In a recent article, University of Pennsylvania Professor Dorothy Roberts warns of the “punitive ideology” underlying foster care, describing its ability to reinforce the surveillance, regulation, and destruction of black, brown, and indigenous families. In it, she calls for the radical transformation or abolition of foster care, advocating that we reallocate billions of dollars “to cash assistance, health care, housing, and other material supports” that help keep families together. It feels intuitive that, in a system seeking to promote child welfare, we would concentrate resources on supporting families before children are removed rather than after. However, a quick look at the history and effects of federal child welfare legislation indicate an opposite approach by the federal legislature.

The Adoption and Safe Families Act (ASFA) of 1997 is possibly the most influential and controversial law governing state child welfare systems. ASFA represented legislators’ attempt to curb a rapidly growing foster care population, doing so by shortening timelines to create permanency plans (which outline the system’s goals for a child’s exit from foster care) and by requiring states to move to terminate parental rights when a child is in foster care for 15 out of 22 months. In some ways, ASFA works, if not to actually promote child well-being than at least to promote the goals of the enacting legislature – children today do spend less time in the foster care system than in 1999 and leave foster care through increasingly higher rates of adoption. Despite these changes, though, the actual number of children in foster care on any given day has remained fairly steady.

Obviously, it is a good thing when children spend less unnecessary time in foster care. However, trying to reduce the number of children in foster care by facilitating adoption rather than on preventing children from entering foster care in the first place runs counter to both the goals of the system and common sense. And yet, before 2018, shockingly little federal child welfare funding could be spent on prevention services. In 2017, for example, the federal government spent nearly $9 billion supporting state child welfare systems, over $8 billion of which went exclusively to running foster care (through open ended entitlements that match state spending) while less than $500 million could be spent on prevention services (through strictly-regulated block grants). Consider further that, in 2018, nearly 700,000 children were found to be victims of abuse or neglect, but only around 250,000 entered foster care. That means almost 95% of federal funding went to support less than half of the children found to be victims of maltreatment.

In apparent recognition of this disparity, Congress passed the Family First Prevention Services Act (Family First) in 2018, which opened the possibility for federal matching of state prevention-service expenditures. However, it places heavy restrictions, limiting eligible services to mental health and substance abuse treatment or in-home parent skill-based programs. Moreover, these programs can only be funded for 12 months and must meet evidence-based requirements that, nationally, only 21 programs currently meet. Of course, it’s important to spend money on effective programs and Family First does represent a critical first step, but the statute doesn’t allay all of the concerns about shifting from a system of regulation to one of support. At the very least, before proper change can happen, we need to “abolish the very philosophy on which the child welfare system is based – a philosophy that requires blaming and punishing” parents rather than addressing the conditions that systematically disadvantage them. In the meantime, we can continue advocating for common-sense solutions—in and out of the child welfare system—that give families the resources they need to stay together.
Endnotes

i Dorothy Roberts, *Abolishing Police Also Means Abolishing Family Regulation*, The Imprint (June 2020)
iv In 1999 17% of children who exited foster were adopted while 58% were reunited with their families. *AFCARS Report #12*. In 2009, these numbers were, respectively, 20% and 51%. *AFCARS Report #17* (July 2010). In 2019? 26% and 47%. *The AFCARS Report #27*.
v In 2019, an estimated 423,997 children could be found in foster care on any given day. *AFCARS Report #27*. Although significantly less than during the years immediately following ASFA (which peaked at 567,000 children in 1999), it has remained virtually unchanged since 2009, when an estimated 423,773 children went to bed in foster care every night. *AFCARS Report #12; AFCARS Report #17.*
ix Family First, §50711; *Title IV-E Prevention Services Clearinghouse* (Last visited: Dec. 1, 2020)
x Such advocacy may be especially advantageous now as COVID-19 has “underscore[d] and exacerbate[d]” the inadequacies of our social safety net and increased our awareness of the need to provide vulnerable individuals with financial, medical, housing, and other essential support. The Field Center For Children’s Policy, Practice, & Research, *The Experiences of Foster Youth During COVID-19* 64 (2020).