



## We don't talk anymore: How stronger interstate communication improves child maltreatment investigations and prevention

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### Abstract:

Child Maltreatment is a widespread childhood public health issue. A possible solution to help alleviate child maltreatment as a public health issue is the improvement of interstate communication among Child Protective Agencies, holding interstate perpetrators accountable for their abuse and neglect of children. The government recognized the need for interstate communication in 2006, but a child maltreatment registry was never created. Interstate communication among agencies is almost non-existent. This Note proposes establishing a National Registry for Founded Cases of Child Maltreatment to boost interstate communication among different Child Welfare agencies to improve investigative techniques and prevention strategies.

**Keywords:** Child Abuse Protection and Treatment Act, child maltreatment, child protective agencies, child welfare, founded child maltreatment, interstate communication, investigative techniques, National Child Abuse and Neglect Data System, national registry, prevention strategies, state central registry, substantiated child maltreatment

### Key Points for the Family Law Community

- Child maltreatment is the second most widespread childhood public health issue.
- Interstate communication is a "vital" next step in helping prevent children from becoming victims of child maltreatment because it creates a more thorough investigative technique for CPS agencies.
- From 2009 to 2021, there was a twenty-seven percent increase in founded child maltreatment cases committed by interstate perpetrators.
- The Walsh Child Protection and Safety Act of 2006 recognized the need for a national child maltreatment registry, however, to date, the registry ceases to exist.
- The Federal government provides states with grants ranging from sixty million to eighty-five million dollars covering the costs of creating, implementing, and maintaining a National Registry for Founded Child Maltreatment Cases.

### Introduction:

Heaven is an angel in Heaven. Heaven is an angel in Heaven now she was such a blessing. She always brighten up my day especially when I was stressing. Some of the things she would say would make me bust a gut. Like when she looked over at my daughter and say, 'Akeelah we about to go nuts.' Or like when she would said Auntie somebody was cussing on the bus. I will say who? She say me and because she told me the truth I really didn't fuss.

Two of her favorite things in the world were halls cough drops and scotch tape. Even though no one told her she had to she sat at the table until she cleaned her plate. Heaven is an Angel in Heaven now. You were a star on earth so baby take your bow. Heaven picked her clothes out each morning, she really had a keep eye for fashion. When she met some- one new she would sing their name with so much soul and passion.<sup>1</sup>

Sheronda Orridge wrote this poem in honor of her eleven-year-old niece, Heaven.<sup>2</sup> Heaven was a lively young girl who loved telling stories and never let her cerebral palsy diagnosis slow her down.<sup>3</sup> Unfortunately, Heaven is eleven forever.<sup>4</sup> While living in Virginia in 2019, Heaven's mother, Latoya Smith, and her boyfriend, Demont Harris, viciously beat Heaven to death.<sup>5</sup> That fateful night Heaven brought her toy to bath time and later accidentally soiled her diaper, both of which “set off” her mother, ultimately resulting in Heaven's death.<sup>6</sup>

While this severe abuse was the last for Heaven, it was not the first.<sup>7</sup> Heaven and her mother lived in Minne- sota before moving to Virginia and were known to Minnesota's Child Protective Services (“CPS”).<sup>8</sup> While living in Minnesota in 2015, Smith lost custody of Heaven for eighteen months due to concerns about physical punish- ment, sexual abuse, drug sales and guns in the home.<sup>9</sup> Within a year of being home, Smith decided to pack up Heaven and move to Virginia.<sup>10</sup> In Virginia, Heaven's abuse continued.<sup>11</sup> Heaven was hospitalized and required a skin graft after Harris held her hand under hot water long enough that Heaven endured third-degree burns on her hand.<sup>12</sup> Sadly, Heaven's abuse continued because of a disconnect among the CPS agencies between the states, meaning that Virginia's CPS did not know Heaven's history with Minnesota's CPS.<sup>13</sup> Even if Virginia CPS thought to check the family's prior history and wanted to contact Minnesota CPS, this action would prove to be extremely difficult as the different state systems do not work together.<sup>14</sup>

Across the nation, children become victims of maltreatment every day.<sup>15</sup> The commonality is that their families have an extensive history with CPS through child maltreatment investigations and then those same families decide to move across state lines.<sup>16</sup> CPS workers emphasize that the lack of interstate communication often leaves them in the dark when attempting to fully investigate and potentially prevent additional child maltreatment cases.<sup>17</sup> Currently, no system provides a national check of child maltreatment histories.<sup>18</sup> The data submitted is used for the annual Child Maltreatment report, which is created by the Children's Bureau and distributed for use by agencies like CPS.<sup>19</sup> However, CPS only has access to the data submitted to their state-specific website.<sup>20</sup> The current configuration of the data system restricts CPS from viewing another state's data.<sup>21</sup> The creation, implementation, and maintenance of a National Registry for Founded Child Maltreatment cases will improve interstate communication among CPS agencies which essentially improves investigative and preventative strate- gies for child maltreatment cases.<sup>22</sup> Ms. Orridge, Heaven's Aunt, believes that if Virginia's CPS knew about Heaven's previous abuse in Minnesota, the circumstances would be different, and Heaven would still be alive to tell her beloved stories.<sup>23</sup>

This Note consists of six parts and proposes creating and implementing a National Child Abuse and Neglect Reg- istry. Part II of this Note explores the technical definitions used in child maltreatment cases, the scope of child mal- treatment, and the

government's recognition of the need for a national registry. Part III of this Note focuses on previous government attempts to implement a national registry and why those attempts failed. Part IV of this Note describes the formation and execution of a national registry for Founded Child Maltreatment cases. Part V balances counterarguments against the national registry's enactment and Part VI briefly concludes this Note.

## BACKGROUND

### The breadth of child maltreatment

Heaven's story is, unfortunately, not one of a kind.<sup>24</sup> In a similar story, a mother lost custody of her four children in Louisiana and moved to Arkansas.<sup>25</sup> That mother gave birth to a baby girl who was born with drugs in her system and died only nine months later due to the mother's inadequate supervision.<sup>26</sup> In another case, six children were killed after their mother drove them off a California cliff after Washington State began an investigation into allegations of child maltreatment by the mother. Their mother also had previous abuse allegations in two other states, not including Washington.<sup>27</sup> Another couple with a substantial history with CPS lived in New Jersey, moved to Pennsylv- vania, and did not lose custody of their other two children until after their 2-year-old son, Steven Killion Jr. suffocated to death.<sup>28</sup> Pennsylvania's human services department determined a “major deficiency” in their report of baby Killion's death.<sup>29</sup> It was simple: Pennsylvania social workers had no information about the family's extensive abuse history in other states, like New Jersey, where the family lived.<sup>30</sup> Considering all of these tragedies followed families fleeing from one state to another during or subsequently after a child maltreatment investigation, the con- clusion is that a national child maltreatment registry is necessary.<sup>31</sup>

Before the age of eighteen, 37.4% of children are the subject of child protective service investigations.<sup>32</sup> Twelve and a half percent of children will endure substantiated child maltreatment.<sup>33</sup> These statistics mean that child mal- treatment is the second most widespread childhood public health issue, falling just after child obesity and before ADHD, prematurity, asthma, food allergies, cancer, and autism.<sup>34</sup> According to the World Health Organization (“WHO”), child maltreatment as a childhood public health issue can be prevented before it starts by implementing a multisectoral approach.<sup>35</sup> A multisectoral approach to combat child maltreatment is described as the deliberate col- laboration among the federal, state, and local governments, CPS agencies, and families, both inside and outside the child welfare system.<sup>36</sup> An acceptable example of a deliberate collaboration would include CPS agencies having an easy way to communicate with or access another state's child maltreatment information system.<sup>37</sup>

In 2019, the House Committee on Education and Law conducted a child and neglect hearing where Dr. Jackson Yo, PhD, the Associate Director of the Child Maltreatment Solutions Network, testified to the importance of inter- state communication regarding founded cases of child maltreatment.<sup>38</sup> Dr. Yo believes that interstate communica- tion is a “vital” next step in helping the prevention of children becoming child maltreatment victims, especially when children become maltreatment victims due to a state's lack of intervention in families with substantiated CPS history.<sup>39</sup> Children with substantiated cases of child maltreatment are at an exponential risk of becoming victims in the future.<sup>40</sup> Even if a family moves, the chances of a substantiated case of child

maltreatment do not decrease.<sup>41</sup> It is likely that moving actually increases another incident of child maltreatment.<sup>42</sup> A family's move results in residing in a different state with fewer resources and programs, and less of a support system.<sup>43</sup> For example, the family must start over to find the appropriate resources, like family and individual counselors or child care.<sup>44</sup> Additionally, this new state, without access to any information regarding a substantiated CPS history, does not know what resources were successful and unsuccessful for a particular family.<sup>45</sup> These factors exemplify that without sharing this information across states, the child welfare system takes a step backwards for helping our country's children.<sup>46</sup> A 2009 study conducted by the Office of the Assistant Secretary for Planning and Evaluation configured national estimates of Interstate Child Maltreatment Perpetrators.<sup>47</sup> The national estimates were composed through a model that combined case-level records from the National Child Abuse and Neglect Data system, from 2005 to 2009, with five-year interstate migration data from the 2000 U.S. Decennial Census.<sup>48</sup> The study reports that about 1.8% of all founded child maltreatment cases were done by a person who committed maltreatment against a child in one state, moved, and committed maltreatment against the same or different child in a different state.<sup>49</sup> From 2009 to 2021, there was a 27% increase in founded child maltreatment cases committed by interstate perpetrators.<sup>50</sup> The number of child maltreatment cases occurring across state lines continues to increase year after year.<sup>51</sup> In hopes of decreasing the number of cases, CPS interstate communication of this information is vital.<sup>52</sup>

### Technical terms

Child maltreatment, in the broad sense, is described by the WHO as the “abuse and neglect that occurs to children under eighteen years of age.”<sup>53</sup> Federal legislation defines what it means to “abuse and neglect” a child.<sup>54</sup> According to the Child Abuse Prevention and Treatment Reauthorization Act of 2010, abuse and neglect are defined as, “any recent act or failure to act on the part of a parent or caretaker which results in death, serious physical or emotional harm, sexual abuse or exploitation”; or “an act or failure to act which presents an imminent risk of serious harm.”<sup>55</sup> Each state has a legal definition of child maltreatment that must fall within the parameters set forth by the Reauthorization Act.<sup>56</sup> All fifty states share the same eight definitions of child maltreatment, a majority of the states include fourteen of the same definitions, and up to half the states include an additional three definitions of child maltreatment.<sup>57</sup> Although there are shared definitions for child maltreatment among the states, inconsistent data exists between state central registries.<sup>58</sup> What is classified as child maltreatment in one state may not be considered child maltreatment in another state.<sup>59</sup> Interstate maltreatment perpetrators who commit maltreatment move states, and commit maltreatment again, but never appear as a risk to CPS because the act committed is inconsistently defined as child maltreatment between the states.<sup>60</sup>

### Process of CPS investigation

Child welfare systems are complex.<sup>61</sup> After a case of child maltreatment is reported, there are many directions that CPS agencies may follow.<sup>62</sup> CPS is a governmental agency responsible for investigating reports of child maltreatment.<sup>63</sup> CPS determines if child maltreatment has occurred and intervenes when necessary to ensure that the child is protected now and in the future.<sup>64</sup>

Additionally, CPS decides when intervention is necessary, based on what conduct the state defines as child abuse and neglect.<sup>65</sup> First, child maltreatment investigations begin with CPS checking if another agency within that state had past contact with that particular family.<sup>66</sup> However, it is not possible for the state in which the alleged maltreatment occurred, to see if the same family had similar child maltreatment allegations in a different state.<sup>67</sup> Next, when CPS determines cases of child maltreatment, both the current and future risks of harm to the child(ren) are evaluated.<sup>68</sup> After the investigation concludes, CPS arrives at a disposition, or a formal finding, of whether child maltreatment occurred.<sup>69</sup> Several terms are used interchangeably to describe a formal finding of child maltreatment.<sup>70</sup> Depending on the jurisdiction, a formal finding of child maltreatment is described as “indicated, supported, confirmed, founded, or substantiated.”<sup>71</sup> The evidentiary burden for these types of child maltreatment cases requires the agency to prove their case by a preponderance of the evidence.<sup>72</sup> If CPS believes that based on the evidence found during an investigation that a child was not a victim of child maltreatment, the finding is defined as “unfounded” or “unsubstantiated.”<sup>73</sup> Once the investigation is defined as either founded or unfounded, the information is entered into that state's Central Registry System.<sup>74</sup> A state's central registry refers to a statewide central database that collects and maintains child maltreatment investigation records.<sup>75</sup> For example, if there is a founded case in New York (“NY”) state, the perpetrator's name is entered in the NY state central registry and is accessible only by CPS agencies within NY state, meaning that state registries do not facilitate interstate communication between CPS agencies in other states.<sup>76</sup> Interstate communication, as defined by Federal Law, is “any communication or transmission from any State, Territory, or possession of the United States, or the District of Columbia to any [other] State, Territory, or possession of the United States, or the District of Columbia...”<sup>77</sup> This definition includes communications, such as phone calls and emails, between CPS agencies in different states.<sup>78</sup> Central registries serve many purposes.<sup>79</sup> They help assist CPS with the identification and protection of child maltreatment victims, maintain statistical information for staffing and funding purposes, and screen persons who want to be entrusted with the care of children, like daycare workers.<sup>80</sup> Most importantly, state central registries aid agencies, such as CPS, in the investigation and prevention of child maltreatment cases.<sup>81</sup> While central registries vary from state to state, they all maintain the same basic information.<sup>82</sup> Each state has protocols for how to maintain their reports related to child maltreatment.<sup>83</sup> States follow specific procedures to expunge records that are old or inaccurate.<sup>84</sup> In some states, substantiated reports are kept in the central registry until the child maltreatment victim reaches adulthood, meaning the substantiated report may be in the registry longer, depending on the state of the report.<sup>85</sup> Unlike unsubstantiated reports, which are either immediately expunged once disposition is reached with CPS or remain on the central registry for up to ten years, depending on the state.<sup>86</sup>

### Government's recognition of a National Registry

Enacted in 1974, the Child Abuse Prevention and Treatment Act sets federal guidelines for child maltreatment.<sup>87</sup> The act explicitly addresses interstate communication and its relationship with improving each state's child protective service systems.<sup>88</sup> Under section 5106(a), the states can receive funds to help develop and

update their central registries for interstate and intrastate information exchange.<sup>89</sup> The act also directs the Department of Health and Human Services to “establish a national clearinghouse for information relating to child abuse and neglect,” however, this clearinghouse was never created and there is no explanation as to why.<sup>90</sup> These registry systems consist of child files and agency files.<sup>91</sup> Child files are submitted by the state and include child-specific records of alleged child maltreatment that received a CPS response.<sup>92</sup> The agency file supplements the child file with agency-level aggregate statistics.<sup>93</sup> All of this collected data is voluntarily submitted by the states and creates the National Child Abuse and Neglect Data System.<sup>94</sup> The collected data is then used to study national child maltreatment trends.<sup>95</sup> Any key findings are published in the Administration for Children and Families' Child Welfare Outcome Reports to Congress and the Administration's own child maltreatment reports.<sup>96</sup> The data system proves helpful at an aggregate level when addressing overall ways to improve child maltreatment investigation and prevention.<sup>97</sup> Nevertheless, it does not address underlying problems occurring within the states, like the lack of interstate communication and a state's accessibility to another state's individual child files.<sup>98</sup>

When the Federal government enacted the Walsh Child Protection and Safety Act of 2006, it recognized the need for a national child maltreatment registry.<sup>99</sup> Section 663 of the Walsh Child Protection and Safety Act of 2006 directs the

U.S. Department of Health and Human Services to: “(1) create a national registry of substantiated cases of child abuse or neglect; (2) establish standards for the dissemination of information in the registry; and (3) conduct a study on the feasibility of establishing data collection standards for the registry.”<sup>100</sup> Under the Act, the initial plan was to consolidate the states' central registries into a national registry accessible to CPS workers in any state.<sup>101</sup> The act limits the content of the national registry to the perpetrator's name and the type of maltreatment for which they were responsible.<sup>102</sup> At the time the Walsh Child Protection Act was enacted, it also included language for the national sex offender registry.<sup>103</sup> The Sex Offender Registration and Notification Act includes the formation of a sex offender registry and the Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (“SMART”).<sup>104</sup> Important data that the sex offender registry collects includes the offender's name, current location, and past offenses.<sup>105</sup> Moreover, the public has unlimited access to this registry through state websites.<sup>106</sup> Even so, the sex offender registry was created rather quickly, while the national registry has yet to be established.<sup>107</sup> If our nation can create a National Sex Offender Registry, it is surely feasible to create a national registry for child maltreatment, even if aspects of the registries, like accessibility, differ.<sup>108</sup>

After the Federal government previously failed to create a national registry for child maltreatment, in 2021, the House of Representatives introduced the Stronger Child Abuse Prevention and Treatment Act, which was passed by the House less than two months later.<sup>109</sup> The Senate Subcommittee on Health, Education, Labor, and Pensions passed its version of the Stronger Child Abuse Prevention and Treatment Act in June 2021.<sup>110</sup> Currently, the act awaits the Senate floor's final vote.<sup>111</sup> Section 115 of the bill establishes requirements for collecting and exchanging data about child maltreatment between states.<sup>112</sup> Specifically, the bill directs the Department of Health and Human Services to “develop an

electronic interstate data exchange system that allows states to share information from their child abuse and neglect registries with other states.”<sup>113</sup> Its goal includes improving the quality of federal and state data and interstate communication among CPS.<sup>114</sup> Starting in 1974 and as recently as 2021, the Federal government has included language in different legislation that relates to creating a national registry for Child Maltreatment cases.<sup>115</sup> Nevertheless, a national registry for child maltreatment still ceases to exist.<sup>116</sup>

## GOVERNMENT ATTEMPTS TO SOLVE COMMUNICATION ISSUES

State and local governments have invested their resources into trying to alleviate the lack of interstate communication.<sup>117</sup> In 2019, Virginia passed Heaven's Law which changed how CPS workers investigate child maltreatment allegations.<sup>118</sup> The Bill requires that if CPS determines the individual, whom the allegations are against, has lived in another state in the previous five years, CPS must request that state's central registry information.<sup>119</sup> The information contained in state central registries varies by state; some maintain all investigated reports while others maintain only substantiated reports.<sup>120</sup>

For example, Los Angeles County partially alleviated its communication issues among local agencies within the state of California.<sup>121</sup> In 2009, LA County launched the Electronic Suspected Child Abuse Reporting system, which is a “real-time, web-based information sharing application that facilitates the rapid and secure electronic transmission and receipt of mandate reports [of child abuse and neglect] between social workers, law enforcement, and prosecutors.”<sup>122</sup> One of the main goals of implementing the system's cross-reporting requirement was “to prevent cases from falling through the cracks.”<sup>123</sup> By increasing interstate communication between the agencies through this new system, the chances of achieving that goal increase.<sup>124</sup> The system contains a history of all child maltreatment allegations, investigative findings, and other information on the child victims and suspected perpetrators.<sup>125</sup> This ensures that certain agencies, like the police, county CPS agencies, and district attorney's offices can access the central system.<sup>126</sup> Thus, this system improves communication between those who respond to child maltreatment allegations and gives them the tools to make informed decisions on the best way to further investigate the allegations.<sup>127</sup> There was an immediate success with the system as sixty different agencies and thousands of users were accessing the system daily.<sup>128</sup> However by 2014, its operational funding ran out and agencies were not utilizing the system because the parties want assurance that the system works and will continue to work.<sup>129</sup> Ultimately, the government's effort was not fully effective in solving agency communication issues.<sup>130</sup>

## NATIONAL REGISTRY OF FOUNDED CHILD MALTREATMENT CASES

For a successful National Registry for Founded Child Maltreatment cases, most states must participate.<sup>131</sup> Currently, Section 103 of the Child Abuse Prevention and Treatment Act establishes the National Child Abuse and Neglect Data System for reports of child maltreatment.<sup>132</sup> The National Child Abuse and Neglect Data System consists of *voluntarily* submitted data from the fifty states, the District of Columbia, and the Commonwealth of Puerto Rico.<sup>133</sup> Changing the language in the current legislation



from “voluntary” to “required,” is a step towards creating an efficient national registry.<sup>134</sup> Based on research studies, changing the language from voluntary to required would not discourage states from participating.<sup>135</sup> In fact, there is significant interest from the states in establishing a national registry.<sup>136</sup> States already inquire about a perpetrator's prior status from other states, so creating a national registry makes those inquiries less labor intensive, less time-consuming, and overall, more systematic.<sup>137</sup>

Once the states are required to submit their information to the national registry, the Department of Health and Human Services would house and have the authority to regulate the National Registry for Founded Child Maltreatment cases.<sup>138</sup> Rather than each state statute deciding its own standards, the Administration for Children and Families office within the Department of Health and Human Services would set and regulate the registry's standards for all states, the District of Columbia, and the Commonwealth of Puerto Rico.<sup>139</sup> This office would operate similarly to the SMART office enacted by the Walsh Child Protection and Safety Act.<sup>140</sup> The Administration would create and manage the national standards for the national registry for founded child maltreatment cases, which would include standards regulating the type of data the registry will contain, which parties have access to the registry, and registry maintenance.<sup>141</sup> Moreover, the Administration would define child maltreatment to avoid inconsistencies in the registry's data since states use different child maltreatment definitions.<sup>142</sup>

The foundation required to establish a national registry that contains the necessary information already exists.<sup>143</sup> The technical capacity exists to support the feasibility of creating a national registry because most states maintain the necessary data on child maltreatment perpetrators and States' central registries with additional data already exist.<sup>144</sup> What sets the new national registry apart from the previously created National Child Abuse and Neglect Data System is the comprehensive information contained.<sup>145</sup> Data in the National Registry for Founded Child Maltreatment cases would consist of only founded cases compared to some state registries that keep unfounded cases for a specified amount of time.<sup>146</sup> The data under each founded case would resemble the child files in the National Child Abuse and Neglect Data system.<sup>147</sup> That includes information about the characteristics of the reports of child maltreatment, the children involved, the types of maltreatment, founded CPS findings, risk factors of the child and the caregivers, the services provided, and the perpetrators.<sup>148</sup> The information regarding the children involved would include the child's name and address; the name of the mother, father, or guardian; and the name of any siblings.<sup>149</sup> The data quality requirements should follow federal law requiring that it “(i) Meet[s] the most rigorous of the applicable federal, and state or tribal standards for completeness, timeliness, and accuracy and (ii) be consistently and uniformly collected...”<sup>150</sup> While the national registry resembles the National Child Abuse and Neglect Data System, rather than having only child files, the new national registry includes additional demographic information about the perpetrator of only founded cases.<sup>151</sup>

With a national registry of this magnitude, it is important that access be limited in nature.<sup>152</sup> Generally, any party that has a direct interest in the case, the child's welfare, or is providing protective and treatment services can access a state central registry.<sup>153</sup> Additionally, physicians and medical examiners; researchers; police, judges, and other court personnel; the person who is the

subject of a report; a person who was an alleged child victim; and the parent, guardian, parent's attorney, or guardian ad litem representing an alleged victim all have access to their state's central registry.<sup>154</sup> The accessibility of the national registry is required to be more restricted, limiting access to CPS agencies because the registry consists of founded cases about specific child maltreatment allegations.<sup>155</sup> This is compared to that of a standard state central registry, which allows access to any interested parties.<sup>156</sup> The goal of the national registry is to improve interstate communication by providing a centralized location of important information for those investigating child maltreatment cases, not to provide unlimited access to those with an interest in the allegations.<sup>157</sup> Some of the information that is included in these child files of a state central registry provides information that not all parties need access to.<sup>158</sup> For example, if the child victim lives at a domestic violence shelter with their guardian, that information is required to be redacted before sharing information with other interested parties to protect the safety of the child victim, unless a written release is provided.<sup>159</sup> Additionally, since the national registry would be a federally regulated entity under the Child Abuse Protection and Treatment Act, it shall be required to follow the confidentiality language which instructs that no party “shall disclose to any person or government official any identifying information about specific child protection case.”<sup>160</sup> Interpreting this language follows that the data collected in the national registry shall not be disclosed to any outside source, other than those who are granted access to the registry, i.e., CPS agencies.<sup>161</sup>

## COUNTERARGUMENTS

### Racial disproportionality and disparities

Racial and disproportionalities and disparities are prevalent in the child welfare system.<sup>162</sup> There is significant research that documents the overrepresentation of specific racial and ethnic groups in the child welfare system relative to their general population representation.<sup>163</sup> Racial disproportionality describes the type of representation of a racial or ethnic group compared with its percentage against the entire population.<sup>164</sup> Racial disparities refer to the type of outcomes of one racial or ethnic group compared with outcomes for different racial or ethnic groups.<sup>165</sup> There is no confirmation that implementing a National Registry for Founded Child Maltreatment cases would increase racial disproportionalities and racial disparities.<sup>166</sup> The new registry would continue to reflect the already existing disproportionalities and disparities.<sup>167</sup> Since the National Registry for Founded Child Maltreatment cases would consist of state-level agency data, the process of addressing racial disproportionality and disparity should start at those state-level agencies.<sup>168</sup> Those agencies would be responsible for taking affirmative steps to ensure that their child maltreatment investigative strategies support equity for all children and families.<sup>169</sup> For example, the state should implement assessments, training, and technical assistance for cultural responsiveness; determine the unique needs of families with diverse racial and ethnic backgrounds; and recognize the best practices to serve those families better.<sup>170</sup> Those states are now required to submit their data to the new national registry, and in theory, that would reflect the reform that state-level agencies put in place.<sup>171</sup>

New legislation and policies are additional ways to address the existing racial disproportionalities and disparities.<sup>172</sup> Since the new national registry is regulated at the federal level, legislation and Child Abuse Prevention and Treatment Act amendments should be aimed at addressing systematic issues and further developing policies that advance racial equity.<sup>173</sup> To determine if the new policies will achieve those goals, the federal government would need to conduct racial equity impact assessments that examine how their proposed federal action would likely affect different racial and ethnic groups.<sup>174</sup> One of the most important steps towards developing new successful legislation to decrease racial disproportionalities and disparities is encouraging and supporting cross-system collaboration, like improved interstate communication among CPS agencies which is the foundation of the National Registry for Founded Child Maltreatment cases.<sup>175</sup>

### Data issues

Since the new national registry contains extremely sensitive information, there is a genuine concern about who will have access to the national registry.<sup>176</sup> There is extremely weak security in how states process inquiries from agencies looking for information from that state's central registry.<sup>177</sup> For example, some states only require that inquiries be made on their agency's letterhead, which with technology, can easily be created by a non-agency worker.<sup>178</sup> The Federal government through its establishment of the national registry must include reliable ways to restrict registry access.<sup>179</sup> A National Registry of Founded Child Maltreatment cases qualifies as a system of records covered under the Privacy Act.<sup>180</sup> The Privacy Act provides rights to individuals whose data is collected and stored.<sup>181</sup> For example, the agency that publishes the founded case information would be required to make reasonable efforts to ensure that the collected information is accurate, timely, relevant to the investigation, and complete.<sup>182</sup> This proved difficult to implement through state registries because that information resided in different locations within different states.<sup>183</sup> However, with the national registry, meeting this requirement seems feasible since all of the founded case information is recorded and shared from a centralized data system.<sup>184</sup>

Due process concerns also arise from a national registry like this, particularly because these records can take away an individual's rights, benefits, or privileges, and even do significant harm to their reputation or affect their ability to obtain employment.<sup>185</sup> These due process protections ensure that decisions made by CPS to intervene with a family are based on the registry's data being accurate, relevant, timely, and complete.<sup>186</sup> The amended legislation to the Child Abuse Protection and Treatment Act, which regulates the usage of the National Registry for Founded Child Maltreatment cases, would provide several protections when CPS accesses and uses the information in the registry.<sup>187</sup> For instance, it shall include two specific protections regarding the use and disclosure of the data, in addition to safeguards for adverse actions and the misuse of information.<sup>188</sup> Regarding the use of the registry's data, the data "should be limited to those uses having a nexus to the purpose of the system."<sup>189</sup> The purpose of the national registry is to improve interstate communication by providing a centralized place for CPS to access information from other states.<sup>190</sup> CPS uses of the registry include investigating and further preventing child maltreatment cases when it is reflected that perpetrators of those cases have crossed state lines.<sup>191</sup> In addition to the use of the data,

it is important to protect individuals when CPS inputs the founded case information, therefore disclosing it to other authorized CPS agencies.<sup>192</sup> Disclosure of the data in the registry should be the "minimum necessary to carry out the function."<sup>193</sup> Again, the registry's function is limited to improving interstate communication by providing a centralized location for CPS agencies to access information about founded child maltreatment cases.<sup>194</sup> In investigating child maltreatment allegations, this safeguard limits the information provided to CPS workers when they inquire into alleged perpetrators.<sup>195</sup> Information disclosed from that inquiry would be limited to whether that person appears in the registry and what state submitted the perpetrator's information.<sup>196</sup> This answer protects the alleged perpetrator by limiting further inquiry if the person is not found in the registry.<sup>197</sup> At the same time, CPS also has the opportunity to investigate the perpetrator and prior history if their name comes back positive for being in the registry.

### Costs

As for any large national database, developing, implementing, and maintaining a National Registry for Founded Child Maltreatment cases is costly.<sup>198</sup> The estimated cost is upwards of twenty-five million dollars over two to three years, plus an additional six million dollars annually.<sup>199</sup> This includes federal costs for developing and implementing the new national registry, grants to states for their initial implementation costs, and then the annual costs for maintaining the national registry.<sup>200</sup> States can apply for additional grants under section 5106(a) under the Child Abuse Protection and Treatment Act.<sup>201</sup> These grants can range anywhere from sixty million to eighty-five million dollars.<sup>202</sup> The grants are provided each fiscal year, so these funds would cover the costs of creating, implementing, and maintaining the national registry, assuming the states follow the guidelines for the grant's application.<sup>203</sup> Moreover, the overall benefits significantly outweigh any of the costs that may be associated with creating a new National Registry for Founded Child Maltreatment cases.<sup>204</sup> These benefits include states saving time; simplifying access by providing a single source of information on maltreatment histories; and most importantly, improving interstate communication, helping provide states with more timely knowledge, and further prove useful in investigating and preventing child maltreatment cases.<sup>205</sup>

### Conclusion

A National Registry for Founded Child Maltreatment cases addresses and improves the long-standing problem of interstate communication among CPS agencies.<sup>206</sup> The registry provides a central location for gathering data and gives CPS agencies access to the registry's information.<sup>207</sup> Furthermore, information about specific founded child maltreatment cases and the related perpetrators allows the investigative agencies to have a holistic picture of what a child is going through or has previously endured at the hands of their guardians.<sup>208</sup> If we follow what the government described in 2006 and create a new national registry different from those past efforts, Heaven, Baby Killion, and thousands of other children would still be here with us today.<sup>209</sup>

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183. <sup>186</sup>*See Id.* <sup>187</sup>*See Id.* at 15. <sup>188</sup>*Id.*
184. <sup>189</sup>*Id.*
185. <sup>190</sup>RADEL, *supra* note 31, at 16.
186. <sup>191</sup>*Id.*
187. <sup>192</sup>*See generally*, Office of Assistant Sec'y for Planning and Evaluation, *supra* note 135, at 17.
188. <sup>193</sup>Office of Assistant Sec'y for Planning and Evaluation, *supra* note 135.
189. <sup>194</sup>*See* DEPT. OF HEALTH AND HUM. SERV., ADMIN. FOR CHILD. AND FAMILIES, CHILDREN'S BUREAU, *supra* note 74, at 10.
190. <sup>195</sup>Office of Assistant Sec'y for Planning and Evaluation, *supra* note 135, at 16.
191. <sup>196</sup>*Id.*
192. <sup>197</sup>*See generally*, Office of Assistant Sec'y for Planning and Evaluation *supra*, note 135 (explaining how the proposed registry would work and the safeguards for

- people not on the registry).
198. <sup>198</sup>See generally, Office of Assistant Sec'y for Plan. and Evaluation *supra*, note 47 (including specific estimates for the cost of a national registry for interstate perpetrators).
199. <sup>199</sup>*Supra* note 47, at tbl 1.
200. <sup>200</sup>*Id.*
201. <sup>201</sup>*Supra* note 81.
202. <sup>202</sup>John Sciamanna & Shaquita Ogletree, *2019 Legislative Agenda, Advancing Excellence in Practice and Policy: Meeting the Challenges of the Family First Prevention Services Act*, CWLA (2019). <https://www.cwla.org/wp-content/uploads/2019/04/CWLA-2019-Legislative-Agenda.pdf>.
203. <sup>203</sup>*Supra* note 86, at tbl 1.
204. <sup>204</sup>*Id.* at 11.
205. <sup>205</sup>*Id.*
206. <sup>206</sup>See generally, *Strengthening Prevention and Treatment of Child Abuse and Neglect Before the Subcomm. on Civ. Rights and Hum. Serv. of the H. Comm. on Educ. & Lab.*, 116th Cong. 1 (2019) (extended witness testimony of Dr. Yo Jackson, Assoc. Dir., Child Maltreatment Solutions Network explaining how improved interstate communication is “vital” for improving investigating and preventing child maltreatment cases).
207. <sup>207</sup>Office of Assistant Sec'y for Planning and Evaluation, *supra* note 133, at 16.
208. <sup>208</sup>See generally, Luther, et al., *supra* note 1. *Children abused, families move*, KOTA TERRITORY ABC (Apr. 27, 2019), (informing how CPS workers view their current mode of communication with other CPS agencies and informing that a centralized data registry may have prevented the child maltreatment deaths that occurred by their guardians).
209. <sup>209</sup>See Luther, et al., *supra* note 1. See *supra* note 97.