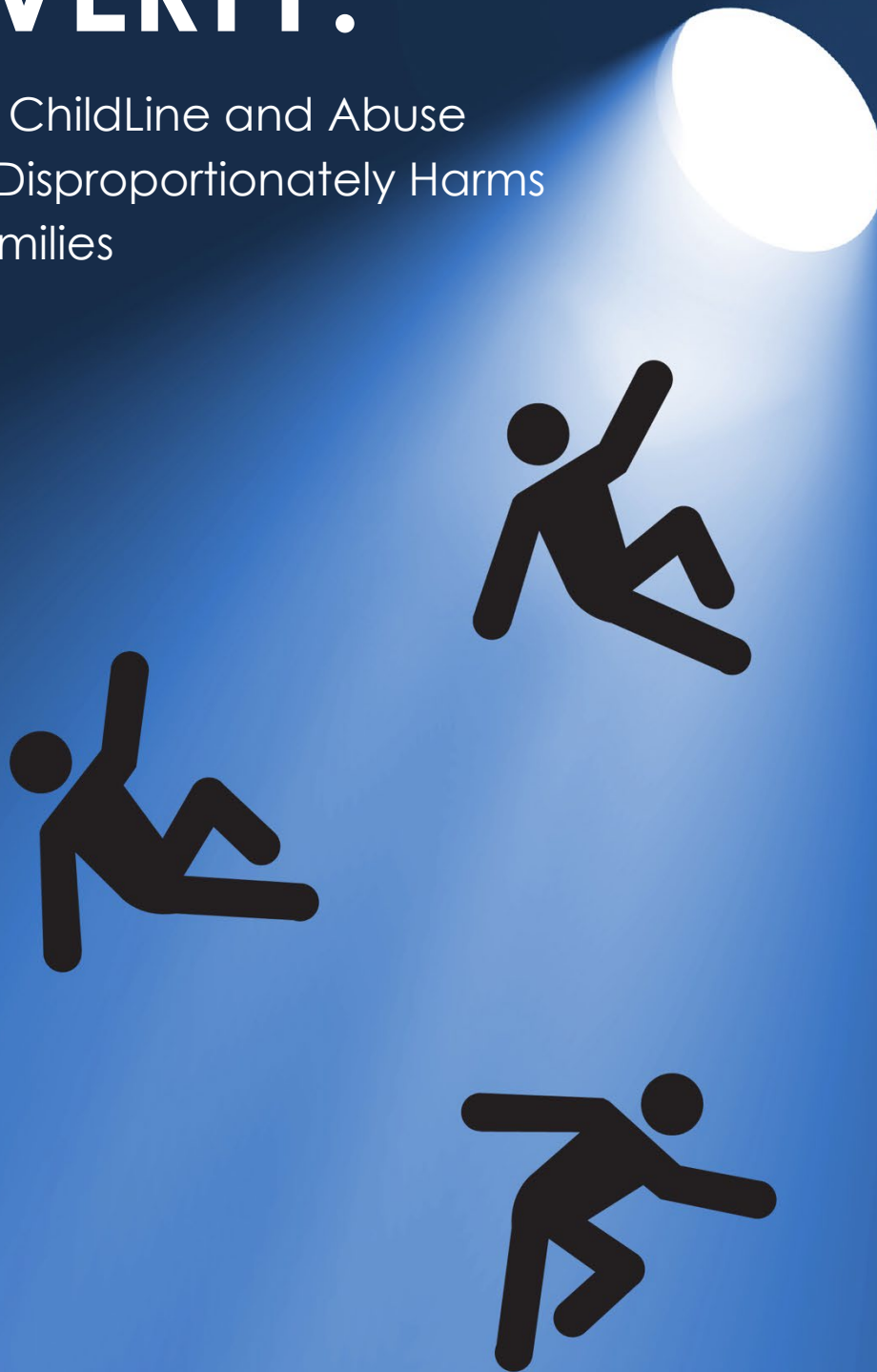


# PATHWAYS TO POVERTY:


How the ChildLine and Abuse Registry Disproportionately Harms Black Families



Gittis Legal Clinics  
UNIVERSITY of PENNSYLVANIA CAREY LAW SCHOOL

Stephen and Sandra  
**SHELLER**  
CENTER *for*  
**SOCIAL JUSTICE**

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 Temple University  
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The Civil Practice Clinic is a student clinic at the University of Pennsylvania Carey Law School. Students provide access to justice for low-income clients by representing them in state and federal courts, while developing their own litigation skills. The Social Justice Lawyering Clinic at the Stephen and Sandra Sheller Center for Social Justice is a student clinic at the Temple University Beasley School of Law. Students learn firsthand about social justice issues that directly impact local communities, through legal representation, community education, and policy advocacy.

The following Penn Carey Law students in the Civil Practice Clinic researched and wrote this report: Brian Kennedy ('23), Scott Werner ('23), and Jiayi (Coco) Xu ('23). Temple Law students Laurenlee Dominguez ('24), Joan Fernandez ('24), and Luke Myers ('23) initiated the research efforts for this project, which served as the foundation of this report. These student teams were supervised by Professor Jennifer J. Lee. The cover was designed by Yoko Takahashi, Publications Designer, Penn Carey Law School. Anthony Marqusee from the Gittis Legal Clinics at Penn Carey Law School provided editorial assistance.

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## INTRODUCTION

A mother got into an argument with her teenage daughter because she was communicating with someone who was supposed to be off-limits. The next day at school, the daughter claimed her mom had choked her, without any evidence.<sup>1</sup>

A single mother was working at home as a hairdresser when her one-year-old son grabbed a hot curling iron. She immediately performed first aid and did not seek further medical care. The next day it looked worse, so the child went to the hospital.<sup>2</sup>

A teenage girl's one-year-old daughter fractured her rib, but nobody in the house was sure how. When it was discovered, the teenager's dad took the baby to the hospital. The baby was fine and that was the last the mom heard of the matter.<sup>3</sup>

Besides the common struggles of parenthood, these three parents' stories all have something in common: they were labeled child abusers through Pennsylvania's ChildLine and Abuse Registry ("Registry"). As a result, they are barred from working in certain jobs, from taking in foster children, and from volunteering at their children's schools. They suffered these consequences before they ever had a chance to present their case before a judge, and some never got that chance at all.

They were also all Black parents. As a Black Pennsylvanian, you are more likely to be reported for child abuse, placed on the Registry, and have a job that you would lose as a result. This report takes a closer look at these racial impacts of the Registry and the ways in which it harms Black Pennsylvanians and their families.

Our clinic teams conducted a year-long investigation into the racial harms of the Registry. We collected information from government agencies under the Right to Know Law. Further, we surveyed private employers, examined publicly available information, and spoke to impacted individuals. See the Appendix for our Methodology.

We found that the government places Black Pennsylvanians on the Registry in disproportionate numbers. Black Pennsylvanians are represented on the Registry at nearly twice their proportion in the general population. Those on

the Registry are barred from a wide and increasing array of jobs, only some of which involve close interaction with children. And because Child Abuse Clearances are required most frequently in sectors where Black workers are concentrated, their families suffer the greatest harms from this employment prohibition.

The agency that controls the Registry, the Pennsylvania Department of Human Services (“PA DHS”), has publicly committed to address racial inequity. In 2021, the Department spoke boldly about its commitment to “justice, equity, and opportunity for all,” with the bolded words “*Black lives matter.*”<sup>4</sup> The Philadelphia Department of Human Services, which investigates child abuse within the city, has gone even further, acknowledging the “harm done to Black families through over-surveillance and reports of alleged abuse and neglect against individuals living in poverty.”<sup>5</sup>

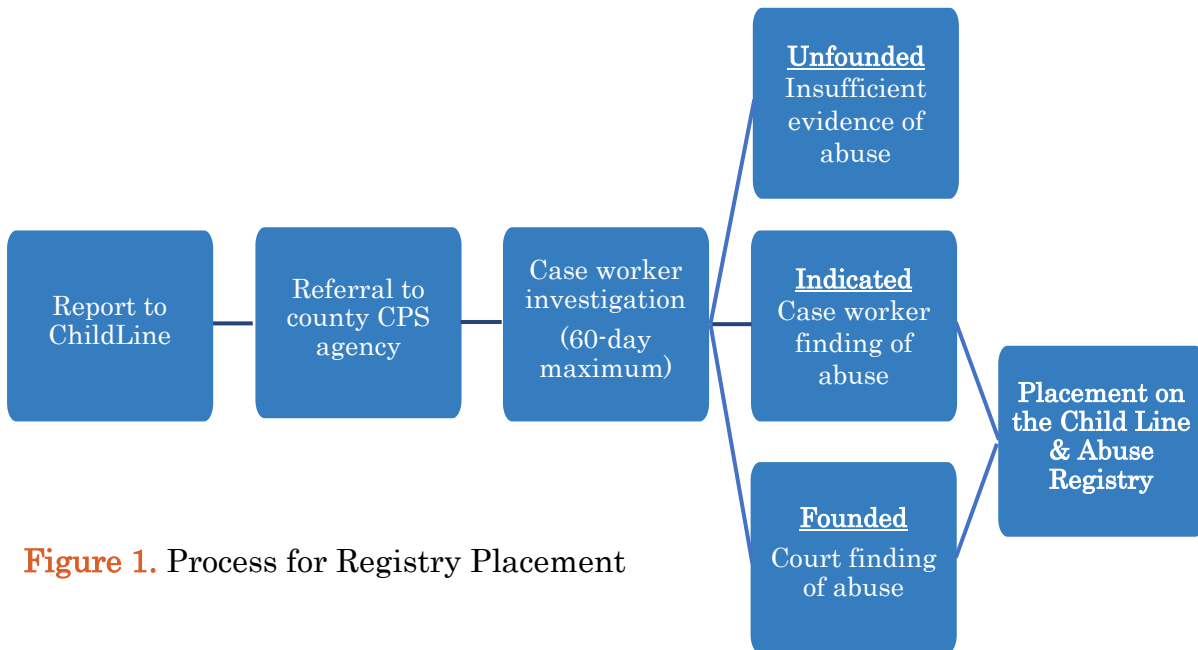
Despite this commitment to racial equity, the Registry is a system that disproportionately harms Black Pennsylvanians at each step, provides ample opportunities for racism and bias to infect processes, denies procedural fairness to the accused, and ultimately traps children and families in a cycle of poverty. This system purportedly responds to the “urgent need” to protect abused children.<sup>6</sup> There is no evidence, however, that the Registry itself protects children. Rather, many are trapped on the Registry simply because they were not aware of how to navigate the complicated system to challenge their placement on the Registry. And many remain the sole economic providers—who are then barred from working—for the very children that the system claims to be protecting.

This report seeks to highlight the racial harms created by the Registry. After a brief background, it presents data on how Black Pennsylvanians are disproportionately placed on the Registry. It also explores how the Registry functions as a wide-reaching employment bar that results in trapping Black families in poverty. Finally, it looks more closely at how Black Pennsylvanians have a difficult time navigating the unjust process surrounding placement on the Registry. Ultimately, it concludes that the Registry is hurting the very children it is meant to protect, and that Black children are suffering the greatest share of that harm.

## BACKGROUND

The ChildLine and Abuse Registry (“Registry”) is a statewide database of people who have been accused as perpetrators of child abuse. The Registry is maintained by the Pennsylvania Department of Human Services (“PA DHS”).

How do you end up on the Registry? The first step is a report of abuse. While anyone can submit a report by contacting the hotline, over 80% of reports are made by mandated reporters, such as teachers, social workers, doctors, and other professionals, who are legally required to call the hotline if they suspect abuse.<sup>7</sup> With most reports, a county’s child protective services office conducts a brief investigation and determines whether the report is “unfounded” or “indicated” (Figure 1).<sup>8</sup>



**Figure 1.** Process for Registry Placement

An indicated report means that the case worker has found “substantial evidence” of abuse or neglect under the Child Protective Services Law (CPSL).<sup>9</sup> A founded report means that a court has found that abuse occurred.<sup>10</sup> Individuals are on the Registry for a lifetime unless they successfully appeal.

Any hiring employer can request that a job applicant get a Child Abuse Clearance from PA DHS to see if they are on the Registry (Figure 2).

## PENNSYLVANIA CHILD ABUSE HISTORY CERTIFICATION

Type or print clearly in ink. If obtaining this certification for non-volunteer purposes or if, as a volunteer having direct volunteer contact with children, you have obtained a certification free of charge within the previous 57 months, enclose an \$13.00 money order or check payable to the PENNSYLVANIA DEPARTMENT OF HUMAN SERVICES or a payment authorization code provided by your organization. **DO NOT send cash.**

Certifications for the purpose of "volunteer having direct volunteer contact with children" may be obtained free of charge once every 57 months. Send to CHILDLINE AND ABUSE REGISTRY, PA DEPARTMENT OF HUMAN SERVICES, P.O. BOX 8170 HARRISBURG, PA 17105-8170.

**APPLICATIONS THAT ARE INCOMPLETE, ILLEGIBLE OR RECEIVED WITHOUT THE CORRECT FEE WILL BE RETURNED UNPROCESSED. IF YOU HAVE QUESTIONS CALL 717-783-6211, OR (TOLL FREE) 1-877-371-8422.**

PURPOSE OF CERTIFICATION (Check one box only)			
<input type="checkbox"/> Foster parent <input type="checkbox"/> Prospective adoptive parent <input type="checkbox"/> Employee of child care services <input type="checkbox"/> School employee governed by the Public School Code <input type="checkbox"/> School employee not governed by the Public School Code <input type="checkbox"/> Self-employed provider of child-care services in a family child-care home <input type="checkbox"/> An individual 14 years of age or older applying for or holding a paid position as an employee with a program, activity, or service <input type="checkbox"/> An individual seeking to provide child-care services under contract with a child care facility or program <input type="checkbox"/> An individual 18 years or older who resides in the home of a foster parent for children for at least 30 days in a calendar year <input type="checkbox"/> An individual 18 years or older who resides in the home of a certified or licensed child-care provider for at least 30 days in a calendar year <input type="checkbox"/> An individual 18 years or older, excluding individuals receiving services, who resides in a family living home, community home for individuals with an intellectual disability, or host home for children for at least 30 days in a calendar year <input type="checkbox"/> An individual 18 years or older who resides in the home of a prospective adoptive parent for at least 30 days in a calendar year	<input type="checkbox"/> Volunteer having direct volunteer contact with children <b>If purpose is volunteer having direct volunteer contact with children, choose SUB PURPOSE:</b> <input type="checkbox"/> Big Brother/Big Sister and/or affiliate <input type="checkbox"/> Domestic violence shelter and/or affiliate <input type="checkbox"/> Rape crisis center and/or affiliate <input type="checkbox"/> Other: _____ <input type="checkbox"/> PA Department of Human Services Employment & Training Program participant (signature required below) <div style="text-align: center; margin-top: 10px;">                     _____                      SIGNATURE OF OIM/CAO REPRESENTATIVE                 </div> <div style="text-align: center; margin-top: 10px;">                     _____                      OIM/CAO PHONE NUMBER                 </div>		
AGENCY/ORGANIZATION NAME:	PAYMENT AUTHORIZATION CODE, IF APPLICABLE:		
<input type="checkbox"/> Consent/Release of Information Authorization form is attached. Applicant must fill in the "Other Address" sections. By completing the other address sections, you are agreeing that the organization will have access to the status and outcome of your certification application.			
APPLICANT DEMOGRAPHIC INFORMATION (DO NOT USE INITIALS)			
FIRST NAME	MIDDLE NAME	LAST NAME	SUFFIX
SOCIAL SECURITY NUMBER	GENDER <input type="checkbox"/> Male <input type="checkbox"/> Female <input type="checkbox"/> Not reported	DATE OF BIRTH (MM/DD/YYYY)	AGE

Disclosure of your Social Security number is voluntary. It is sought under 23 Pa.C.S. §§ 6336(a)(1) (relating to information in statewide database), 6344 (relating to employees having contact with children; adoptive and foster parents), 6344.1 (relating to information relating to certified or licensed child-care home residents), and 6344.2 (relating to volunteers having contact with children). The department will use your Social Security number to search the statewide database to determine whether you are listed as the perpetrator in an indicated or founded report of child abuse.

**Figure 2.** Child Abuse Clearance

While certain employers are legally required to request a clearance if the job involves direct contact with children, others make such requests voluntarily. Parents who seek to volunteer at their children’s school or with a youth program are also required to obtain clearances.

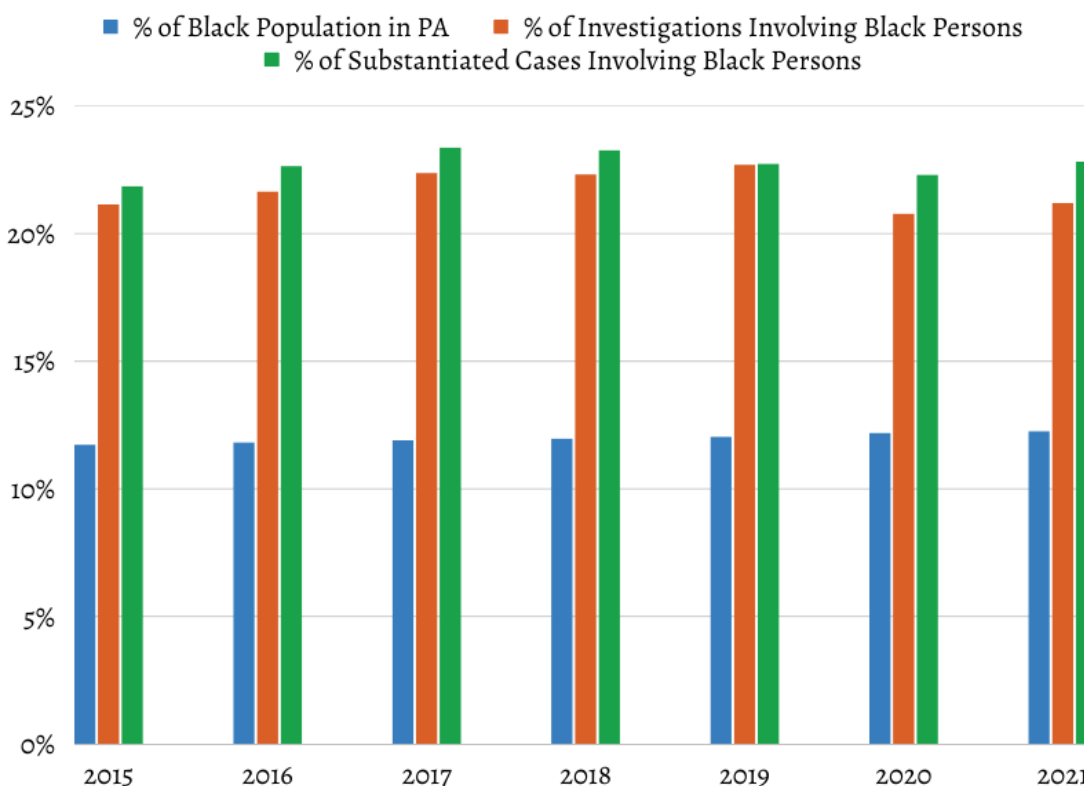
# THE REGISTRY DISPROPORTIONATELY IMPACTS YOUNG, BLACK INDIVIDUALS

## BLACK PENNSYLVANIANS ARE TWICE AS LIKELY TO BE ON THE REGISTRY

While Black Pennsylvanians make up around 12% of the population of Pennsylvania, they are both investigated and listed on the Registry at almost twice this rate (Figure 3).<sup>11</sup>

From 2015 to 2021, Black Pennsylvanians made up an average of 22% of all child abuse investigations and an average of 23% of persons with substantiated cases (i.e., indicated or founded cases) that lead to placement on the Registry.<sup>12</sup>

**Figure 3.** Comparative Percentages of Black Pennsylvanians in Investigations and Substantiated Cases by Year

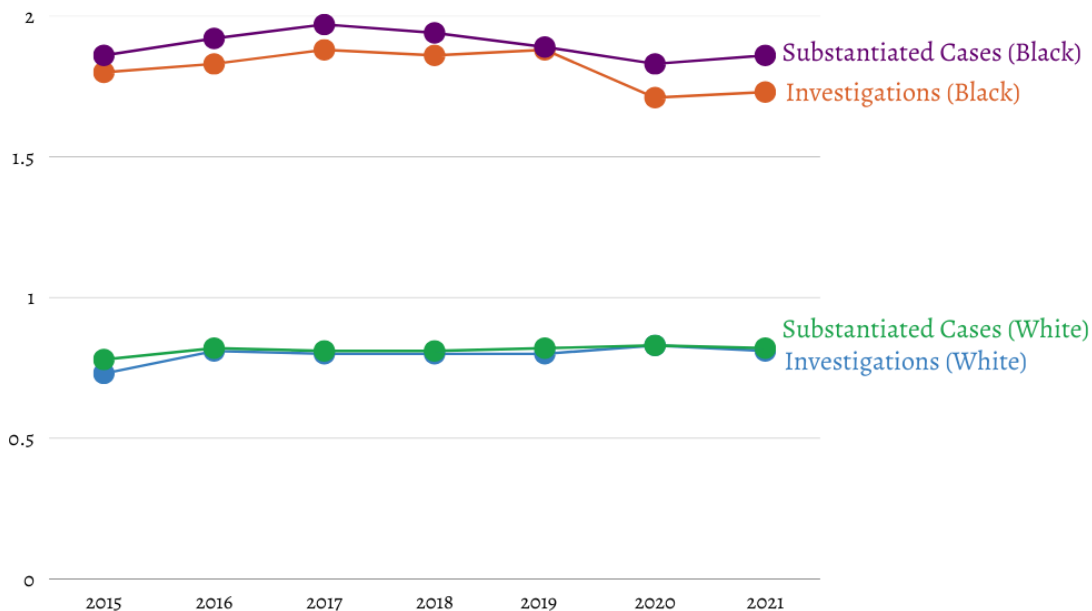




Black Pennsylvanians are overrepresented in substantiated cases at a disproportionality rate of nearly **2 times**.

In comparison, White Pennsylvanians find themselves on the Registry at lower rates with respect to their representation within the population. White Pennsylvanians make up around 82% of the population.<sup>13</sup> Yet from 2015 to 2021, they made up an average of 65% of all child abuse investigations and 66% of persons with substantiated cases that lead to placement on the Registry.<sup>14</sup> In other words, Black Pennsylvanians found themselves overrepresented on the Registry at nearly twice their proportion of the general population, while White Pennsylvanians found themselves underrepresented within the system at a rate only 0.8 times their proportion in the general population (Figure 4).<sup>15</sup>

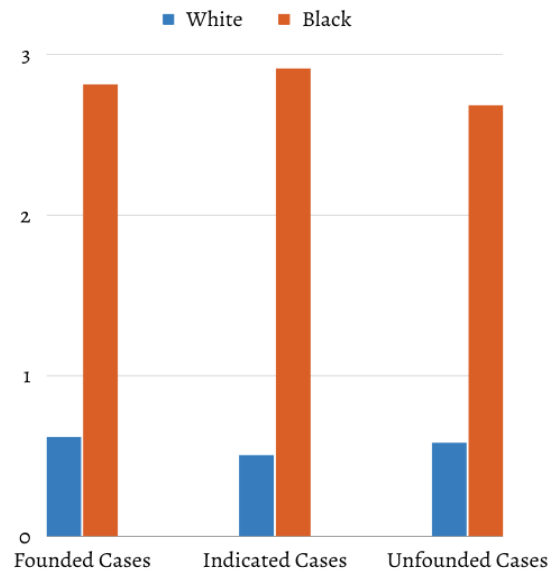
**Figure 4.** Disproportionality Rate of Investigations and Substantiated Cases by Race in Pennsylvania (2015-2021)



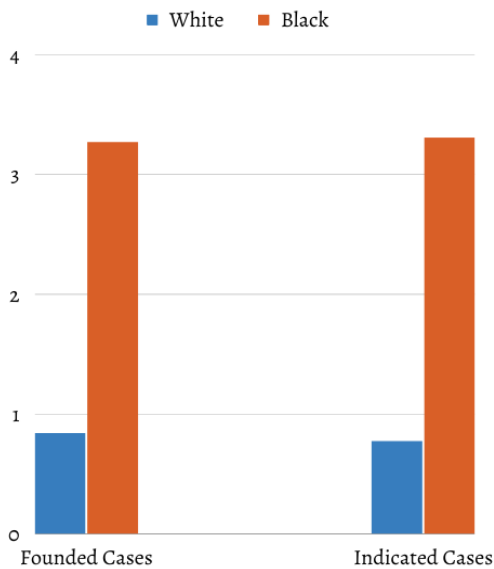
This disproportionality rate relies on a ratio between the percentage of cases by race and the percentage of that racial category within the total population of Pennsylvania. This disproportionality rate is likely an underestimate, given that the total Black population in Pennsylvania is younger than the White population, which means that proportionally more Black people are less than 14 years old and therefore ineligible to be placed on the registry.<sup>16</sup>

The few county-level reports we were able to obtain confirm this statewide data.<sup>17</sup> In both Allegheny and Erie counties, Black persons were overrepresented in child abuse investigations compared to their White counterparts. In Allegheny, from 2015 to 2021, Black persons on average were represented in child abuse proceedings at 2.7 to 2.9 times their proportion of the county population, while White Pennsylvanians on average were represented in the system at a rate only 0.5 to 0.6 times their proportion of the county population (Figure 5).<sup>18</sup>

**Figure 5.** Disproportionality Rate of Cases by Race in Allegheny (2015-2021)



**Figure 6.** Disproportionality Rate of Cases by Race in Erie (2015-2021)

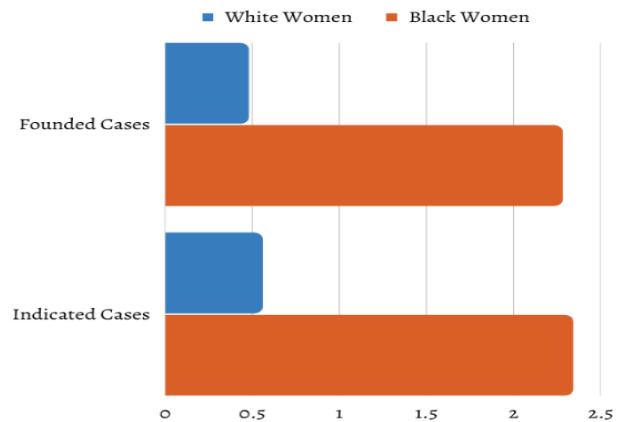


In Erie, from 2014 to 2021, Black persons on average were represented at 3.3 times their proportion in the county population in founded and indicated cases, while White Pennsylvanians on average were represented in the system at a rate only 0.8 times their proportion in the county population (Figure 6).<sup>19</sup>

In Erie, the only county where we obtained intersectional data (data including age, gender, and race), the trend held when comparing White women versus Black women in indicated and founded cases.

Using this intersectional data, we found that Black women on average were represented at a rate 2.3 times their proportion of the county population, while White women on average were represented within the system at a rate of close to half their percentage of the county population (Figure 7).<sup>20</sup>

**Figure 7.** Disproportionality Rate of Cases for Women by Race in Erie (2014-2021)

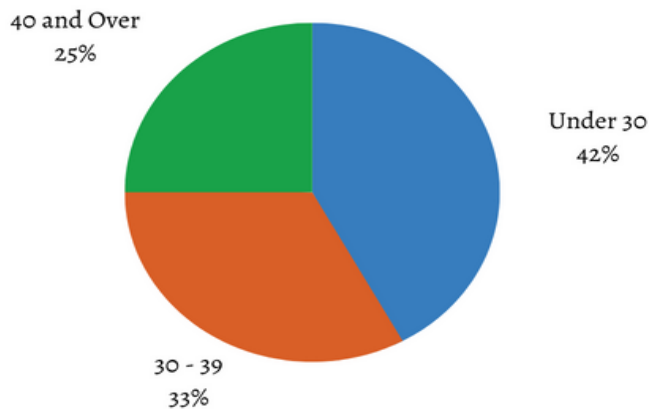


## PEOPLE ADDED TO THE REGISTRY TEND TO BE YOUNG

From 2014 to 2021, Pennsylvanians aged 15-39, on average, comprised 75% of all substantiated cases.<sup>21</sup> Of these, 42% of substantiated cases on average involved individuals who were less than 30 years old, and another 33% involved individuals between 30 and 39 (Figure 8).<sup>22</sup>

Age matters because an adult placed on the Registry remains there permanently unless they are able to successfully seek appeal or expungement.<sup>23</sup> Thus, many young people will be affected for decades by the negative consequences of being listed on the Registry.

**Figure 8.** Substantiated Cases by Age (2014-2021)



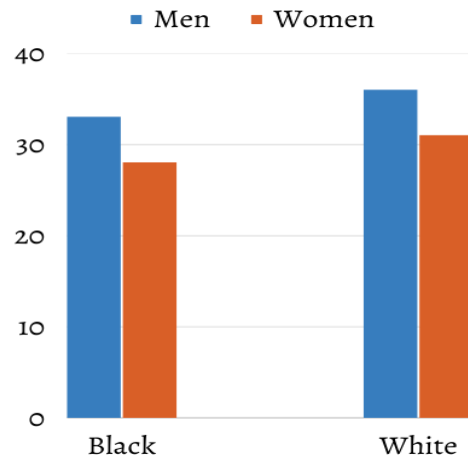
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The Registry skews young, meaning that many will remain on the list for decades of their working lives.

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Erie County, for example, confirms the statewide data showing that more people in their 20s and 30s are impacted than any other group. Further, Erie County’s intersectional data shows that the average age of Black males and females is slightly younger than their White counterparts. For example, for indicated cases from 2014 to 2021 in Erie County, the average age for: (1) Black men was 33 while for White men it was 36; and (2) Black women was 28 while for White women was 31 (Figure 9).<sup>24</sup>

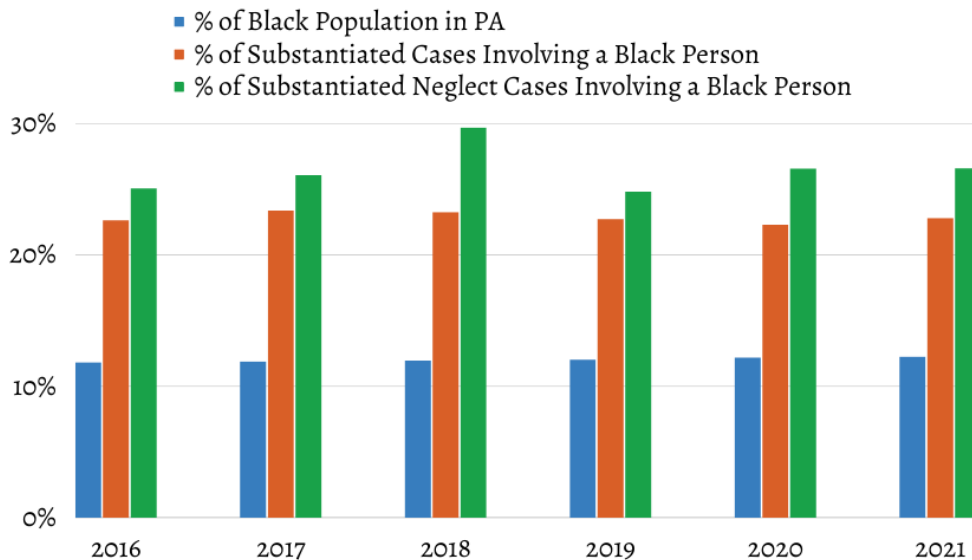
**Figure 9.** Age of Indicated Cases by Race and Sex, Erie County (2014-2021)



## **BLACK PERSONS ARE DISPROPORTIONATELY ACCUSED OF PHYSICAL NEGLECT**

Black persons are more likely to be accused of neglect as the basis for child abuse (Figure 10).<sup>25</sup> One explanation is that Black individuals are overrepresented in neglect investigations. Black individuals have consistently made up of 2.5 to 3 three times the substantiated reports for neglect in comparison to their proportion in the population. In contrast, White persons are underrepresented compared to their percentage within the population of Pennsylvania. Under the CPSL, this category includes a failure to “supervise” or “to provide a child with adequate essentials of life.”<sup>26</sup>

**Figure 10.** Comparative Percentages of Black Pennsylvanians in Substantiated Cases, Including Neglect Cases, by Year



Another contributing factor to racial disparities is reporters’ and case workers’ substantial discretion to determine what they believe to be serious physical neglect.<sup>27</sup> Case workers have found child abuse for lapses in supervision as short as 15 minutes.<sup>28</sup> Such findings are possible without clear benchmarks delineating what a “failure to supervise” or “adequate essentials” mean. The CPSL manifests an intention to avoid punishing poverty by making clear that a lack of resources is not itself neglect.<sup>29</sup> Yet many such parents are caught up in the system as a result of the effects of poverty.

## **RACIAL BIAS IN REPORTING AND INVESTIGATING CHILD ABUSE**

Explaining the precise cause of disproportionality in both reporting, investigations, and substantiations of child abuse based on race is a difficult task. We look to the pioneering work of Prof. Dorothy Roberts, who has highlighted how racial bias within the child regulation system reflects the long history of negative assumptions about Black parents.<sup>30</sup>

Who gets reported? Racial bias, for example, can be found among mandated reporters of child abuse.<sup>31</sup> In a study at Children’s Hospital of Philadelphia, Black children were more likely to be evaluated and reported for suspected

abuse by hospital reporters, even after controlling for an independent expert determination about the likelihood of abusive injury.<sup>32</sup> In national studies, we see similar results. In a study evaluating aggregated data from the National Trauma Data Bank, researchers showed that Black children were disproportionately identified by healthcare professionals as potential victims of abuse and subjected to longer hospitalizations, despite milder injuries.<sup>33</sup> Yet another study reviewing thousands of infants admitted to 39 different hospitals nationwide found that Black children were more likely to be evaluated for abuse than White children.<sup>34</sup> In other words, health care professionals' decisions to report a reasonable suspicion of abuse may be influenced by a range of non-medical factors, such as racial bias.<sup>35</sup> Mandated reporters have an incentive to report on their suspicions because the law not only penalizes a reporter for failure to report (a felony in Pennsylvania) but also shields them from any lawsuits connected to a mistaken report.<sup>36</sup> In fact, the expansion of mandated reporting in Pennsylvania has created a host of unintended consequences, with no evidence of improved outcomes for children.<sup>37</sup>

In investigations, the identification of neglect as a category of child abuse, for example, is highly subjective and shaped by gendered and racialized expectations of childcare.<sup>38</sup> These expectations tend to make low-income mothers—particularly women of color—more vulnerable to an indicated finding than other groups.<sup>39</sup> Prof. Roberts explains that by conflating poverty and neglect, typical deprivations that low-income families more commonly confront, such as inadequate food, housing, and medical care, become grounds for child abuse findings.<sup>40</sup> The current system accuses poor parents of neglecting their children for exactly the same behavior that is considered perfectly acceptable if wealthier parents engage in it.<sup>41</sup> Child abuse case workers may also harbor racial bias.<sup>42</sup> One study, for example, showed that a case worker is more likely to perceive a living environment to constitute neglect when a Black child is placed in a disorderly living environment in comparison to a White child in the same environment.<sup>43</sup>

While the conversation about racial bias in the child regulation system is fraught,<sup>44</sup> we offer this data to highlight what we know is happening in Pennsylvania: young Black Pennsylvanians are both reported and placed on the Registry at alarmingly higher rates. Along with the known racial bias in reporting and investigating child abuse, this data should obligate us to address the structural racism that results in so many Black Pennsylvanians on the Registry.

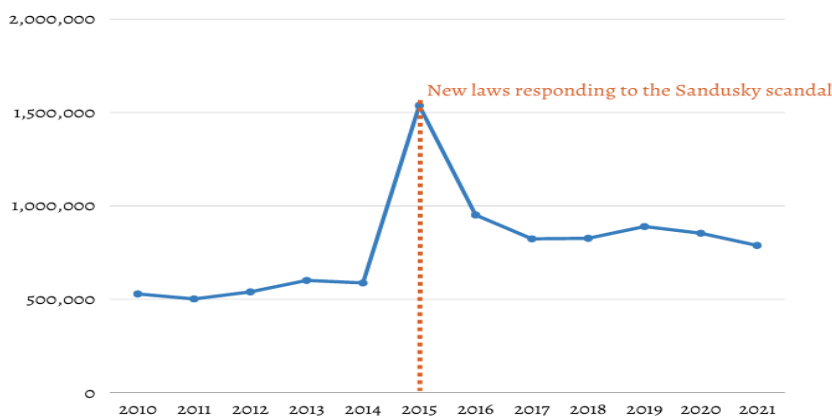
## THE REGISTRY TRAPS BLACK FAMILIES IN POVERTY

Being on the Registry comes with serious consequences. An increasing number of employers are requiring clearances for employment. While the ostensible purpose of the Registry is to protect children from harm, today it acts as a wide barrier to employment with little regard for the actual jobs performed or the nature of the alleged misconduct. As a result, it traps families in poverty by directly hurting the children whose parents are on the Registry. Moreover, Black adults—especially poorer Black adults<sup>45</sup>—are not only more likely to be on the Registry but also to do the kinds of jobs that require a Child Abuse Clearance.

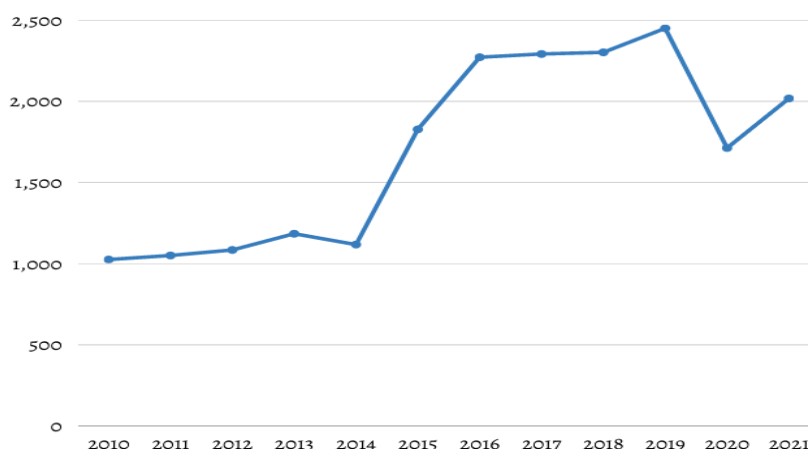
More employers are requiring a Child Abuse Clearance for jobs that do not involve direct contact with children.

Over time, the reach of the Registry has expanded. Prior to 2015, the CPSL required only childcare workers and school employees to obtain clearances.<sup>46</sup> In response to the Jerry Sandusky child sex abuse scandal at Penn State, Pennsylvania legislators passed a package of laws expanding the reach of Pennsylvania's child protection laws in 2014.<sup>47</sup> The new broad and vague requirements have led employers to increasingly request clearances for jobs regardless of whether they are legally required to do so. The use and impact of clearance requests have skyrocketed as a result. Legal changes and public concern in the wake of the Sandusky scandal led to a 162% increase in requests between 2014 and 2015. Even after the spike in requests in 2015 died down, 49% more clearances were requested in 2021 compared to in 2010 (Figure 11).<sup>48</sup>

**Figure 11.** Requested Child Abuse Clearances by Year



**Figure 12.** Clearances Returning Persons on the Registry



Correspondingly, an increasing number of clearances are receiving “hits”—meaning that persons are listed on the Registry as alleged or substantiated (indicated or founded) perpetrator (Figure 12).<sup>49</sup> Compared to a decade ago, 92% more requests have returned a “hit” of an alleged or substantiated report in 2021.

## **EMPLOYERS’ WIDESPREAD USE OF THE REGISTRY**

Pennsylvania law effectively bars all registered persons from working in a wide range of jobs, only some of which involve primary responsibility for a child or interactions with children in a private setting. For example, clearances are required for all employees of child-care services and schools.<sup>50</sup> They are also required for those who are “responsible for a child’s welfare,” or have “direct contact with children,” or “routine interaction with children.”<sup>51</sup> PA DHS interprets these requirements as extending to any employee whose job involves providing “care, supervision, guidance, or control of children.”<sup>52</sup> Employers are left to figure out what exactly those terms mean when it comes to employees who might only occasionally interact with children. Given the lack of clarity, many seem to request clearances for roles where the law does not demand it.

These ambiguities inappropriately place many jobs off-limits to registered persons. One home care agency that does not provide any services to children, for example, nonetheless requires clearances for all in-home employees because their employees could meet children in the homes they work in.<sup>53</sup> In fact, our survey of home care agencies revealed that many require clearances



for all employees despite their business being focused on the elderly.<sup>54</sup> Some of these home care agencies may mistakenly believe that they are required to do so because of Pennsylvania guidance governing home care agencies.<sup>55</sup> Yet this guidance should not be read to require clearances for *all* employees of any agency that cares for children, regardless of whether those employees have any direct contact with children.<sup>56</sup>

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Some hospital systems require clearances regardless of whether job duties involve regular interaction with children.

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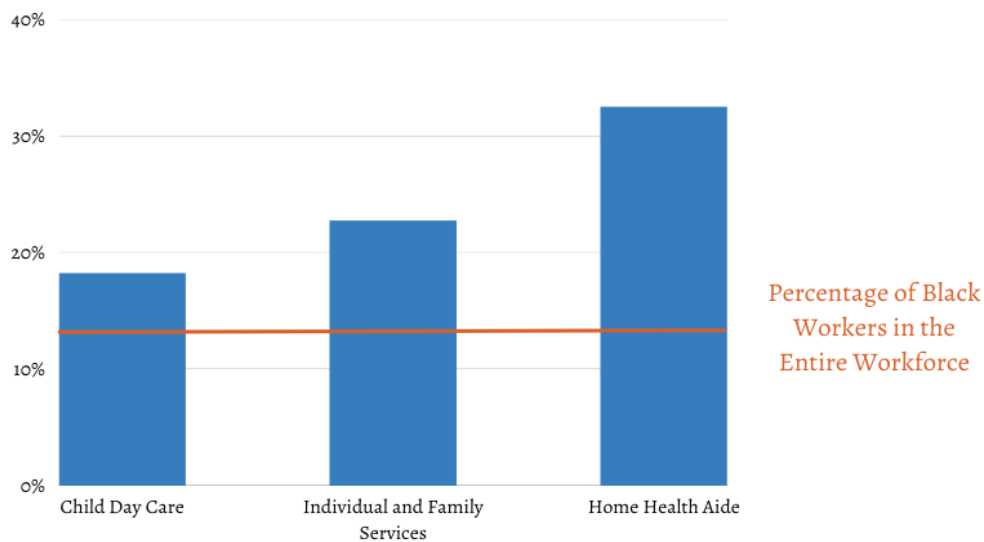
Similarly, our survey of staffing agencies indicates that such risk avoidance is widespread and affects applicants in many fields. One Philadelphia-based staffing agency explained that employers will often request a clearance if there is any possibility that a child would be anywhere in the vicinity of the worker in question.<sup>57</sup> Another staffing agency that specializes in placing people in warehouse work informed us that some warehouse jobs may require a clearance simply because the warehouse is located close to a school.<sup>58</sup> Other large employers seem to require clearances without considering the statutory requirements at all. One large hospital, for example, requires clearances for *all* employees, including work-from-home employees that have no interaction with children.<sup>59</sup> Penn State similarly requires clearances for every employee without regard for whether they interact with children.<sup>60</sup>

The CPSL does nothing to limit the use of clearances beyond what the law requires—such that any employer may request highly sensitive information on the Registry.<sup>61</sup> As a result, the Registry bars workers who are qualified and ready to work from a wide swath of jobs.

## **BLACK WORKERS, ESPECIALLY LOW-INCOME BLACK WOMEN, ARE MOST AFFECTED**

The use of the Registry as an employment bar particularly harms Black workers because they are more likely to have jobs that require a clearance. For example, Black workers (12.9% of the labor force) are overconcentrated in industries or occupations that would require a clearance, such as individual and family services (22.7%), child day care (18.2%), and home health aide (32.5%) (Figure 13).<sup>62</sup> Given that our research indicates that clearances are often over-required, it is likely that Black employees in those sectors are being disproportionately impacted even if they do not work with children.

**Figure 13.** Percentage of Black Workers by Occupation



Black women are particularly likely to work in an occupation that requires clearances. Women (46.8% of the workforce) make up the vast majority of employees in these occupations: individual and family services (77.2%), child day care services (95.6%), and home health aide (86.7%).<sup>63</sup> While intersectional (race-sex) data is not available, anecdotal information from particular industries indicate that Black women are particularly concentrated in these occupations. For example, some estimates state that Black women make up nearly 30% of all home health care workers nationwide despite being only 6% of the labor force.<sup>64</sup>

The occupations that are more likely to require clearances also tend to have concentrations of lower-income workers. In 2022, the average wages in Pennsylvania for childcare workers was \$13.14 per hour, while for home health aides it was \$13.82 per hour.<sup>65</sup> These workers earn less than half of the average weekly wage for workers in Pennsylvania, which is \$28.11 per hour.<sup>66</sup> In each of those occupations, women earn even less than men.

The disproportionate risk of losing a job by being placed on the Registry is exacerbated by other disadvantages faced by Black workers. Black workers who lose their job tend to have more difficulty than White workers in finding a new one. Black women too are more likely to be primary breadwinners for their family in comparison to women of any other racial or ethnic group.<sup>67</sup>

## IMPACTS ARE DEVASTATING FOR FAMILIES

What does this look like for Black workers?

K.L. has worked as a home health aide for years but cannot get additional clients since being listed on the Registry. Her listing on the Registry is over 8 years old and involves using corporal punishment on her son when she discovered that he was trying to set the house on fire. She took parenting classes and continues to raise her children with love and without further incident. She takes all the hours she can but needs more clients to support her three children.<sup>68</sup>

M.N. was investigated by Philadelphia DHS when her son was 9 months old. She cooperated with the investigation, and DHS determined that everything in her home was in good order. When she did not hear anything further, she assumed the matter was closed. Over a decade later, she applied to a medical record-related job at St. Christopher's Hospital. She had ample experience, and the supervisor seemed impressed by her in the interview, but never called back. She then applied for a job at a local daycare and was rejected because she discovered she was on the Registry. She had never been previously informed that she was on the Registry and only was able to remove herself from it by working with an attorney.<sup>69</sup>

I.F., a mom of two biological children and two foster children, worked as a home health aide for elderly persons. In the wake of a breakup and a move to a new neighborhood, she suddenly found herself without the help of several people who used to babysit for her. One night, after her children had been put to bed, including the oldest who was 10 years old, she accepted a ride to Wendy's with a friend. When she returned approximately an hour later, she found the police and a neighbor with her four-year-old, who had gotten out of the house and been found on the street. She was reported for child abuse and her report was marked indicated. Her foster children were taken from her as a result. Though her job did not involve caring for children, her employer required clearances for all employees. She tried calling many home health care businesses to find one that did not require clearances but was unable to find one. She is still responsible for supporting her two children, but now cannot work in her field.<sup>70</sup>

Far from helping children and their families, the law often causes even greater deprivation and hardship, and makes it even more likely that future state intervention will occur. A person who is placed on the Registry and loses their job must find employment in a role that does not require a clearance so that they can continue providing for themselves and their family.

Many employers, however, do not clearly communicate whether a particular job requires a clearance. Hospitals provide a good example of this phenomenon. Hospitals necessarily hire for some roles that require a clearance by statute (such as a nurse or technician in a pediatric wing) and some roles that do not (such as a cafeteria worker or back-office administrative professional). A job seeker cannot easily know whether a clearance is required by looking at a job title, as employers tend to over-require clearances, and some hospitals require clearances for all personnel regardless of role. Among the eleven largest hospitals in Pennsylvania, only one clearly indicated in job postings whether a clearance was required.<sup>71</sup> That lack of information leaves a job seeker with a difficult choice: they must either go through the entire application process for a job only to find out later that they are ineligible or they must try to contact a recruiter and risk flagging themselves as a person on the Registry.<sup>72</sup>

Thus, a person on the Registry can easily find themselves stuck. They may lose their job and not be able to find a new one. By creating barriers for breadwinners to earn a living, the Registry creates devastating impacts for parents and children.

# HOW THE REGISTRY SYSTEM IS UNJUST FOR BLACK PENNSYLVANIANS

Multiple parts of the system for placing an individual onto the Registry—from the investigation to the appeal—are riddled with problems (Figure 14). Even though placement on the Registry can have grave consequences, the current system lacks the necessary safeguards. While this problem impacts everyone, it is especially unfair to Black Pennsylvanians given their disproportionate involvement with the Registry.

The system fails to ensure: (1) a review by a judge of a case worker’s finding of child abuse prior to placing an individual on the Registry; (2) adequate notification about the allegations of child abuse and the life-long negative consequences of being on the Registry; and (3) a fair chance for individuals on the Registry to appeal the finding of child abuse. In fact, a current lawsuit alleges that parts of this system violate the due process rights guaranteed by Pennsylvania’s Constitution.<sup>73</sup>

Figure 14. Process for Placement on the Registry

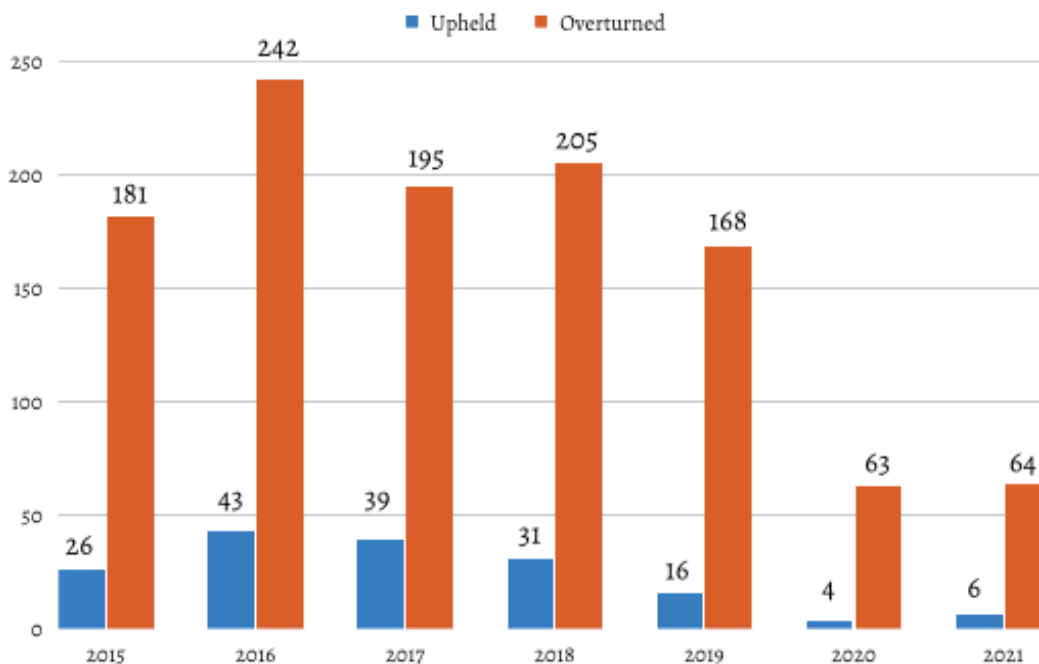


## INVESTIGATION

Any report of suspected child abuse made to ChildLine hotline is referred to the appropriate county child welfare agency for investigation.<sup>74</sup> Most county agency case workers lack legal training<sup>75</sup> and there is no judge that reviews their findings to see if they are supported by the investigation. What this means is that there is no way for an accused person to either contest or present their own evidence before a judge before their placement on the Registry. An indicated finding of child abuse that leads to placement on the Registry, therefore, can be supported by unreliable or insufficient evidence.

In fact, when individuals get to directly challenge and present their own evidence to show that they did not commit child abuse before a judge, they overwhelmingly win (Figure 15).<sup>76</sup> This remarkable rate of reversal suggests that the initial investigations—which form the sole basis for listing a person on the Registry—may be seriously flawed.

**Figure 15.** BHA Direct Appeals Upheld v. Overturned by Year

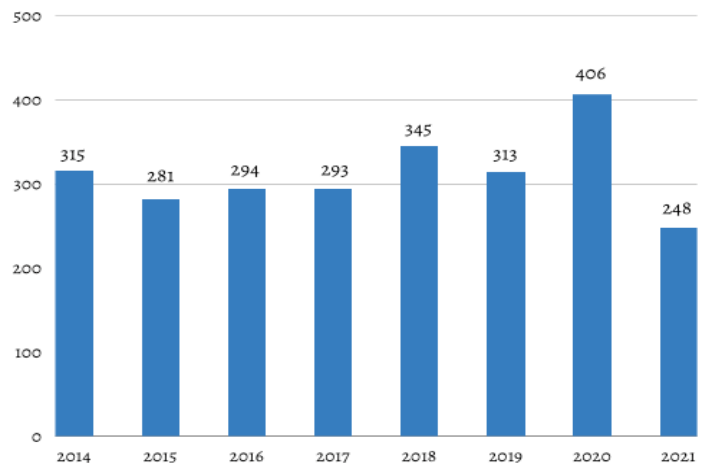


## PLACEMENT ON REGISTRY

A person is placed on the Registry even before the investigation is complete.<sup>77</sup> While they are noted on the Registry as “pending,” that individual nonetheless suffers from the negative consequences of being placed on the Registry even if they are later found innocent. An individual whose case results in “founded” or “indicated” remains on the Registry for life unless they manage to file an appeal within the limited

timeframe and win. In fact, the appeals process is very time-consuming. The average time between filing an appeal and receiving a court decision is almost a year (Figure 16).<sup>78</sup> Even when a person ultimately wins their appeal, they are legally required to remain on the Registry during the appeals process. This

**Figure 16.** Average Days for Completion of BHA Appeal by Filing



### Waiting . . . and Out of a Job

I.J. was a teacher at a daycare center looking after toddlers. She was accused of child abuse when a girl in her class tripped and fell. The little girl claimed that I.J. pinched her, hit her, and slammed her into a chair.

During the investigation, the case worker informed I.J. that the little girl was taken to the hospital so the investigation “does not look good for [her].” However, during the hearing before a judge, no medical record was introduced. Moreover, during the hearing, I.J.’s attorney introduced a video tape showing that I.J. did not pinch, hit, or slam the little girl. I.J. is still waiting for a decision on her appeal. In the meantime, she is unable to take care of children, which is a line of work she deeply loves and has been doing since age fourteen.<sup>79</sup>

means a person who ultimately was found to not have committed child abuse must still suffer from the associated negative consequences of being placed on the Registry during the long and drawn-out appeal process.

## NOTICE

Before a child abuse investigation is completed, individuals accused of having committed child abuse often do not receive adequate notice of the allegations made against them. After an investigation is completed, a notice may state that there is an “indicated report” against the person but fail to clearly explain the meaning or implication of such a report. These notices, for example, fail to explain the lifelong consequences to being placed on the Registry.<sup>80</sup>

Adequate notice is also important because it is how an individual learns about their appeal rights. The CPSL’s time restrictions for appellate review by a court are strictly applied. Any request for appeal that is made after the deadline is untimely and will be rejected.<sup>81</sup> Many individuals likely miss the deadline because notices sent to them do not clearly explain the different types of available review, their respective timelines, and how the different review levels relate to each other.<sup>82</sup> In addition, some individuals mistake the notice for an indication that their case has been closed, forfeiting their right to appeal.<sup>83</sup>

### Failure to Notify

E.F. is currently in her thirties. When she applied to be a home health aide last year, she lost her job offer because a clearance showed that she had committed child abuse. This came as a shock to E.F., who had no idea why there would be an indicated finding of child abuse on her record.

E.F. learned that about 15 years ago, her daughter, who was a baby at the time, had a fractured rib. When her daughter was taken to the hospital, someone reported the injury as suspected child abuse. E.F. was a teen mother at the time and did not have a stable home. She had no knowledge that she was suspected of child abuse. She was never aware of the allegations against her, nor was she notified of what it means to be placed on the Registry.<sup>84</sup>



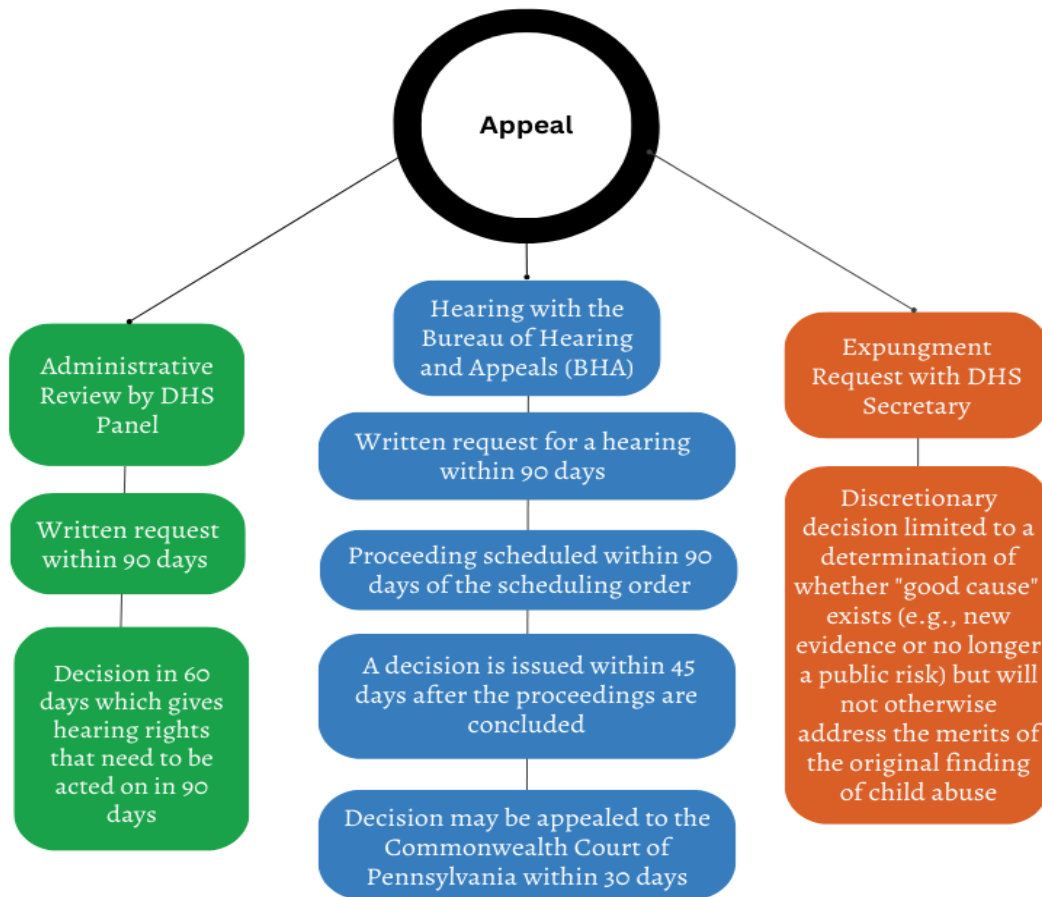
## APPEAL

Unless a person files an appeal within a short period of time, they may very well end up on the Registry for life.

Once there is a finding of child abuse, an adult is placed on the Registry for life unless they successfully appeal the decision within a limited timeframe. The appeals process, however, is complex and confusing (Figure 17).<sup>85</sup> It provides for an overlapping web of different appeal

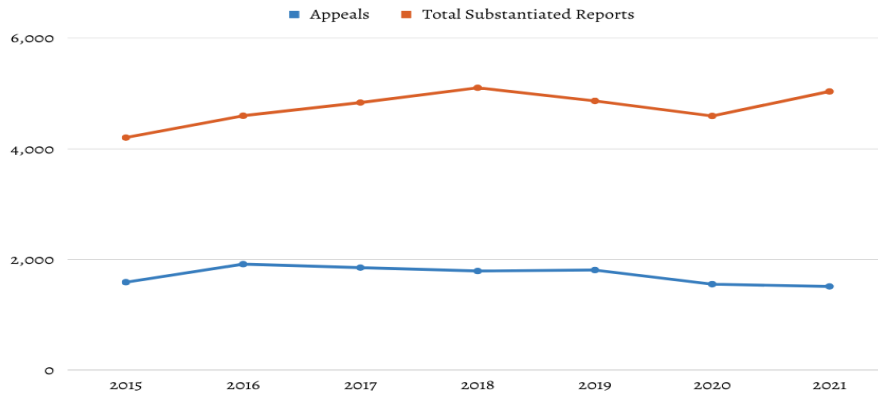
options—from administrative review to a hearing before a judge with the Bureau of Hearing and Appeals (BHA)—some of which have a minimal chance of success. While a lawyer can help to successfully navigate this process, few low-income people have ready access to legal counsel to rely on.<sup>86</sup>

Figure 17. Appeals Process for Registry



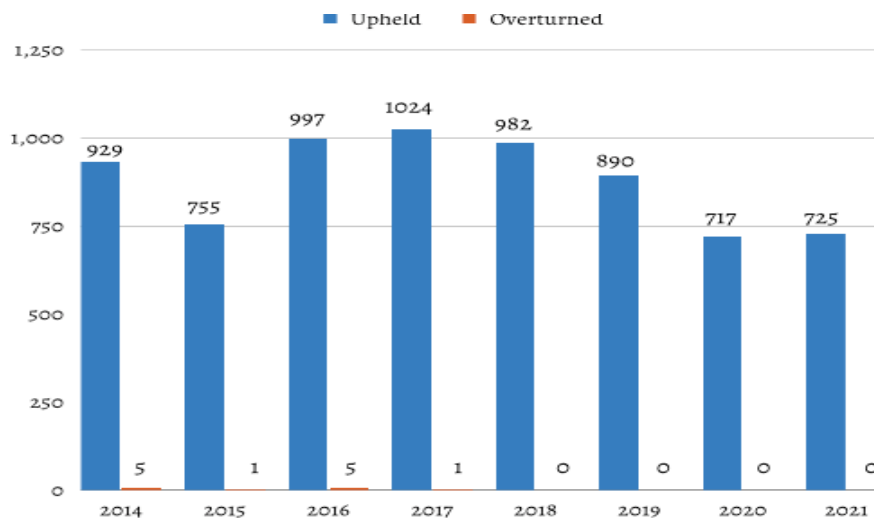
Likely because of this complexity, only a fraction of substantiated cases is ever appealed (Figure 18).<sup>87</sup>

**Figure 18.** Appeals of Substantiated Cases by Year



There are two basic pathways to seek an appeal: administrative review or a hearing before the BHA. If an individual seeks appeal via administrative review, it is almost impossible to win (Figure 19).<sup>88</sup> This appeal is simply a re-review of the indicated finding by a committee within PA DHS.<sup>89</sup> This appeal serves little purpose except for rubber stamping the original indicated report. In 2019, 2020, and 2021, not a single indicated report was overturned upon administrative review.<sup>90</sup> To make matters worse, if an appellant does not explicitly request a BHA hearing, the agency treats their appeal as a request for administrative review only.<sup>91</sup>

**Figure 19.** Administrative Review Upheld v. Overturned by Year



Those who lose their administrative review appeal have a right to file a BHA appeal. It is unclear that individuals know of that right. In 2017-2021, only a fraction of appellants who lost their administrative review appeal subsequently applied for a hearing before the BHA.<sup>92</sup>

In contrast, individuals who reach the BHA and can present their case to a judge are more likely to win their appeal. As shown above, a person is 5 to 16 times more likely to win their case than to have the original finding upheld (Figure 15). These success rates underline the importance of having an impartial review of the initial findings made by the case worker that result in placing people on the Registry.

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A person on average is **9 times**  
more likely to clear their name  
than not when they take their  
case before a judge.

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## TRANSPARENCY OF THE REGISTRY AND ITS RACIAL IMPACTS

While investigating the racial harms of the Registry, we encountered several ways in which the government acted to bar our access to vital information. The CPSL contains a broad prohibition on the release of materials related to child abuse investigations.<sup>93</sup> While some confidentiality is critical to protecting the identity of persons involved in child abuse cases, the law was surely not intended to prevent the release of vital anonymized information for better understanding how the Registry operate.

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The lack of available data makes it hard to fully understand the racial impacts of the Registry.

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We sent out Right-to-Know (RTK) requests seeking county-level non-identifying aggregate data on the number of persons by race, sex, age, and zip codes who had unfounded, indicated, and founded cases of child abuse. Of the 67 counties in Pennsylvania that the Temple and Penn teams reached out to within the last year, only 4 were willing and able to provide data requested. We otherwise received near identical denials that potentially appear to have been coordinated across counties.<sup>94</sup>

While PA DHS did provide some statewide demographic information, there was a lot of information we requested that they alleged was not readily available. While PA DHS had the underlying data, they explained that the Right to Know Law did not require them to aggregate the data for our requests. As a result, we were unable to obtain intersectional data (e.g., race-sex, race-age) to see the Registry's impact on a more granular level. Further, they refused to provide county-level data. This refusal means that we cannot account for the disparate racial make-up of each county and paint an accurate picture of local communities.<sup>95</sup>

Further, it appears that there is no data collected on certain key issues that would help us better understand the racial harms of the Registry. There is very little transparency with regards to the use of Child Abuse Clearances. For example, there is no data on the kinds of jobs or employers that are requesting Child Abuse Clearances. In addition, there is no data on the demographics of persons who are requesting clearances. Such data would help us better understand who exactly is being barred from gainful employment because of placement on the Registry.

Finally, PA DHS should strive to correspond its demographic data with the appeals process. To better understand the racial impact of remaining on the Registry, it would be helpful to have demographic information associated with the number of persons seeking appellate review, the kind of appeal sought, and whether their cases are upheld or overturned. Additional useful data would include demographic information associated with whether a person is represented by counsel during the appeals process. Ultimately, this data would clarify the ways in which the appeals process may further exacerbate the racial harms of the Registry.

## CONCLUSION

Without a doubt, individual actors involved with the child regulation system believe that the Registry is necessary to achieve the important goal of protecting children. However, there is little evidence to suggest that registries are needed to protect children.<sup>96</sup> To date, there are no studies that link those listed on registries with subsequent acts of maltreatment in the workplace.<sup>97</sup> In fact, Georgia abolished its registry in 2020, without any subsequent upticks in child abuse numbers.<sup>98</sup>

Yet here in the Commonwealth, we maintain a ChildLine and Abuse Registry that disproportionately impacts Black Pennsylvanians. It punishes the accused severely before they ever see a courtroom and denies all but the savviest a chance to be heard altogether. It bars persons on the Registry from gainful employment, often for no good reason. It hurts the very children it aims to protect by taking away their parents' ability to provide for them. And it wreaks each of these harms most powerfully in Black communities, where it compounds all the other disadvantages they face.

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Recently, PA DHS stated that it seeks to “do all [it] can to build an equitable commonwealth.”

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Rather, if child safety is the goal, we should consider what kind of alternative processes exist to keep those who are truly at risk of harming children from having contact with them. A system aimed at protecting children should consider what is in the child's best interest at every opportunity, which the Registry currently does not do. A system that is meant to provide support should not take away people's livelihoods without a very good reason. And a system meant to regulate conduct must come with the sort of procedural safeguards that normally accompany that goal. Since government interventions in family life almost always bring some attendant harm, they should be as rare and as narrowly tailored as possible while achieving a particular objective.

If Pennsylvania is set, however, on continuing to use the Registry, there are some steps we can take that will help us better understand the harmful racial impacts of the Registry.

### To Move Forward, We Need to . . .

- Have better access to data about the Registry.
- Collect data on use of Child Abuse Clearances by employers.
- Collect data on who has access to the appeals process.
- Reconsider who gets placed on the Registry and for how long.
- Provide procedural safeguards for those who are placed on the Registry.
- Limit the kind of employers that require Child Abuse Clearances.
- Redefine neglect by providing for supportive services rather than labeling low-income parents as child abusers.
- Confront the role of racial bias throughout the process of placing people on the Registry.

There is light at the end of this tunnel. Take Angela West, who has spoken publicly about her inability to move up in the working world because of her unfair placement on the Registry.<sup>99</sup> After many years, she has finally won the battle to have her name expunged. And she continues to fight as a lead plaintiff in a lawsuit against PA DHS, alleging the unfairness of the Registry.<sup>100</sup> In New York, the Parent Legislative Action Network (PLAN) helped to lead advocacy to diminish the footprint of the statewide registry.<sup>101</sup> PLAN includes groups like JMACforFamilies that prioritize the voices of parents. While the child regulation system victimizes many, these same people are standing up and organizing to fight for change around the nation.

The need to reconsider the Registry has many parallels to the current reckoning with the criminal legal system and the ways in which it harms Black communities. In looking to the future, we need to create a system that actually protects children rather than burdens them with shame, instability, and poverty. For these reasons, the ChildLine and Abuse Registry must urgently be reformed or replaced to promote justice, equity, and opportunity for all.

## APPENDIX: METHODOLOGY

The Temple and Penn teams conducted several avenues of investigation to produce this report.

We sent Right-To-Know requests to each individual county in Pennsylvania as well as PA DHS. After negotiations with PA DHS, we obtained aggregate figures of cases of child abuse from 2015 to 2021 by sex, age, or race/ethnicity. We also obtained data about the appeals process, including the number of appeals filed, their approval rates, and timing. Just recently, we gained access to a breakdown of cases from 2016 to 2022 by type of abuse and by race/ethnicity or sex. Finally, we also used publicly available PA DHS data within this report.

Individual counties mostly refused to provide us with any information. Allegheny, Erie, Indiana, and McKean Counties, however, provided us with data about child abuse cases and demographics. For Erie County, our teams were able to build intersectional graphs that more specifically looked at overlapping identities of age, race, sex, and income.

We placed such data in context using demographic data from the U.S. Census Bureau. We used racial data from the U.S. Census annual estimates for 2010 to 2021.

To understand the Registry's impact on employment, we reached out to staffing agencies and large employers in Pennsylvania. We called 15 staffing agencies and managed to have substantive conversations with representatives from 4 out of the 15 agencies. We also attempted to contact and investigate the 20 largest non-federal employers in Pennsylvania. We did this by reviewing their website and job postings and contacting any phone number or email address that we located that claimed to connect with HR, a recruiter, or a member of senior leadership. Of those 20, we were able to speak with three knowledgeable contacts. To put some of the employment issues in context, we used industry-specific demographic data from U.S. Bureau of Labor Statistics.

Finally, we conducted qualitative interviews with impacted individuals to learn firsthand about how the Registry affected their lives.



## ENDNOTES

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<sup>1</sup> Interview with A.B. (Nov. 29, 2022) (initials changed to protect privacy).

<sup>2</sup> Interview with C.D. (Dec. 5, 2022) (initials changed to protect privacy).

<sup>3</sup> Interview with E.F. (Apr. 21, 2023) (initials changed to protect privacy).

<sup>4</sup> PA. DEP'T HUM. SERVS., RACIAL EQUITY REPORT 2021 2 (2021),

<https://www.dhs.pa.gov/about/Documents/2021%20DHS%20Racial%20Equity%20Report%20final.pdf>

<sup>5</sup> BUDGET OFFICE, CITY OF PHILA., BUDGETING FOR RACIAL EQUITY FISCAL YEAR 2023 39 (2023),

<https://www.phila.gov/media/20220330122553/FY2023-2027-Five-Year-Plan-Budgeting-for-Racial-Equity.pdf>.

<sup>6</sup> 23 Pa. Cons. Stat. § 6302(a).

<sup>7</sup> A mandated reporter must make a report if they have reasonable cause to suspect that a child is a victim of child abuse based on: their contact with a child in the course of a regularly scheduled program, activity or service; their responsibility of care, supervision, guidance, or training of the child; or a specific disclosure to the mandated reporter. 23 Pa. Cons. Stat. § 6311 (a)-(b). The figure comes from PA DHS' annual reports from 2017-2021. PA. DEP'T OF HUM. SERVS., ANNUAL REPORTS, available at <https://www.dhs.pa.gov/docs/Publications/Pages/Child-Abuse-Reports.aspx>.

<sup>8</sup> The agency has 30 days to complete an investigation by default, but may take up to 60 days provided that a valid reason for delay is described in the record and provided to PA DHS. 23 Pa. Cons. Stat. § 6368(n).

<sup>9</sup> 23 Pa. Cons. Stat. § 6308(a).

<sup>10</sup> Examples of court actions that support a “founded” determination are a judicial determination of abuse, a consent decree in a juvenile proceeding, or the granting of a final protection from abuse order. PA. DEP'T OF HUM. SERVS., ANNUAL REPORT 7 (2021).

<sup>11</sup> U.S. Census Bureau, Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for Pennsylvania: April 1, 2010 to July 1, 2019, <https://www.census.gov/data/tables/time-series/demo/popest/2010s-state-detail.html>; Annual Estimates of the Resident Population by Sex, Race, and Hispanic Origin for Pennsylvania: April 1, 2020 to July 1, 2021, <https://www2.census.gov/programs-surveys/popest/tables/2020-2021/state/asrh/>; PA DHS Data (Jan. 25, 2023). The race/ethnicity categories used by the Census and PA DHS did not align so we used the category “Black” or “White” only against any PA DHS categories labeled “Black” or “White.”

<sup>12</sup> *Id.* PA DHS provided several caveats to the data: (1) the same individual could be represented multiple times in the aggregate counts; (2) the data is “point in time,” representing the total alleged perpetrators who currently exist and may not align with similar counts produced due to expunction and/or outcome changes of status; and (3) a number was not provided for those categories that had less than 11 people (e.g., “<11”). For the third issue, we did not include those categories since we had no number to count.

<sup>13</sup> *See supra* note 11.

<sup>14</sup> *Id.*

<sup>15</sup> The disproportionality rate is obtained by dividing the percentage of investigations or substantiated cases with the percentage representation of the White or Black population in Pennsylvania.

<sup>16</sup> For the population estimates for 2020, those under 14 years old made up 22% of the total Black population versus 17% of the total White population in Pennsylvania. SC-EST2021-ALLDATA6: Annual State Resident Population Estimates for 6 Race Groups (5 Race Alone Groups and Two or More Races) by Age, Sex, and Hispanic Origin: April 1, 2020 to July 1, 2021, <https://www.census.gov/data/datasets/time-series/demo/popest/2020s-state-detail.html>. Given how complicated it is to determine race and age numbers for each census year, we calculated our disproportionality rates using overall population data by race/ethnicity.

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- <sup>17</sup> We also received response from Indiana and McKean Counties. Since the vast majority of their population was White, the numbers were too small to analyze its impact on Black persons.
- <sup>18</sup> Allegheny County Data (Nov. 17, 2022); *How Has the Racial and Ethnic Makeup of Allegheny County Changed?* USA FACTS, <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/pennsylvania/county/allegheny-county/> (showing from 2010 to 2020 the Black population percentage remaining 13% while showing White population percentage changing from 81% to 78%) (last visited May 23, 2023).
- <sup>19</sup> Erie County Data (Nov. 17, 2022); *How Has the Racial and Ethnic Makeup of Erie County Changed?* USA FACTS, <https://usafacts.org/data/topics/people-society/population-and-demographics/our-changing-population/state/pennsylvania/county/erie-county/> (showing from 2010 to 2020 the Black population percentage remaining 7% while showing White population percentage changing from 87% to 83%) (last visited May 24, 2023).
- <sup>20</sup> *Id.* For intersectional data on Black and White female percentages, we used U.S. Census data for Erie County from 2019, County Population by Characteristics: 2019 (Erie, Pennsylvania) <https://www.census.gov/data/tables/time-series/demo/popest/2010s-counties-detail.html>.
- <sup>21</sup> The definition for “perpetrator” cuts off those under age 14. 23 Pa. Cons. Stat. § 6303.
- <sup>22</sup> PA DHS Data (Jan. 25, 2023).
- <sup>23</sup> 23 Pa. Cons. Stat. § 6338(c).
- <sup>24</sup> Erie County Data (Nov. 17, 2022).
- <sup>25</sup> PA DHS Data (Apr. 19, 2023); *see supra* note 11.
- <sup>26</sup> 23 Pa. Cons. Stat. § 6303(a) and (b.1)(7).
- <sup>27</sup> ELISA MINOFF & ALEXANDRA CITRIN, CTR. FOR THE STUDY OF SOC. POL’Y, SYSTEMICALLY NEGLECTED: HOW RACISM STRUCTURES PUBLIC SYSTEMS TO PRODUCE CHILD NEGLECT, CTR. FOR THE STUDY OF SOC. POL’Y 14 (Mar. 2022).
- <sup>28</sup> *C.F. v. Pa. Dep’t of Pub. Welfare*, 804 A.2d 755, 756 (Pa. Commw. Ct. 2002).
- <sup>29</sup> 23 Pa. Cons. Stat. § 6304(a).
- <sup>30</sup> *See* DOROTHY ROBERTS, *TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES--AND HOW ABOLITION CAN BUILD A SAFER WORLD*, BASIC BOOKS 66 (2022).
- <sup>31</sup> CHILDREN’S RIGHTS & COLUM. LAW SCH. HUMAN RTS. INST., *RACIAL (IN)JUSTICE IN THE U.S. CHILD WELFARE SYSTEM* 3-4 (July 2022).
- <sup>32</sup> Wendy G. Lane et al., *Racial Differences in the Evaluation of Pediatric Fractures for Physical Abuse*, 288 JAMA 1603 (2002).
- <sup>33</sup> Modupeola Diyaolu et al., *Disparities in Detection of Suspected Child Abuse*, 58 J. PEDIATRIC SURGERY 337 (2023).
- <sup>34</sup> Joanne N. Wood et al., *Disparities in the Evaluation and Diagnosis of Abuse Among Infants With Traumatic Brain Injury*, 126 J. PEDIATRICS 408 (2010).
- <sup>35</sup> Clara Presler, *Mutual Deference Between Hospitals and Courts: How Mandated Reporting from Medical Providers Harms Families*, 11 COLUM. J. RACE & L. 733, 749-55 (2021).
- <sup>36</sup> *Id.* at 741-45.
- <sup>37</sup> Mical Raz, *Calling Child Protective Services Is a Form of Community Policing that Should Be Used Appropriately: Time to Engage Mandatory Reporters as to the Harmful Effects of Unnecessary Reports*, 110 CHILD. & YOUTH SERVS. REV. 1, 2 (2020).
- <sup>38</sup> Minoff & Citrin, *supra* note 27, at 14.
- <sup>39</sup> Colleen Henry & Vicki Lens, *Marginalizing Mothers: Child Maltreatment Registries, Statutory Schemes, and Reduced Opportunities for Employment*, 24 THE CITY UNIVERSITY OF N.Y. L. REV. 1, 10-12 (2021); Colleen Henry et al., *Substantiated Allegations of Failure to Protect in the Child Welfare System: Against Whom, in What Context, and with What Justification?*, 116 CHILD. & YOUTH SERVS. REV. 1, 3 (2020).
- <sup>40</sup> ROBERTS, *supra* note 30, at 70.
- <sup>41</sup> *Id.*
- <sup>42</sup> Minoff & Citrin, *supra* note 27, at 14.
- <sup>43</sup> ROBERTS, *supra* note 30, at 79.

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- <sup>44</sup> *See, e.g., id.* at 39-44.
- <sup>45</sup> Philadelphia DHS recently found that those zip codes with the most child abuse reports were the most burdened by poverty, and that most reports made were for neglect, not abuse. PHILA. DEP'T HUM. SERVS., ENTRY RATE & DISPROPORTIONALITY STUDY 26, 32 (Aug. 2020). Our own review of zip code from Allegheny County similarly finds that the top ten zip codes with substantiated cases have an average poverty rate of 21% (on file with authors).
- <sup>46</sup> Act of Oct. 22, 2014, P.L. 2529, No. 153 (codified at 23 Pa. Cons. Stat. §§ 6303-6383).
- <sup>47</sup> Jeff Brady, *After Sandusky, A Debate Over Whether Sex-Abuse Law Goes Too Far*, NPR (June 25, 2015), <https://www.npr.org/2015/06/25/417434108/after-sandusky-a-debate-over-whether-sex-abuse-law-goes-too-far>.
- <sup>48</sup> PA. DEP'T OF HUM. SERVS., ANNUAL REPORTS (2011-2021).
- <sup>49</sup> *Id.*
- <sup>50</sup> 23 Pa. Cons. Stat. § 6344(a)(1) and (a.1).
- <sup>51</sup> 23 Pa. Cons. Stat. §§ 6344(a)(5)(i), 6303(a).
- <sup>52</sup> *Employees Having Contact with Children Frequently Asked Questions*, PA. DEP'T HUM. SERVS., [https://www.dhs.pa.gov/KeepKidsSafe/Clearances/Documents/KKS-EmployeesContactFAQ\\_2021.pdf](https://www.dhs.pa.gov/KeepKidsSafe/Clearances/Documents/KKS-EmployeesContactFAQ_2021.pdf) (last visited May 16, 2023).
- <sup>53</sup> *Employee Policies and Procedures*, CROSS HOME CARE, <https://www.crosshomecarellc.com/general-5> (last visited May 16, 2023).
- <sup>54</sup> *See, e.g., Our Screening Process*, FAITHFUL AT HOME CARE, <https://faithfulathomecare.com/our-screening-process/> (last visited May 16, 2023); *About Us*, AT HOME PERSONAL CARE LLC, <https://www.athomepersonalcare.us/#Services> (last visited May 16, 2023); *Home Care: What Sets Us Apart*, TRADITIONAL HOME HEALTH CARE, <https://www.traditionalhomehealthcare.com/home-care/what-sets-us-apart/> (last visited May 16, 2023); *Do Home Health Aides Need to Be Certified?*, JEVS CARE AT HOME, <https://jevsathome.org/does-home-health-aide-need-certification/> (last visited May 16, 2023); *Home Care*, DEDICATED NURSING ASSOCIATES, <https://www.dedicatednurses.com/home-health-care/> (last visited May 16, 2023).
- <sup>55</sup> 28 Pa. Code § 611.53.
- <sup>56</sup> 35 Pa. Cons. Stat. § 448.806(d.1)(4)(ii).
- <sup>57</sup> Interview with representative from Philly Temps & Perm (Mar. 17, 2023).
- <sup>58</sup> Interview with representative from ACCU Staffing (Mar. 17, 2023).
- <sup>59</sup> Interview with Anonymous Source, CHOP (Mar. 30, 2023).
- <sup>60</sup> Interview with Human Resources, Penn State University (Mar. 20, 2023).
- <sup>61</sup> 23 Pa. Cons. Stat. § 6344.3(e).
- <sup>62</sup> Employment Status of the Civilian Noninstitutional Population by Sex, Age, and Race (2022), Employed Persons by Detailed Industry, Sex, Race, and Hispanic or Latino Ethnicity (2022), and Employed Persons by Detailed Occupation, Sex, Race, and Hispanic or Latino Ethnicity (2022), U.S. BUREAU OF LABOR & STATISTICS, <https://www.bls.gov/cps/cpsaat18.pdf>.
- <sup>63</sup> *Id.*
- <sup>64</sup> Anaïs Goubert et al., *Latinx and Black Women Are Overrepresented, But All Women Face Heightened Risk of Poverty*, CEPR (Oct. 27, 2021).
- <sup>65</sup> State Occupational and Employment Statistics: Pennsylvania (May 2022), U.S. BUREAU OF LABOR & STATISTICS, [https://www.bls.gov/oes/current/oes\\_pa.htm](https://www.bls.gov/oes/current/oes_pa.htm).
- <sup>66</sup> *Id.*
- <sup>67</sup> CHRISTIAN E. WELLER, CTR. FOR AM. PROGRESS, AFRICAN AMERICANS FACE SYSTEMATIC OBSTACLES TO GETTING GOOD JOBS (Dec. 5, 2019), <https://www.americanprogress.org/article/african-americans-face-systematic-obstacles-getting-good-jobs/>.
- <sup>68</sup> Interview with K.L. (Oct. 19, 2022) (initials changed to protect privacy).
- <sup>69</sup> Interview with M.N. (June 2, 2023) (initials changed to protect privacy).
- <sup>70</sup> Interview with G.H. (Mar. 21, 2023) (initials changed to protect privacy).
- <sup>71</sup> The hospitals or hospital systems surveyed were: Thomas Jefferson University Hospital, Lehigh Valley Hospital Cedar Crest, Einstein Hospital (part of Jefferson system), Temple University

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Hospital, Reading Hospital, Hershey Medical Center, Wellspan York Hospital, Allegheny General Hospital, the Hospital of the University of Pennsylvania, UPMC Presbyterian Shadyside, and the Childrens' Hospital of Philadelphia. UPMC was the one exception that included its clearance requirements clearly on job postings.

<sup>72</sup> Even if an applicant opts to call, they may not be able to since only two of the hospitals surveyed made the phone number of a recruiter available.

<sup>66</sup> Petition for Review, *A.W. v. Commw. of Pa.*, 396 MD 2022 (filed Aug. 10, 2022).

<sup>74</sup> 23 Pa. Cons. Stat. § 6334(a).

<sup>75</sup> *See, e.g.*, Child Abuse Investigations Supervisor, ZIP RECRUITER, <https://www.ziprecruiter.com/ojob/qWEaLIpBwkT8UdBYoyHtOw.-MsAppy4jw?lvk=qWEaLIpBwkT8UdBYoyHtOw.-MsAppy4jw> (listing for Child Abuse Investigations Supervisor does not require an educational background in law) (last visited May 20, 2023).

<sup>69</sup> PA. DEP'T OF HUM. SERVS., ANNUAL REPORTS (2015-2021).

<sup>77</sup> Samantha Melamed, *Thousands in Pa. Are Put on a Child-Abuse Registry with No Hearing. They Say It's Ruining their Lives*, THE PHILA. INQUIRER (Nov. 18, 2020).

<sup>78</sup> PA DHS Data (Nov. 21, 2022).

<sup>79</sup> Interview with I.J. (Apr. 21, 2023) (initials changed to protect privacy).

<sup>80</sup> Petition for Review at 16, *A.W. v. Commw. of Pa.*, 396 MD 2022 (filed Aug. 10, 2022).

<sup>81</sup> *See supra* note 80, at 24.

<sup>82</sup> *Id.* at 25.

<sup>83</sup> *Id.* at 25-26.

<sup>84</sup> Interview with E.F. (Apr. 21, 2023) (initials changed to protect privacy).

<sup>85</sup> Our figure is based on the appeals flowchart from the Pennsylvania Child Welfare Resource Center, [https://www.pacwrc.pitt.edu/Resources/CPSL%20Resources/AppealsFlowChart\\_3.2.15.pdf](https://www.pacwrc.pitt.edu/Resources/CPSL%20Resources/AppealsFlowChart_3.2.15.pdf).

<sup>86</sup> According to a 2022 report, low-income Americans sought legal help relating to family law issues only 33% of the time. Even when they seek legal help, low-income Americans often do not get all of the help they need. LEGAL SERVS. CORP., THE JUSTICE GAP: THE UNMET LEGAL NEEDS OF LOW-INCOME AMERICANS 45-46 (Apr. 2022), <https://live.app.box.com/s/xl2v2uraitobbzrhwtjlgioemp3myz1>.

<sup>87</sup> PA. DEP'T OF HUM. SERVS., ANNUAL REPORTS (2014-2021). A few notes about this figure. PA DHS' data only tracks the overall category of substantiated cases, which includes founded cases that are not appealable. Our guess, however, is that the indicated cases far outnumber the founded cases based on our review of the overall relative numbers of indicated and founded cases in Erie and Allegheny. Further, appeals within a given year may be from substantiated cases from a prior year (e.g., the appeal from a 2018 case may be filed in 2019).

<sup>88</sup> *Id.*

<sup>89</sup> 23 Pa. Cons. Stat. § 6341(a)(2).

<sup>90</sup> PA. DEP'T OF HUM. SERVS., ANNUAL REPORTS (2019-2021).

<sup>91</sup> Petition for Review at 23, *A.W. v. Commw. of Pa.*, 396 MD 2022 (filed Aug. 10, 2022).

<sup>92</sup> Approximately 1/3 or less request a BHA hearing after administrative review. *See* PA. DEP'T OF HUM. SERVS., ANNUAL REPORTS (2017-2021).

<sup>93</sup> 23 Pa. Cons. Stat. § 6339.

<sup>94</sup> In an internal email dated February 8, 2023, leaked to the Penn Carey Law team, county CYS agencies apparently participated in a "state-wide PCYA meeting" about our Right to Know request. It appears that the discussion recommended that county CYS agencies issue denials based on the Right to Know Law and the CPSL.

<sup>95</sup> Philadelphia DHS's Entry Rate Study provides some good local information but does not focus on those accused of child abuse. PHILA. DEP'T HUM. SERVS., ENTRY RATE & DISPROPORTIONALITY STUDY (Aug. 2020).

<sup>96</sup> Henry & Lens, *supra* note 39, at 32 ("There is little to no evidence to suggest that substantiation itself is an indication of unfitness for employment, but there is ample evidence to suggest that lack of economic opportunity increases risk of child maltreatment").

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<sup>97</sup> *Id.* at 11 n.55.

<sup>98</sup> Maya T. Prabhu, *Georgia Ends Child Abuse Registry, Saying Database Undermined Intent*, ATLANTA JOURNAL-CONSTITUTION, Sept. 1, 2020, <https://www.ajc.com/politics/georgia-ends-child-abuse-registry-saying-database-undermined-intent/ARHGDXVLXVD2FBUARPOATAFGU4/>; Decl. Melissa Carter, Barton Law & Child Policy Ctr., Emory Law School 4 (Sept. 21, 2022) (“Most critically, there is no evidence, anecdotal or otherwise, that repeal of the registry is associated with any rise in child abuse in schools, child care centers, or other occupational settings”) (on file with authors).

<sup>99</sup> *How Is that Legal?: Fighting for Her Name*, COMMUNITY LEGAL SERVS. PHILA. (Mar. 15, 2023) (downloaded using Apple Podcasts).

<sup>100</sup> Harold Brubaker, *Pa.’s ChildLine Abuse Registry Violates the State Constitution, a New Lawsuit Alleges*, PHILA. INQUIRER (Aug. 31, 2022), <https://www.inquirer.com/business/health/pennsylvania-childline-abuse-registry-lawsuit-commonwealth-court-20220831.html>; *see supra* note 80.

<sup>101</sup> *New Law Reforming NY State Central Registry Will Provide Justice and Relief to Families*, JMACFORFAMILIES (Nov. 25, 2020), <https://jmacforfamilies.org/news3/2020/11/25/reforming-scr>.