

Surveillance of Black Families in the Family Policing System

*An up**END** publication by*

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“Surveillance is nothing new to black folks. It is the fact of antiblackness.”

– Simone Browne, *Dark Matters: On the Surveillance of Blackness*

Surveillance stems from the French prefix “sur” indicating “from above,” and root word “veillance” meaning observing or watching.² In a general sense, surveillance requires both a target that is being monitored and an all-seeing eye – a watcher or monitor of the “other.” In the United States, Black communities have continued to be marked as this targeted “other” – a community whose actions have been deemed necessary to track. The observation and monitoring of Black communities in the United States is not new and has continued to proliferate with the advent of technological innovation and accompanying institutional partnerships that have expedited the automation of the all-seeing eye. Eighteenth century lantern laws have morphed into large datasets, facial recognition, and biometric technologies. The monitoring and subsequent criminalization of Black communities has expanded from the criminal punishment system to social services, education, medical systems, and the [family policing system](#).

The distinct ways that surveillance permeates and specifically targets Black communities is highlighted through Simone Browne’s concept of “racializing surveillance.”³ Racializing surveillance is described as “a technology of social control where surveillance practices, policies, and performances concern the production of norms pertaining to race and exercise a power to define what is in or out of place.”⁴ Racializing surveillance does not simply imply the maintenance of a racial order; rather, it suggests that things are ordered racially by way of surveillance. This ordering often relies on techniques that “reify boundaries, borders, and bodies along racial lines.”⁵ As such, racializing surveillance penetrates communities differentially. For Black individuals, racialized surveillance is tied to ideologies from the European colonial expansion and transatlantic slavery which sought to “structure social relations and institutions in ways that privilege Whiteness.”⁶ Today, the surveilling eye continues to exist as a compounding and often insidious White gaze, one that enacts violence and subsequently harms Black communities. This eye, as Donna Haraway explains, is a “conquering gaze from nowhere,” and thus it remains elusive to many who are not directly impacted.⁷ Racializing surveillance is fueled by the abnormalization of behaviors and actions that are attributed to Black communities, especially Black communities experiencing deep poverty. What Browne calls “unfinished emancipation”⁸ indicates long genealogies of slavery and surveillance where anti-Black policies and state governance around poverty and criminality create an expansive carceral trap for Black families today.

Understanding Anti-Blackness, Surveillance, and Family Policing

Black communities are overwhelmingly impacted by policing and the carceral state. Black people are imprisoned at a rate nearly five times the rate of White Americans.⁹ Black neighborhoods experience more policing as forms of surveillance and control but little help when in need of emergency services.¹⁰ In *Border and Rule: Global Migration, Capitalism, and the Rise of Racist Nationalism*, Harsha Walia asserts that “Black migrants and refugees experience the brunt of anti-immigrant criminalization” and “face a triple threat of stop-and-frisk policing, conviction, and incarceration.”¹¹ Specific to family policing, Black children are more likely to experience a child protective services investigation and to be separated from their families.¹² Racism informs how Black people and communities experience policing and surveillance, but remains an inefficient analysis to understand the ways in which criminality – and thus the state’s unrelenting desire to police, surveil, and oppress Black subjects – is constructed on anti-Blackness specifically. That is, anti-Blackness as a framework to understand the “uniqueness of Black positionality”¹³ allows us to not only better understand the ways in which Black people experience exploitation, oppression, and subjugation but also allows a deeper understanding of the logics – the anti-Black logics – that carceral systems are built upon, and importantly, what must be (un)done to defeat them in service of Black liberation.

Zoe Samudzi and William C. Anderson succinctly name anti-Blackness as not merely an “ideological or personally held opinion about the inferiority of Black people” but a “structural process through which resources are unevenly distributed, which in turn informs the material realities of Black communities, often those of deprivation.”¹⁴ Samudzi and Anderson elaborate further to argue that the stratification caused by anti-Blackness affects not only health but also physical safety due to the way that Black communities experience policing and surveillance.¹⁵ The logics of anti-Blackness require policing, surveillance, and coercion. Anthony Paul Farley writes that Black people became marked as Black at the original moment of capture or the beginning of the transatlantic slave trade.¹⁶ In other words, slavery created the hierarchy that places White in opposition to and also as superior to Black. Like Saidiya Hartman,¹⁷ Farley argues that even with the end of United States chattel slavery, emancipation never took place.¹⁸ Instead, Black people still exist in the afterlife of slavery and are still “imperiled and devalued by a racial calculus and a political arithmetic that were entrenched centuries ago.”¹⁹ Thus, Black people face skewed life chances, limited access to health and education, premature death, incarceration, and impoverishment.²⁰

Slavery and its afterlives also construct criminality in direct relation to Blackness. Dylan Rodriguez writes that “African indigeneity was a focal point for the genesis of modern hemispheric criminal justice and criminological apparatuses.”²¹ Before modern prisons were established in what we now know as the United States, the slave ship can be understood as the first mobile prison.²² A mode of constant surveillance, violence, capture, and a vessel for capitalist exploitation, the slave ship or the mobile prison constructed Black criminality and anti-Black criminalization. Anti-Blackness therefore contrasts Black people and communities as subjects who are inherently violent and in need of control and regulation by the state and for the state’s interest.

An analysis of anti-Blackness explicates the relationship between family policing and anti-Blackness. If anti-Blackness understands Black people to be in need of control and monitoring, unregulated Black reproduction becomes dangerous.²³ If criminality is constructed through anti-Blackness, then Black people are also subjects of “gender-racial deviance (criminal, sexual, and otherwise).”²⁴ Thus, why an entire state apparatus exists to monitor, control, and separate children from their families using anti-Black racial logics is more clearly understood through an analysis of anti-Blackness. If what we understand as basic “freedoms” in the United States are constructed on top of anti-Blackness rendering Black people unable to experience those freedoms, we can also understand why it is possible that the state may decide who and what communities have the “right and claim to life and who is regulated to inhumanity and social death.”²⁵ Orlando Patterson explains natal alienation, an element of social death, as severance from ancestors and children and positionality of powerlessness that Black families experienced on plantations even when together through the institution of slavery.²⁶ Family policing, as anti-Black formulation, keeps Black communities in a perpetual state of capture – of social death.

Surveillance of Black Families in the Family Policing System

The concept of racializing surveillance offers a way to analyze how anti-Black norms are used to rationalize the categorization and differential treatment of Black communities within the family policing system who are “out of place.” The family policing system is a network of institutions and organizations aimed at “protecting vulnerable children.” The system not only mimics punitive forms of “justice seeking” akin to the criminal punishment system, it also often works collaboratively with law enforcement agencies like the police, FBI, and ICE. However, unlike the often more obvious harms of mass incarceration and prisons, the family policing system has inconspicuously destroyed generations of Black familial and community bonds.²⁷ The family policing system’s main objective is to “service” families who have abused or neglected their children. Just as Browne describes the slave pass system as regulating Black mobilities by

control through the media and other servants, the family policing system dispels its powers through narratives of protection, adoption incentives, and expansive mandated reporting laws.²⁸ The system does so by investigating calls of suspected maltreatment, referring parents and children to classes and therapies, monitoring and tracking family progress, and in the case of many Black families, forcing family separation through foster care and the termination of parental rights. Each “service” provided by the family policing system requires the physical and digital tracking of families to ensure that risk is mitigated and that the child is “protected” to the standards of the system.

In seeking to fulfill its mission of “saving children,” the family policing system has continued to harm Black communities. Recent reports show that Black families are reported for maltreatment at approximately twice the rate of their White counterparts,²⁹ are more likely to be investigated,³⁰ and are more likely to be separated from their families and placed in foster care.³¹ Social works adherence to “child-saving” remains central to the project of “child welfare” and the rationalization of surveillance. The “protection” of Black children within the system requires them to become objects and commodities. Though family policing advocates claim that Black children deserve families who can care for them, Black lives are coincidentally entangled in a money-making scheme between federal agencies, charities, and nonprofits. States have been incentivized to remove children from their homes, expediting family separation with little incentive to reunify families. As Abdurahman states, child welfare agencies have little incentive to classify families as anything other than “at risk” given that it is often a prerequisite for a pipeline of funding.³² While researchers search for statistical explanations for why racism is not a large contributing factor of Black family overrepresentation within the system, the foundational problem within the family policing system consistently remains unquestioned. The problems within “child welfare” are not solely that there is bias or racism that impacts caseworkers in their decision-making – one of the underlying fundamental problems is that the family policing system has been tasked with the power to make these decisions in the first place, and these decisions are based on discretionary standards of risk and well-being.

The family policing system compares families to standardized or “objective” norms of “well-being” to assess their risk level. These measures of well-being include caretaker capacity, school readiness, self-regulation, social competence, and “safe, stable, and nurturing relationships with caregivers.”³³ Many of these child well-being indicators vary in definition and types of reporters, and as such, the field of child welfare has no standard way of measuring well-being.³⁴ These discretionary and widespread norms are nevertheless the backbone of the system’s investigative process that assesses families based on risk. When families or individuals do not meet the standardized norms of the system they are faced with consequences that range from unannounced visits and random searches from caseworkers, to the removal of children from the home. Black families bear the brunt of these consequences, especially Black families who have significantly lower income and are placed under the control of the state and cumulative

White gaze through multiple systems. Rather than associating deteriorating material conditions with a dire need for structural and systemic change, the family policing system chooses to judge those who live within these conditions – leaving the foundational structural problems unresolved. Discussions of racial bias do not sufficiently address these larger issues within the family policing system – that is caseworkers’ ability to define who is “out of place,” and how to assimilate them so that they are “in place.”

Extensions of Surveillance: CAPTA and FFPSA

The overrepresentation of Black families within the system is not an accident, but rather a consequence of various policies including the Child Abuse Prevention and Treatment Act (CAPTA) that has contributed to the proliferation of surveillance and policing of Black communities. CAPTA laws require certain individuals to report “reasonable suspicions” of child maltreatment.³⁵ These suspicions do not have to be based on any proof but rather a hunch that some form of abuse or neglect is happening to a child. This includes anything from children coming to class hungry or with dirty looking clothes, to overhearing a family arguing in the house next door. Mandatory reporting has expanded into various systems that encounter Black life and has turned seemingly innocuous individuals like teachers and grocery store workers into agents of the state. It has shifted our social fabric and convinced our neighbors and families that the family policing system is the sole remedy for harm caused to children. Mandatory reporting standards are based on discretionary standards of abuse and neglect, as are the algorithms that filter these anonymous calls and label them as high risk. New technologies in child protection hotlines continue to build on these discretionary standards by predicting risks from certain words that are stated by anonymous callers and adopting the ability to detect callers’ sentiments when they report.³⁶

In addition to CAPTA, the more recent and highly championed Family First Prevention Services Act of 2018 has also contributed to a preventative mode of surveillance. The Family First Prevention Services Act (FFPSA) was designed to fund prevention and family services to “help keep children safe and supported at home.”³⁷ The passing of the FFPSA led to the creation of a Title IV-E Prevention Services Clearinghouse that is used to determine what services are eligible for federal funds. These services are only eligible to children who are at “imminent risk of entering foster care...but who can remain safely in the child’s home or in a kinship placement as long as services or programs specified in section 471(e)(1) that are necessary to prevent the entry of the child into foster care are provided.”³⁸ This clearinghouse relies on biased “evidence-based” services, ones that are claimed to have “favorable effects” but are in fact ineffective or harmful.³⁹ Abdurahman further suggests that the FFPSA has contributed to the creation of “prevented populations” which

largely consist of Black and Latinx communities who are pushed into community surveillance programs by the family policing system.⁴⁰

FFPSA not only pushes certain children into these programs, it also mandates the continued use of risk assessments, the tracking of families, and the creation of new and shared databases. The legislation requires states to discuss how they will monitor and oversee the safety of children who receive their evidence-based services, including the use of periodic risk assessments and reexamination of the prevention plan.⁴¹ In addition, states must also show procedures providing for the use of an “electronic interstate case-processing system for the exchange of data and documents to expedite the placements of children in foster, guardianship, or adoptive homes across state lines.”⁴² Moreover, the law requires data integration stating that the case-processing system is intended to connect with other data systems including those “operated by state law enforcement and judicial agencies, systems operated by the FBI for the purposes of the Innocence Lost National Initiative, and other systems; improving the ability of states to quickly comply with background check requirements.”⁴³ Although researchers have previously described the pendulum of the family policing system as one that swings between the distinct dichotomy of family preservation and child protection, this line has become less clear. The family policing system is currently in a space where no matter where the pendulum swings, the reliance on tracking and monitoring Black families is necessary. The system surveils and monitors Black families whether they claim to be “preserving family bonds” or aiming to “protect” children.

Expansion of Surveillance Within the Family Policing Ecosystem

The adherence to harm prevention and risk mitigation has expanded to other systems that are connected to the family policing ecosystem. This has been exemplified through new guidance for mandatory reporters during the COVID-19 pandemic, and the adoption of “human decision” supporting technologies that aim to more effectively identify child abuse and neglect. In the education system, teachers are being instructed to pay close attention to certain cues within the virtual environment. This guidance stems from fears that with less capacity to surveil children and families, teachers have been missing a large amount of child maltreatment cases due to the virtual teaching environment. During the pandemic Black and Latinx families have been investigated for not having internet access and not receiving city-issued technologies – two things that have nothing to do with child safety.⁴⁴ In fact, much of the guidance provided to teachers around safety risks or red flags included discretionary standards such as exposed electrical wires, animal feces, holes in the walls, children reporting lack of food and utilities, unfamiliar visitors to the home, hypervigilance of the child and nervousness, student complaints of hunger, and any

parent who was not allowing children to be alone during instruction. These discretionary red flags tell a broader story about how surveillance within schools operates in and out of the classroom. The pressure for educators to report any suspicion arises from the punitive consequences of fines and incarceration for non-compliance with CAPTA laws.⁴⁵

In conjunction with surveillance in the education system, medical systems have additionally begun to adopt technologies that predict harm and mitigate risks. Researchers are attempting to use the casenotes of medical professionals to help judge situations and more efficiently predict child abuse. These casenotes include descriptions about “the social dynamic of the family, the current situation, and wishes of the parents and a number of medical diagnostics”⁴⁶ such as, “Nice child, mother has chronic bronchitis, advised to not start with fruit until age 5.”⁴⁷ Despite acknowledging that indicators of child maltreatment that may be extracted from case notes are “not diagnostic and definitive proof of maltreatment,”⁴⁸ researchers continue to use machine learning, specifically text mining, to deploy child maltreatment predictions. This example shows how the ways in which individuals interact with healthcare professionals may be weaponized against them. This is specifically alarming for Black families who have to encounter a racist and anti-Black medical system (Roberts, 2017 & Taylor, 2020).⁴⁹

Contemporary forms of surveillance are about the “prevention and management of risk through predictive and anticipatory means” which often requires the presumption of guilt to an individual based on their membership within a “particular category.”⁵⁰ Newer forms of surveillance require data collection usually through manipulation and without consent of the targeted “other.” Further, it is often hidden or made to appear as something else.⁵¹ We see these patterns within the family policing system where surveillance has become subsumed under a rhetoric of “public health” and continues to be touted as a beneficial tactic to assist in mitigating harm and protecting vulnerable children. Under this model and its accompanying ideologies, surveillance is marketed as a means of making the detection of child maltreatment more efficient. Improving the surveillance model requires linking case-based data from multiple systems such as the criminal punishment system and hospital data as seen in the FFPSA and many other predictive risk modeling tools. Researchers state that “reliably and accurately capturing population-level trends in child maltreatment can increase public awareness of the issue, maximize the impact of limited resources, and improve practices in child protection.”⁵² Yet by adhering to models of surveillance, the system is making an effort to manage risk through anticipatory means, predicting risk of an issue that has not yet occurred. As David Lyon states, surveillance is often practiced with aims to improvise “productivity, participation, welfare, health and safety,”⁵³ making the most pervasive harms of surveillance innocuous to those who are not directly impacted. We see this occur in the family policing system, where much of the surveillance impacts Black families who are already deemed unworthy to parent their children due to anti-Blackness and historical neglect by the systems that are supposed to offer services and supports.

Moving Beyond Surveillance and Family Policing

There is a path in which we do not require or seek assistance from the family policing system. It is one that rejects racialized surveillance and denounces family separation. Abolition of the family policing system is in no way a utopian fix to the issues that underlie our communities – but it is a chance to address conflict in a way that acknowledges and challenges structural harms, prioritizes those who have been harmed, and relies on community for care. Countless reforms to family policing do not address the underlying issues within the system. Reforms fail to challenge the anti-Blackness that undergirds the system (and the larger society) – they also neglect the root causes of racialized surveillance. Instead, reforms have led to an uptick of technological advances that reify racialized boundaries and borders. That is, reforms have only worked to re-entrench the anti-Blackness and harm the system causes despite claiming to do otherwise. The expansion and reauthorization of CAPTA in addition to new stipulations for data integration signify that the pendulum is not moving between two contrasting dichotomies of family preservation and child protection. Rather, the system relies on utilizing the same tools of policing and regulation no matter the intent. The path forward involves an understanding of the ways the system continues to surveil families. It requires repealing mandatory reporting laws and creating mandatory Miranda rights.⁵⁴ It requires creative ways of coming together to support rather than report our family members. It requires the complete end of family policing.

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