, she said, "she was always second-guessing if she did something wrong, if I was mad at her," she said.

Research backs up what Ms. Joefield noticed. Removal is traumatic for children, even if home life is stressful.

Joseph Doyle, an economics professor at the Massachusetts Institute of Technology's Sloan School of Management, used statistical methods to analyze the effect of foster care placement in so-called marginal cases — those in which a strict investigator might put a child in foster care, but a more lenient investigator might not. Over time, the children sent to foster care had higher delinquency rates, higher teen birthrates, lower earnings and a higher likelihood of going to prison as an adult.

Months after Deja's removal, a caseworker with Children's Services asked an administrator at Deja's charter school about the girl. The administrator said, according to agency records, that while she had no concerns about Ms. Joefield's care, Deja was "not doing as well as she used to before she was removed from her home."

## Living Conditions

The threat of the agency removing children has become a weapon landlords use to force out lower paying tenants. According to dozens of public defenders and housing lawyers, some parents face a stark choice: leave their apartments or lose their kids.

Bernadette Charles found this out when her apartment, in the East Flatbush neighborhood of Brooklyn, experienced problem after problem. A sluice of brown water came through the ceiling, ruining the suede couch she had just purchased on credit. Large rats took over the kitchen.

While her husband spent his days driving a school bus, she spent hers worrying about how each new hazard would affect her four sons. At first she kept quiet. She felt fortunate to have a place where her family could meet the rent. One day she walked into the bathroom to find black mold sprouting in paisley patterns on the walls. For Ms. Charles, that was the breaking point.

Ms. Charles said that when her landlord learned she had complained to 311 about conditions, he punished her by calling Children's Services. The agency worker arrived days later. The worker cited unsafe conditions, including roaches and dirty dishes in the sink. Despite noting that the couple's four children were "clean and healthy," the worker said they could not stay and removed the children. Ms. Charles remembers her youngest, who was 3 at the time, wailing as he was taken from the apartment.

"He didn't want to give us any chance," Ms. Charles said of the Children's Services agent. Three days later, a judge ordered that the family be reunited.

## Vanished Months

One December night in 2011, Colyssa Stapleton ran out of formula for her 7-month-old, Nevaeh, and texted Nevaeh's father, who lived nearby, asking him to buy some. When he texted back that he was en route and she should come downstairs, Ms. Stapleton dashed to the yard of her Brooklyn apartment building to wait for him.

Unfortunately for Ms. Stapleton, the police were patrolling the area and her aunt was in the yard smoking marijuana. Ms. Stapleton says she was not smoking and the police report noted that only one joint was found and that Ms. Stapleton's aunt was seen throwing it to the ground. But both women were charged with marijuana possession.

Ms. Stapleton protested that her infant daughter was upstairs by herself. The police officers accused Ms. Stapleton of endangering the welfare of a child.

They took Nevaeh to the hospital, where she was found to be “in great condition.” Even so, Children’s Services placed Nevaeh with her father for six months and Ms. Stapleton was forbidden contact.

“I thought of where I could’ve tried and done something better, but taking her all the way downstairs and all the way upstairs — I didn’t think of it as something that would get you into trouble,” said Ms. Stapleton, now 24.

When she saw Nevaeh after several months, in the hallway of family court, the girl cried. “Her dad was like, ‘Now you don’t know nothing about her,’ and he was right,” she said.

Without her daughter to take care of, Ms. Stapleton sank into depression. “It came to a point where I’d shut myself into a room and not come out, not eat,” she said.

After a year and a variety of parenting classes taken during 2012, the criminal charges were functionally dismissed, and she regained full custody of Nevaeh, but Ms. Stapleton said she is aware of what she lost.

“She didn’t take her first steps around me, so I missed that. Her first tooth, I didn’t get to see that,” she said. “I don’t think anybody should be robbed of those things unless they really deserved it.”

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