

The Torment of Separation: How the United States Keeps Families and Their Dependent Children Apart and the Shattering Consequences

“You must live life with the full knowledge that your actions will remain. We are creatures of consequence.”¹

– Zadie Smith, *White Teeth*

Background and Context:

The United States has long championed the value of family, but its actions reflect a much different reality in which government policies disregard parental rights, their children’s rights to continue to have meaningful contact with their primary caregiver or caregivers, and the overall worth of the family relationship.² Throughout the U.S., children are being needlessly separated from their families by what is technically referred to as the child welfare system (the names differ depending on the state) but which most often only acts as a family policing agency that targets low-income families, with special emphasis on separating Black, Hispanic, and other non-white families.³

These state-run agencies, originally created to help families, too often treats poverty as the basis for charges of neglect, which then gives them the ability to remove children from their homes. This neglect, defined by state agencies, which again is mostly a proxy for poverty-related circumstances, is the reasoning behind nearly 75% of all cases nationwide.⁴ Yet, instead of offering these families genuine resources, the agency most often only serves to intimidate parents by monitoring them as if they are on probation. This only creates more helplessness instead of building the parent's sense of agency and addressing root issues, whether they are related to poverty, housing instability, addiction, or access to other essential services.⁵

Permanent Separation: The Alarming and Unjust Effects of the Adoption and Safe Families Act

“[I]n America all too few blows are struck into flesh. We kill the spirit here, we are experts at that.”⁶

– Norman Mailer, *The Presidential Papers*

The Adoption and Safe Families Act of 1997 (ASFA) is a federal law that claims to promote the adoption of children who are in foster care, citing health and safety as paramount and encouraging permanent living arrangements for children as soon as possible.⁷ While seemingly benign on its face, ASFA has produced disproportionate and crippling consequences, with none of its provisions focusing on supporting and reuniting families, with one critic pointing out that “instead of actually responding to the struggles of poor families . . . we’ve decided that it’s simpler to take their children away.”⁸

Despite these damaging consequences, the federal government continues its forceful steps to incentivize states to support ASFA.⁹ For example, in order to receive certain federal funds, a state is required to apply plans that include filing or joining a petition to terminate parental rights, subject to a few exceptions, when a child has been in foster care for fifteen of the most recent twenty-two months.¹⁰ The federal government has given more than \$700 million in rewards through the “adoption incentive payments” provision of ASFA since 1998.¹¹ Moreover, ASFA discourages foster parents from supporting the child’s relationship with his or her birth family.¹²

The separation of families by the child welfare system in the United States is in violation of both constitutional and international human rights law.

As a domestic matter, the basic premise of parents’ right to care, custody, and control of children without state interference is firmly entrenched in U.S. constitutional law as a fundamental liberty guaranteed by the Fourteenth Amendment and supported by extensive Supreme Court precedent from the 1920s to the present day.¹³ Similarly, the U.S. also overlooks internationally recognized human rights standards that protect these principles. Within the Universal Declaration of Human Rights (UDHR), considered to be customary international law, Articles 12 and 16(3) explicitly indicate that the right to family is integral, stating that “[n]o one shall be subjected to arbitrary interference with... family,” and that family is “the natural and fundamental group unit of society and is entitled to protection by society and the State.” Core human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR) and the Convention on the Rights of the Child (CRC), have helped give nuance to the broader international norms first articulated in the UDHR’s formidable list of rights regarding both parents and their children.¹⁴ The CRC, which the U.S. has both signed and ratified, explicitly recognizes a child’s right to know and be cared for by parents; to not unduly be separated from parents; to benefit from a parent’s guidance; and to have the child’s best interests always be primarily considered by governments and courts of law.¹⁵

In addition to inadequately protecting the fundamental rights set forth its Constitution and in international human rights law, the country, which has historically proclaimed itself as one centered on the integrity of the family, also fails to understand the neuroscience research on trauma that reveals the pernicious effects of such a separation.¹⁶ This behavior by the United States has led to deep and bitter reverberations that extend far beyond the direct human rights violations.¹⁷

Severing Critical Ties: The Toll of Taking Children From their Families

“When we lose that sense of the possible, we lose it fast.”¹⁸

— Joan Didion, *Blue Nights*

Altering the Brain: The Deeply Embedded Toxic Stress in Children Separated from Family

The breakdown of the family relationship during separation is largely driven by harmful U.S. policies that continue despite plentiful research showing the detrimental physical and

psychological effects, especially for the child, whose brain is at a critical stage in its development.¹⁹ Putting the child in such an untenable situation often produces toxic stress, which adversely affects a child's brain and is correlated with an increased risk of developing chronic health conditions.²⁰

“We know that family separation causes irreparable harm to children. This type of highly stressful experience can disrupt the building of children's brain architecture. Prolonged exposure to serious stress—known as toxic stress—can lead to lifelong health consequences.”²¹

Leading trauma expert Dr. Bessel van der Kolk stresses the simplicity of the child's basic need: a caregiver with whom to feel safe.²² “Depriving [children] of their caregivers,” he says, “has effects on the brain as profound as starving them.”²³

The primary caregiver also suffers from the disruption; they frequently already carry unresolved trauma when a separation occurs, which is never adequately addressed in any meaningful way by state agencies.²⁴

As Judith Herman explains in *Trauma and Recovery*, the core experience of trauma lies in disempowerment and disconnection from others, and it is only in the context of relationships that recovery can take place.²⁵ Parental visits with removed children, which often last just one hour a week during separation of a year or longer, only intensify feelings of this disempowerment and disconnection.

Unspoken Trouble: Childhood Development, Parental Attachment, and the Strange Situation

“As long as we feel safely held in the hearts and minds of the people who love us, we will climb mountains and cross deserts.... But if we feel abandoned, worthless, or invisible, nothing seems to matter.”²⁶

– Bessel van der Kolk, *The Body Keeps the Score*

Data confirm that early separation from a primary caregiver has a significant biological effect on a person's overall capacity to function because a child and parent's biology are inextricably linked and thus, when separated, the child's development suffers irrevocable harm.²⁷ Forcibly separating children from their parents constitutes an adverse childhood experience (ACE), which is defined as a psychosocial stressor and trauma experienced by children that has a significant impact on later health and well-being.²⁸ These traumatic experiences are linked with disrupted neurodevelopment, creating disturbances in the regulation of the body and resulting in social, emotional, and cognitive impairment.²⁹

Children often do not comprehend what is occurring when their caregiver is taken away and their primary attachment bond is disrupted. Frequently filled with intense emotion and a lack of understanding, the trauma of the separation is then stored in the body.³⁰ This severing of the child's earliest and closest relationship, which had been helping to build the child's map of the world, often shatters the child's most intimate sense of self.³¹ The so-called child welfare system should be intimately aware that the identity of a child is formed and sustained through minute-to-minute exchanges with a caregiver and that significant interruption causes toxic stress.

Furthermore, the child's most fundamental sense of trust is broken, which continues to pervade the child's sense of self and relationships with others into adulthood.³²

Attachment adversity and childhood trauma are often intertwined.³³ When the primary attachment relationship is disrupted, developmental changes in the child can occur that are associated with an understandable rise in attachment disorders. Separating children from their caregivers does not take away their longing to attach; this deeply felt instinct is not a choice as seen in the pivotal research study titled *The Strange Situation*.³⁴ Based on thousands of observations in an effort to understand how attachment and attunement with a primary caregiver affects a child, the results illustrate the complex and distressing way children cope when attachment is disrupted and highlights how these patterns can easily become deeply felt, lifelong issues in an attempt to get some of their basic needs met.³⁵

Predicting the Future: Adverse Childhood Experiences, Intergenerational Effects, and Devastating Long-Term Health Outcomes

“It is scarcely worthwhile to attempt remembering how many times the sun has looked down on the slaughter of the innocents.... It is so simple a fact and one that is so hard, apparently, to grasp: whoever debases others is debasing himself. That is not a mystical statement but a most realistic one.”³⁶

– James Baldwin, *The Fire Next Time*

In *The Body Keeps the Score*, Dr. van der Kolk asserts that trauma is a much larger public health issue than people recognize, as most are unwilling to talk about it frankly and are more comfortable marginalizing its effects.³⁷ Often children caught in this chaos must dismiss powerful and anguished experiences in order to move on, which can result in “serious problems, including ‘chronic distrust of other people, inhibition of curiosity [and] distrust of their own senses.’”³⁸ These traumatic experiences, which cause lasting psychobiologic changes that reduce the capacity to cope with subsequent social disruption, are also tied to negative intergenerational effects since they often “disturb parenting processes and create similar vulnerability into the next generation.”³⁹

This exposure to toxic stress on developing brains of children can inhibit their prefrontal cortex, which is necessary for executive functioning and impulse control, and on MRI scans, there are often measurable differences in the amygdala, which is often described as the brain's fear response center.⁴⁰ Former California Surgeon General Nadine Burke Harris explains that, while this stress response system is critical to survival, when it is activated repeatedly and continuously, it goes from being adaptive and life-saving to maladaptive and health damaging, causing the body to remain in a hyper-alert state.⁴¹

These lifetime implications of unaddressed childhood trauma are so far-reaching that research shows they not only physically change a child's biology but also result in devastating health outcomes.⁴² There are dramatic links between adverse childhood experiences—which include parental separation, incarceration and parental mental illness—and risky behavior, psychological

issues, serious illness, and other causes of death.⁴³ The pivotal Adverse Childhood Experiences (“ACE”) Study first published these startling results, concluding that people with four or more ACEs are significantly more likely to develop serious illnesses, including heart disease and cancer; those with six or more ACEs die twenty years earlier on average.⁴⁴ Moreover, the potential intergenerational effects of ACEs are supported by research revealing an “increased risk of adverse health outcomes among children of parents who experienced chronic trauma.”⁴⁵ As French psychologist Pierre Janet so poignantly stated in his crucial 1889 book, *L'Automatisme Psychologique*, “every life is a piece of art, put together with all means available.”⁴⁶ It is unmistakable that the U.S. should be more acutely aware of how it is painting its canvas.

Conclusion and Recommendations:

“The essential humanity of man can be protected and preserved only where the government must answer—not just to the wealthy, not just to those of a particular religion, not just to those of a particular race, but to all the people.”⁴⁷

– Robert F. Kennedy, *from an address at the University of Cape Town*

- Align domestic practices with constitutional and international human rights principles

- Undermining family reunification: Adoption and Safe Families Act

Repeal ASFA immediately and its stringent timetable to adopt out children who already have families. While it may have initially been intended to help move children out of foster care, its effective presumption that separation is in the best interests of the child has clearly done far more harm than good.

- Start adequately treating trauma and stop disregarding the science surrounding separation

The United States must begin effectively treating the origins of traumatic stress affecting families, not just the symptoms people exhibit from trying to cope with underlying trauma.⁴⁸ An approach that incorporates trauma-based research and guidelines is integral to all interactions with primary caregivers.⁴⁹ Guiding principles should include creating safety, empowerment, trustworthiness, and predictability, which are often absent in the original trauma and in subsequent family policing setting.⁵⁰

Medicating children -- who often like their parents are showing signs of dysregulation -- is also frequently demanded by state agencies as part of a potential path to reunification. But despite the wide range of research (some of which is cited here) that illustrates how holistic modalities can be more helpful and sustainable than pharmaceuticals, there are no current ways for human rights lawyers to get their clients access to yoga, martial arts, neurofeedback, and somatic body-based therapy.⁵¹

Simultaneously, the state agencies must recognize their role in creating and perpetuating toxic stress, which can ultimately lead to a “stunted existence” for removed children.⁵² By continuing to separate children from their primary caregivers, thus altering their brain development and capacity, and failing to adequately address the deep-rooted trauma that is often present in families who have faced separation, these state agencies are helping to devastate these families far into future generations.

Summation: There Is No Substitute for Action

“Some things you must never stop refusing to bear.”⁵³

–William Faulkner, *Intruder in the Dust*

As discussed earlier, the core experience of trauma lies in disempowerment and disconnection from others, and it is only in the context of relationships that recovery can genuinely take place.⁵⁴ That means the United States must stop carelessly breaking critical familial connections by allowing family policing agencies to respond to circumstances of poverty with punishment instead of providing support to keep families together.

It has been said that the greatest source of our suffering are the lies that we tell ourselves; that people can never get better without knowing what they know and feeling what they feel.⁵⁵ This truth is no different for the United States, whose own identity continues to erode in the face of its unacknowledged and destructive actions.

It is difficult to appreciate how truly insidious the situation is for separated parents and their children. This is because the scope of people affected, most especially children, is so wide, the deep-seated ways in which these primary caregivers and their children are kept apart are so numerous, and the threats of the potential dissolution of their families are so grievous. Yet while it takes the peeling back of many layers to capture the full picture, what becomes clear is that domestic courts and state agencies ostensibly intended to protect children most often perpetuate the very wrongs they proclaim to be against; and that international human rights laws and standards, meant to protect families and children around the world, are being obstinately disregarded in the United States.⁵⁶

By needlessly separating children from their families -- and by failing to devise meaningful rehabilitative and holistic approaches to treat these issues -- the United States not only violates human rights law but continues quietly to tear apart its own fabric.⁵⁷ It is evident that, in times like today, human rights defense attorneys need to utilize critical mechanisms like the Universal Periodic Review to effect the changes to the U.S. court system that are indisputably warranted.⁵⁸ Change will not happen without the public being more effectively mobilized to rise up against what so many on the front lines know is wrong. The United States government must be held accountable, and that is why much more awareness of the grim human rights violations surrounding family separations is critical.⁵⁹

“Power concedes nothing without a demand. It never did and it never will. Find out just what any people will quietly submit to and you have found out the exact measure of injustice and

wrong which will be imposed upon them.”⁶⁰

– Frederick Douglass, *from an address on West India Emancipation*

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Endnotes:

¹ ZADIE SMITH, *WHITE TEETH* 102 (2000).

² See HUMAN RIGHTS WATCH, *IF I WASN'T NOT POOR, I WOULD NOT BE UNFIT* (2022) <https://www.hrw.org/report/2022/11/17/if-i-wasnt-poor-i-wouldnt-be-unfit/family-separation-crisis-us-child-welfare>.

³ *Id.* Dorothy Roberts, *Torn Apart: How the Child Welfare System Destroys Black Families -- And How Abolition Can Build a Safer World* (2022).

⁴ *Supra* note 2.

⁵ *Id.*

⁶ NORMAN MAILER, *THE PRESIDENTIAL PAPERS* 69 (Bantam Books 1964) (1963).

⁷ Adoption and Safe Families Act of 1997, Pub. L. No. 105-89, § 101, 111 Stat. 2115, 2115 (codified as amended at 42 U.S.C. § 671 (2018)).

⁸ see Roberts, *supra* note 3.

⁹ see Adoption and Safe Families Act of 1997 § 201.

¹⁰ During the fifteen-month timeline, the state can concurrently “identify, recruit, process, and approve a qualified family an adoption.” See Adoption and Safe Families Act of 1997 § 103(a)(3). The three exceptions are: (1) the child is under a relative’s care; (2) a state agency finds a “compelling reason” that terminating parental rights is not in the child’s best interest; and (3) the state has failed to make “reasonable efforts” to reunite the child with their parents.

¹¹ Adoption and Safe Families Act of 1997 § 201.

¹² MARTIN GUGGENHEIM, *WHAT’S WRONG WITH CHILDREN’S RIGHTS?* 209 (2007).

¹³ Barbara Bennett Woodhouse, *The Family Supportive Nature of the U.N. Convention on the Rights of the Child*, in *THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: AN ANALYSIS OF TREATY PROVISIONS AND IMPLICATIONS OF U.S. RATIFICATION* 37 (Jonathan Todres et al. eds., 2006); see *Troxel v. Granville*, 530 U.S. 57 (2000); *Stanley v. Illinois*, 405 U.S. 645 (1972); *Pierce v. Soc’y of Sisters*, 268 U.S. 510 (1925); *Meyer v. Nebraska*, 262 U.S. 390 (1923). The rights of children are less explicit in judicial decisions, though countless cases reference the internationally recognized “best interests of the child” principle set forth in the Convention of the Rights of the Child, with one such case expressly acknowledging the harm of family separation. See *Nicholson v. Scopetta*, 3 N.Y.3d 357, 378 (2004).

¹⁴ see Convention on the Rights of the Child, Nov. 20, 1989, 1577 U.N.T.S. 3 [hereinafter CRC]; see also International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171 [hereinafter ICCPR].

¹⁵ *Id.* The rights laid out in Articles 5, 7, 8, 9 and 16 of the CRC are particularly relevant to children separated from their families.

¹⁶ Louis Henkin, *The Age of Rights*, in *HUMAN RIGHTS* 3, 3-4 (2008); Rhonda Copelon, *The Indivisible Framework of International Human Rights: A Source of Social Justice in the United States*, 3 N.Y. CITY L. REV. 59, 60-61 (1998); see generally BESSEL A. VAN DER KOLK, *THE BODY KEEPS THE SCORE BRAIN, MIND AND BODY IN THE HEALING OF TRAUMA*, 51-124 (2015). see G.A. Res. 217 (III) A, Universal Declaration of Human Rights (Dec. 10, 1948) [hereinafter UDHR]. See generally Gabor Maté, *THE MYTH OF NORMAL: TRAUMA, ILLNESS AND HEALING IN A TOXIC CULTURE* (2022).

¹⁷ VAN DER KOLK, *supra* note 15, at 119-20; Olga Khazan, *Inherited Trauma Shapes Your Health*, ATLANTIC (Oct. 16, <https://perma.cc/JX4Q-6QDD>); see generally Bessel A. van der Kolk, *The Compulsion to Repeat the Trauma*, 12 PSYCHIATRIC CLINICS N. AM. 389 (1989). “The truth about our childhood is stored up in our bodies, and lives in the depths of our souls. Our intellect can be deceived, our feelings can be numbed and manipulated, our perceptions can be shamed and confused, or our

bodies tricked with medication. But our soul never forgets. And because we are one, one whole soul in one body, some day, our body will present its bill.” Kathy Brous, *The Greatest Study Never Told*, ATTACHMENT DISORDER HEALING BLOG (Oct. 2, 2013) (quoting Alice Miller), <https://perma.cc/2H3F-AXKZ>.

¹⁸ JOAN DIDION, *BLUE NIGHTS* 183 (2011).

¹⁹ VAN DER KOLK, *supra* note 15, at 111-24, 150-51; “The relationships children have with their caregivers play critical in regulating stress hormone production in the early years of life.” *Excessive Stress Disrupts the Architecture of the Developing Brain* 4 (Nat’l Scientific Council on the Developing Child, Working Paper No. 3, 2014), <https://perma.cc/Z5MP-AY2R>.

²⁰ Félice Lê-Scherban et al., *Intergenerational Associations of Parent Adverse Childhood Experiences and Child Health Outcomes*, 141 *PEDIATRICS*, no. 6, 2018, at 1-2; Nadine Burke Harris, *How Childhood Trauma Affects Health*: https://www.ted.com/talks/nadine_burke_harris_how_childhood_trauma_affects_health_across_a_lifetime. “[Infants] are extremely responsive to the emotions and reactivity and the social interactions that they get from the world around them.” UMass Boston: *Still Face Experiment*. <https://www.youtube.com/watch?v=apzXGEbZht0>. Research has shown that experiencing trauma in infancy has an enduring biological impact on the brain. The stage at which trauma begins has considerable effects on mental functioning; the earlier the trauma, the worse it often becomes for a person since the brain matures in the context of the environment. *See id.*; *see also* Allan N. Schore, *Attachment Trauma and the Developing Right Brain: Origins of Pathological Dissociation*, in *DISSOCIATION AND THE DISSOCIATIVE DISORDERS: DSM-V AND BEYOND* 107, 109-11 (Paul F. Dell & John A. O’Neil eds., 2009); *see also* Echo, *Changing the Paradigm 2015 Developmental Trauma Panel: Dr. Bessel van der Kolk*, YOUTUBE (Nov. 12, 2015), <https://www.youtube.com/watch?v=-pCbbOWKB2I>.

²¹ Toxic stress response can occur when the child experiences strong or prolonged adversity without adequate adult support. *See Toxic Stress*, HARVARD UNIV. CTR. ON THE DEVELOPING CHILD, <https://perma.cc/X2M3-NQHV>.

²² van der Kolk stresses that when a person lives with an abnormal level of unaddressed trauma, the world that the person lives in is unsafe and unpredictable, which manifests not only in the psychology of a person but also in their body, and “no amount of insight will silence it.” *See* VAN DER KOLK, *supra* note 15, at 64.

²³ *see* VAN DER KOLK, *supra* note 15, at 64.

²⁴ Symptoms such as helplessness, depression, terror, disconnection, and shame often accompany this trapped state of existence, which prohibits the traumatized person from engaging as fully in life as a non-traumatized person. *See* Gabor Maté, *Foreword* to PETER A. LEVINE, IN *AN UNSPOKEN VOICE*, at xi-xiii (2010); *see* JUDITH HERMAN, *TRAUMA AND RECOVERY* 51 (2015). Levine defines a traumatic event as an occurrence that causes a long-term dysregulation in the nervous system. This can vary from person to person, depending largely on “their ability to handle various kinds of challenging situations due to different genetic makeup, early environmental challenges, and specific trauma and attachment histories.” Peter Payne et al., *Somatic Experiencing: Using Interoception and Proprioception as Core Elements of Trauma Therapy*, 6 *FRONTIERS IN PSYCHOL.*, 1, 5 (2015).

²⁵ HERMAN, *supra* note 24, at 51. Pioneering research on the connection between the body and mind has helped uncover effective somatic (body-based) approaches to treating trauma. VAN DER KOLK, *supra* note 15, at 21; *see generally* SEBERN F. FISHER, *NEUROFEEDBACK IN THE TREATMENT OF DEVELOPMENTAL TRAUMA* (2014); HERMAN, *supra* note 24; LEVINE, *supra* note 24; PAT OGDEN ET AL., *TRAUMA AND THE BODY* (2008); STEPHEN W. PORGES, *THE POLYVAGAL THEORY* (2011).

²⁶ VAN DER KOLK, *supra* note 15, at 350.

²⁷ *Id.*

²⁸ Félice Lê-Scherban et al., *Intergenerational Associations of Parent Adverse Childhood Experiences and Child Health Outcomes*, 141 *PEDIATRICS*, no. 6, 2018, at 1-2; Vincent J. Felitti et al., *Relationship of Childhood Abuse and Household Dysfunction to Many of the Leading Causes of Death in Adults*, 14 *AM. J. PREVENTIVE MED.* 245, 248 (1998).

²⁹ Felitti et al., *supra* note 28, at 251-56; Lê-Scherban, *supra* note 28, at 5-7; *see generally* VAN DER KOLK, *supra* note 15.

³⁰ Julie Poehlmann, *Representation of Attachment Relationships in Children of Incarcerated Mothers*, 76 *CHILD DEV.* 687-88 (2005); *see generally* VAN DER KOLK, *supra* note 15.

³¹ VAN DER KOLK, *supra* note 15, at 64.

³² HERMAN, *supra* note 24, at 51; *see* VAN DER KOLK, *supra* note 15, at 111-13.

³³ JOHN BOWLBY, *ATTACHMENT AND LOSS* 9-10 (2d ed. 1982); VAN DER KOLK, *supra* note 15, at 115; Christin M. Ogle et al., *The Relation Between Insecure Attachment and Posttraumatic Stress: Early Life Versus Adulthood Traumas*, 7 *PSYCHOL. TRAUMA* 324, 329-30 (2015). VAN DER KOLK, *supra* note 15, at 113-14. Bowlby suggests that a child initially forms one primary attachment and that the attachment figure acts as a secure base for exploring the world. If an attachment has not developed between infancy and early childhood or if it has been disrupted, the child will likely develop an insecure attachment style. Mary D. Salter Ainsworth & Silvia M. Bell, *Attachment, Exploration, and Separation: Illustrated by the Behavior of One-Year-Olds in a Strange Situation*, 41 *CHILD DEV.* 49 (1970).

³⁴ VAN DER KOLK, *supra* note 15, at 112-17.

³⁵ Ainsworth & Bell, *supra* note 33, at 61-63; *see* Ainsworth, *supra* note 33, at 56-58; In observations from the Strange

Situation, during the mother's absence, the child's exploration immediately becomes depressed, and heightened attachment behaviors, such as explosive crying and confusion, are activated. Yet when the mother returns, the child does not quickly settle down. Instead, insecurely attached infants often react to the anxiety of the separation by either heightening their desire to maintain contact or exhibiting deep resistance to contact and comforting from their mothers. Both behaviors result from an often chronic and inconsistent response thereby disturbing the child's most basic biological needs and sense of trust. Children who are separated from their parent are unable to see and speak to their primary caregivers frequently are at great risk of developing such an attachment style. *Id.* *See also* PsychAlive, Dr. Dan Siegel - On Disorganized Attachment, YOUTUBE (Mar. 3, 2011), https://www.youtube.com/watch?v=iGDqJYEi_Ks. LEVINE, *supra* note 24, at 108. "Face-to-face, soul-to-soul contact is a buffer against the raging seas of inner turmoil. It is what helps you calm any emotional turbulence [F]acial recognition meet[s] people's deepest emotional needs and motivate[es] many behaviors, both conscious and unconscious." *Id.* Traumatized children will organize their lives as if the trauma is still going on, with every new encounter or event contaminated by the past. *See id.* at 53.

³⁶ "It is scarcely worthwhile to attempt remembering how many times the sun has looked down on the slaughter of the innocents.... It is so simple a fact and one that is so hard, apparently, to grasp: *Whoever debases others is debasing himself*. That is not a mystical statement but a most realistic one." James Baldwin, *The Fire Next Time* 83 (Vintage Books 1993) (1963) (emphasis in original). *See generally* VAN DER KOLK, *supra* note 15, at 349-58.

³⁷ *See generally* VAN DER KOLK, *supra* note 15, at 349-58.

³⁸ *Id.* at 141.

³⁹ van der Kolk, *supra* note 15, at 408; *see* Felitti et al., *supra* note 28, at 245; Lê-Scherban et al., *supra* note 28, at 5-7; *also* Rachel Yehuda & Amy Lehrner, *Intergenerational Transmission of Trauma Effects: Putative Role of Epigenetic Mechanisms*, 17 *WORLD PSYCHIATRY* 243 (2018).

⁴⁰ Burke Harris, *supra* note 19 at 6:43-9:22; *see* Felitti et al., *supra* note 28, at 249-56.

⁴¹ Burke Harris, *supra* note 19 at 6:43-9:22.

⁴² *Id.*; *see* Felitti et al., *supra* note 28, at 249-56.

⁴³ *See generally* Burke Harris, *supra* note 19; *see* Felitti et al., *supra* note 28, at 249-56.

⁴⁴ Felitti et al., *supra* note 28, at 249-56; Mark A. Bellis et al., *Adverse Childhood Experiences and Associations with Health-Harming Behaviours in Young Adults: Surveys in Eight Eastern European Countries*, 92 *BULL. WORLD HEALTH ORG.* 641 (2014); *see also* PUB. HEALTH MGMT. CORP., FINDINGS FROM THE PHILADELPHIA URBAN ACE STUDY 24 (2013).

⁴⁵ Lê-Scherban et al., *supra* note 28, at 1-2.

⁴⁶ VAN DER KOLK, *supra* note 15, at 112 (quoting the French psychologist Pierre Janet). In 1889, Janet published *L'Automatisme Psychologique* and this research – that famous names from Carl Jung to van der Kolk have followed closely – dealt with how the mind processes traumatic experiences. In this crucial work, Janet asserted that failing fully to confront overwhelming experiences can lead to dissociation of the traumatic memories and their return as fragmentary reliving of the trauma, including through both behavioral reenactments and somatic states. Traumas, Janet said, "produce their disintegrating effects in proportion to their intensity, duration and repetition." *See* Bessel A. van der Kolk & Onno van der Hart, *Pierre Janet and the Breakdown of Adaption in Psychological Trauma*, 146 *Am. J. Psychiatry* 1530, 1535-37 (1990); *see generally* PIERRE JANET, *L'AUTOMATISME PSYCHOLOGIQUE* (1889).

⁴⁷ Robert F. Kennedy, Day of Affirmation Address at the University of Cape Town (June 6, 1966), QYPP.

⁴⁸ Van der Kolk warns that as long as "[we] live in denial and treat only trauma while ignoring its origins, we are bound fail." VAN DER KOLK, *supra* note 15, at 348; *Toxic Stress*, *supra* note 21. Incorporating the groundbreaking work of trauma experts like Bessel van der Kolk, Gabor Maté, Judith Herman, Peter Levine, and Stephen Porges is critical; using body-oriented approaches, often referred to as somatic therapies, in addition to more traditional treatments can be advantageous. "For real change to take place, the body needs to learn that the danger has passed and to live in the reality of the present." VAN DER KOLK, *supra* note 15, at 21; *see generally* SEBERN F. FISHER, *NEUROFEEDBACK IN THE TREATMENT OF DEVELOPMENTAL TRAUMA* (2014); HERMAN, *supra* note 24; LEVINE, *supra* note 24; MATÉ, *supra* note 16; PAT OGDEN ET AL., *TRAUMA AND THE BODY* (2008); STEPHEN W. PORGES, *THE POLYVAGAL THEORY* (2011).

⁴⁹ *See* HERMAN, *supra* note 24; Stephanie S. Covington, *Women and Addiction: A Trauma-Informed Approach*, 40 *J. PSYCHOACTIVE DRUGS* 377 (2008).

⁵⁰ "Safety: The number one component in trauma-informed care is providing safety. Unless someone feels safe, all bets off. They will not hear your well-reasoned words, nor be able to perceive your good intentions because the higher brain will be offline. They will be in survival mode. Choice: Giving options is one way of restoring choice, which was taken away along with control during the trauma. Collaboration: Trauma-informed care is about moving from a 'power over' to a 'power with'

paradigm. Our higher brains are wired for cooperation and collaboration. It is the opposite of the domination and oppression inherent in relational trauma. Empowerment: Empowerment increases the degree of autonomy and self-determination. The mistake many well-meaning people make is to advocate so actively on behalf of the person, so the person never develops skills to advocate and find safety for themselves. Trustworthiness: Trauma often involves betrayal by an adult who is supposed to love and protect you. Being trustworthy is one way to heal this wound. Predictability: Trauma is often unpredictable and leaves the person in an agony of suspense waiting for the next bad thing to happen. We can avoid this by creating predictable environments and schedules, as well as helping the person anticipate transitions.” Am. Acad. of Pediatrics, *AAP Trauma and Resilience ECHO Training* (on file with author); see generally Roger D. Fallot & Maxine Harris, *Trauma-Informed Services: A Self-Assessment and Planning Protocol*, COMMUNITY CONNECTIONS (Mar. 2006), <https://perma.cc/Q5XX-QW4X>. State agency social workers play a dual role with opposing goals. They are expected to support the same parents they are charged with investigating and prosecuting. That creates a conflict that is not resolvable. If social workers are actually meant to be helpful to families, the roles must be separated. See *supra* note 2.

⁵¹ van der Kolk discusses various methods for treating trauma, including neurofeedback, which has been shown to help regulate brain activity, as well as yoga, which can help activate the brain’s natural neuroplasticity through movement. See VAN DER KOLK, *supra* note 15, at 265-78, 298-310. Approaching the treatment of trauma holistically should include adopting simple initiatives, such as the development of a therapeutic yoga program for parents and children to access. Numerous studies illustrate yoga’s effectiveness in helping people to become calmer and get in touch with their often-disassociated bodies; the combination of mindful movement and breathing exercises has been shown to decrease stress and clear the mind. By relying on interpersonal rhythms and visceral awareness, yoga helps people to shift out of fight, flight, or freeze responses; reorganize their perception of danger; and increase their ability to manage relationships—all of which would benefit incarcerated mothers in regaining a sense of agency, efficacy, and control, which is critical in combating trauma. See also B.K.S. Iyengar, *Yoga: The Path to Holistic Health* 33, 36 (2014); Bessel van der Kolk et al., *Yoga as an Adjunctive Treatment for Posttraumatic Stress Disorder: A Randomized Controlled Trial*, 75 J. Clinical Psychiatry 559 (2014); see also Anis Sfondla et al., *Yoga Practice Reduces the Psychological Distress Levels of Prison Inmates*, *Frontiers in Psychiatry*, Sept. 3, 2018. van der Kolk, *supra* note 15, at 88, 95-96, 274; see David Emerson & Elizabeth Hopper, *Overcoming Trauma Through Yoga* 55-56 (2011) (discussing interpersonal rhythms in yoga). Yoga as a way to cope with traumatic stress would likewise be beneficial to the children separated from their parents, who are frequently treated with drugs. Medicaid, the government health program for the poor, spends more on antipsychotics than any other class of drugs. See Lucette Lagnado, *US Probes Use of Antipsychotic Drugs on Children*, *Wall Street Journal* (Aug. 11, 2013), “Because drugs have become so profitable, major medical journals rarely publish studies on non-drug treatments of mental health problems.” van der Kolk, *supra* note 15, at 38. “Immobilization is at the root of most traumas.” *Id.* at 84. Parents know one wrong move could cost them their child forever, or at least until they turn eighteen. See Roberts, *supra* note 3.

⁵² See VAN DER KOLK, *supra* note 15, at 27; Felitti et al., *supra* note 28, at 251-56; Burke Harris, *supra* note 19.

⁵³ WILLIAM FAULKNER, *INTRUDER IN THE DUST* 200-01 (Second Vintage International 2011) (1948); “You live through little piece of time that is yours, but that piece of time is not only your life, it is the summing-up of all the other lives that are simultaneous with yours What you are is an expression of history.” VAN DER KOLK, *supra* note 15, at 22 (quoting ROBERT PENN WARREN, *BAND OF ANGELS* 34 (LSU Press 1994) (1955)).

⁵⁴ HERMAN, *supra* note 24, at 51. van der Kolk identifies interoception as a catalyst for a person’s transformation, writing, “Agency starts with what scientists call interoception, our awareness of our subtle sensory, body-based feelings: the greater that awareness, the greater our potential to control our lives. Knowing *what* we feel is the first step to knowing *why* we feel that way. If we are aware of the constant changes in our inner and outer environment, we can mobilize to manage them.” Yoga has been known to cultivate interoception. VAN DER KOLK, *supra* note 15, at 97-98.

⁵⁵ VAN DER KOLK, *supra* note 15, at 127.

⁵⁶ UDHR, *supra* note 15.

⁵⁷ Roberts, *supra* note 3; See generally HUMAN RIGHTS WATCH, *supra* note 2.

⁵⁸ “I note the obvious differences between each sort and type, but we are more alike, my friends, than we are unlike.” MAYA ANGELOU, *Human Family*, in *THE COMPLETE COLLECTED POEMS OF MAYA ANGELOU* 225 (1994).

⁵⁹ “We have two choices: to abandon hope and help ensure that the worst will happen; or to make use of the opportunities that exist and perhaps contribute to a better world. It is not a very difficult choice. There are, of course, sacrifices; time and energy are finite. But there are also the rewards of participating in struggles for peace and justice and the common good.” Noam Chomsky with Scott Casleton, *Choosing Hope*, *BOSTON REV.* (June 4, 2019), <https://perma.cc/68WL-BU27>.

⁶⁰ Frederick Douglass, *Address on West India Emancipation* (Aug. 3, 1857), <https://perma.cc/AQ77-8ERC>.