Appellate Division –Second Department Docket No. 2023-10606

New York Supreme Court

Appellate Division – Second Department

IN THE MATTER OF SAPPHIRE W. (ANONYMOUS).

ADMINISTRATION FOR CHILDREN'S SERVICES ,

Petitioner-Respondent,

-against-

KENNETH L. (ANONYMOUS),

Respondents, and

SHARNEKA W. (ANONYMOUS),

Nonparty-Appellant.

BRIEF OF *AMICI CURIAE* NEW YORK CIVIL LIBERTIES UNION, AMERICAN CIVIL LIBERTIES UNION WOMEN'S RIGHTS PROJECT & NATIONAL CENTER FOR YOUTH LAW IN SUPPORT OF NONPARTY-APPELLANT

NEW YORK CIVIL LIBERTIES UNION FOUNDATION

Jessica Perry
Jenna Lauter
Gabriella Larios
Molly K. Biklen
125 Broad Street, 19th Floor
New York, NY 10004
Tel: 212-607-3300
jperry@nyclu.org

AMERICAN CIVIL LIBERTIES UNION FOUNDATION

Linda S. Morris*
Aditi Fruitwala*
Anjana Samant
125 Broad Street, 17th Floor
New York, NY 10004
Tel: 212-549-2500
lindam1@aclu.org
**applications for pro hac vice admission forthcoming*

Counsel for Proposed Amici Curiae

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New York, NY

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Other Authorities

antwuan wallace, Abigail Fradkin, Marshall Buxton, Sydney Henriques-Payne, *Draft New York City Administration for Children's Services Racial Equity Participatory Action Research & System Audit: Findings and Opportunities*, National Innovation Service, 16 (2020), https://int.nyt.com/data/documenttools/draft-report-of-nyc-administration-for-children-s-services-racial-equity-survey/fc3e7ced070e17a4/full.pdf.....9

Callie Marie Rennison & Sarah Welchans, U.S. Dep't of Justice, NCJ 178247, *Bureau of Justice Statistics Special Report: Intimate Partner Violence* (2000), https://bjs.ojp.gov/content/pub/pdf/ipv.pdf 18

Caterina Pisciotta, Nora McCarthy, & Ryan Brown, *Court-Ordered Supervision*, NYC Family Policy Project (Mar. 2024), https://familypolicynyc.org/data-brief/court-ordered-supervision/ 8

Cayla Bamberger, *She Kicked an Abusive Partner Out Only to Find Herself Under ACS Supervision*, N.Y. Daily News (Dec. 6, 2023), https://www.nydailynews.com/2023/12/06/she-kicked-an-abusive-partner-out-only-to-find-herself-under-acs-supervision/ 12

Ctrs. For Disease Control & Prevention, *NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation*, https://www.cdc.gov/violence prevention/pdf/cdc_nisvs_victimization_final-a.pdf.....18

Ctrs. for Disease Control & Prevention, *Violence Prevention*: *Fast Facts* (Oct. 11, 2022), https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html 18

Deborah Epstein & Lisa A. Goodman, *Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experience*, 167 U. Pa. L. Rev. 399 (2019).....19, 20, 24

Doriane Lambelet Coleman, *Storming the Castle to Save the Children: The Ironic Costs of A Child Welfare Exception to the Fourth Amendment*, 47 Wm. & Mary L. Rev. 413 (2005) 11

Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation,* The Imprint (June 16, 2020), https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480.....7

Dorothy Roberts, *How the Child Welfare System Polices Black Mothers*, The Scholar and Feminist Online, Issue 15.3 (2019), https://sfonline.barnard.edu/how-the-child-welfare-system-polices-black-mothers/ 20

DOROTHY ROBERTS, TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD (2022) 7

Dorothy E. Roberts, *Unshackling Black Motherhood*, 95 Mich. L. Rev. 938 (1997).....20

Eli Hager, *Police Need Warrants to Search Homes. Child Welfare Agents Almost Never Get One.* ProPublica (Oct. 13, 2022), https://www.propublica.org/article/child-welfare-search-seizure-without-warrants.....10, 11

Erica Franklin, *When Domestic Violence and Sex-Based Discrimination Collide: Civil Rights Approaches to Combating Domestic Violence and Its Aftermath*, 4 DePaul J. for Soc. Just. 335 (2011) 19, 21

Human Rights Watch, "*If I Wasn't Poor, I Wouldn't Be Unfit": The Family Separation Crisis in the U.S. Child Welfare System* (Nov. 17, 2022), https://www.hrw.org/report/2022/11/17/if-i-wasnt-poor-i-wouldnt-be-unfit/family-separation-crisis-us-child-welfare.....7

Jasmine Wali*, "I'd Rather Take a Beating Than Catch a CPS Case": Survivors Face an Impossible Choice*, The Nation (Apr. 5, 2023), https://www.thenation.com/article/society/child-welfare-domestic-violence/ 11

Johanna R. Shargel, *In Defense of the Civil Rights Remedy of the Violence Against Women Act*, 106 Yale L.J. 1849 (1997).....21

Josh Gupta-Kagan, *Beyond Law Enforcement: Camreta v. Greene, Child Protection Investigations, and the Need to Reform the Fourth Amendment Special Needs Doctrine*, 87 Tul. L. Rev. 353 (2012).....14

Julie Goldscheid, *Gender Violence and Work: Reckoning with the Boundaries of Sex Discrimination Law*, 18 Colum. J. Gender & L. 61 (2008) 18, 19, 23

Kelley Fong*, Getting Eyes in the Home: Child Protective Services Investigations and State Surveillance of Family Life*, 85 Am. Socio. Rev. 610 (2020).....12

Kristine A. Campbell, et al., *Household, Family, and Child Risk Factors After an Investigation for Suspected Child Maltreatment: A Missed Opportunity for Prevention*, Arch. Pediatr. Adolesc. Med., Vol. 164 (No. 10) (Oct. 2010) 12

Lisa Rosenthal and Marci Lobel, *Stereotypes of Black American Women Related to Sexuality and Motherhood*, 40 Psychology of Women Quarterly 3 (Sept. 2016), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5096656/ 20

Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 Mich. L. Rev. 1 (1991) 19, 23

Nancy D. Polikoff & Jane M. Spinak, *Foreword: Strengthening Bonds: Abolishing the Child Welfare System and Re-Envisioning Child Well-Being*, 11 Colum. J. Race & L. 427 (2021) 7

Naomi Cahn & Joan Meier, *Domestic Violence and Feminist Jurisprudence: Towards a New Ageism*, 4 B.U. Pub. Int. L.J. 339 (1995) 19, 23

New York Civil Liberties Union, *Racism at Every Stage: Data Shows How NYC's Administration for Children's Services Discriminates Against Black and Brown Families* (Dec. 2023), https://www.nyclu.org/en/campaigns/racism-every-stage-data-shows-how-nycs-administration-childrens-services-discriminates 7

Office on Violence Against Women, U.S. Dep't of Justice, *What Is Domestic Violence?*, https://www.justice.gov/ovw/domestic-violence 17

Riya Saha Shah & Jessica Feierman, *Strip-Searching Children is State-Imposed Trauma*, American Bar Association, Human Rights Magazine, Vol 47, No. 1 (Nov. 22, 2021), https://www.americanbar.org/groups/gpsolo/publications/gpsolo_ereport/2021/december-2021/strip-searching-children-is-state-imposed-trauma/ 11

Sally F. Goldfarb, *Violence against Women and the Persistence of Privacy*, 61 Ohio St. L.J. 1 (2000) 18

Sharon Angella Allard, *Rethinking Battered Woman Syndrome: A Black Feminist Perspective*, 1 UCLA Women's L.J. 191 (1991) 19, 20

PRELIMINARY STATEMENT

This case raises the question of whether a Family Court has the power to order governmental supervision over a parent, including unannounced home searches, because the parent is a domestic violence survivor absent any allegations of abuse or neglect against that parent. Unjustified supervision orders like the one issued here have a racially disparate impact on Black parents, like Nonparty-Appellant Sharneka W. ("Ms. W."), who are far more likely to be the target of Administration for Children's Services ("ACS") surveillance than white parents because Black families are disproportionately over-represented in court-ordered supervision. Repeat and unannounced ACS home searches are invasive, stressful, traumatizing, and destabilizing for parents and children, yet are routine, and can occur without limit during an often-protracted term of court-ordered supervision. Black families, who are disproportionately under ACS supervision, are forced to endure a near-constant state of stress and anxiety that their children may be taken from them at any time.

The Fourth Amendment to the U.S. Constitution and Article 1, Section 12 of the New York State Constitution provide important limits on ACS's intrusion into the homes of families like Ms. W.'s. Here, there was no suspicion whatsoever—let alone evidence of probable cause—that abuse or neglect had occurred by Ms. W. The Kings County Family Court Supervision Order ("Supervision Order") was therefore presumptively unreasonable and violated the Fourth Amendment and the

New York State Constitution's prohibition on unreasonable searches. The Fourth Amendment requires that Ms. W. and Sapphire should not have been subjected to unjustified governmental intrusion in the most intimate aspects of their home lives.

The sole justification for the Supervision Order was that Ms. W. was a survivor of domestic violence and that survivors often return to the person who committed the abuse. This reflects and reinforces harmful and discriminatory gender stereotypes—particularly of Black women who hold multiple marginalized identities—prohibited by the equal protection provisions of both the United States and New York State Constitutions. The Family Court's targeted authorization of governmental surveillance against Ms. W. based on her status as a domestic violence survivor also raises selective enforcement concerns and underscores the need to limit such supervision orders in this and similar cases.

We therefore respectfully request that the Court vacate the Family Court's Order as it relates to Ms. W.

STATEMENT OF AMICI CURIAE

The New York Civil Liberties Union ("NYCLU") is a non-profit membership organization with approximately 85,000 members and supporters and is the New York State affiliate of the American Civil Liberties Union. The NYCLU is devoted to the protection and enhancement of civil rights and liberties as embodied in state and federal law and, to that end, has long been involved in defending the

constitutional rights of parents and children. *See, e.g.*, *Weichman v. Weichman*, 199 A.D.3d 865 (2d Dep't 2021) (NYCLU as *amicus* in case involving First Amendment in context of child custody and visitation); *Nicholson v. Scoppetta*, 3 N.Y.3d 357 (2004) (NYCLU as *amicus* in case involving gender-based stereotypes of domestic violence survivors whose children were removed because of domestic violence incidents). Defending the right of New York parents and children to be free from undue government surveillance and the right of domestic violence survivors to continue to parent their children are matters of substantial interest to the NYCLU and its members.

The American Civil Liberties Union ("ACLU") is a nationwide, nonprofit, nonpartisan organization with nearly two million members and supporters dedicated to the principles of liberty and equality embodied in the Constitution and our nation's civil rights laws. Co-founded in 1972 by Ruth Bader Ginsburg, the ACLU Women's Rights Project has been a leader in efforts to eliminate barriers to women's full equality in society and has frequently appeared as direct counsel and as *amicus* in cases involving gender-based violence, parental rights, and the child welfare system. *See, e.g.*, *Briggs v. Borough of Norristown*, No. 2:13-cv-02191-ER (E.D. Pa. 2014); *In re Barni A.*, 2024 Me. 16 (Me. 2024). The ACLU Women's Rights Project's experience advocating for the rights of survivors of gender-based violence and for

parents whose constitutional rights have been violated in the child welfare system will assist the Court in reaching a just decision in this case.

The National Center for Youth Law ("NCYL") is a non-profit organization that works to build a future in which every child thrives and has a full and fair opportunity to achieve the future they envision for themselves. For over five decades, NCYL has worked to protect the rights of low-income youth and youth of color to ensure that they have the resources, support, and opportunities they need to live safely with their families in their communities and that public agencies promote their safety and wellbeing.

The NYCLU, ACLU, and NCYL are therefore well positioned to assist the Court in its consideration of this matter.

BRIEF BACKGROUND

This appeal arises out of a Kings County Family Court Supervision Order mandating Family Court and ACS supervision of Nonparty-Appellant Sharneka W. despite there being no allegations of abuse or neglect whatsoever against Ms. W. to justify ACS's supervision request.[1] This case involves allegations of domestic violence by Respondent Kenneth L. ("Mr. L"), the father of Sapphire W., against Ms. W., the mother of Sapphire W. A5. After the alleged domestic violence incident

[1] *Amici* rely on the facts as articulated in Nonparty-Appellant's brief, and provide only a summary of the relevant facts here.

took place, Ms. W. told Mr. L. that she did "not want to fight and that he needed to leave," after which point Mr. L. left Ms. W.'s home, where she lives with Sapphire, and has not returned since. *Id.* After these allegations were reported, ACS investigated and then filed an Article 10 petition against Mr. L. based on these allegations. A1–A5. ACS filed no charges against Ms. W. A5. Despite no evidence of any safety concerns about Ms. W., ACS requested court-ordered supervision of Ms. W. and Sapphire. A7–A22.

Ms. W. and counsel for Sapphire agreed that Sapphire should remain with her mother and argued that ACS's supervision request of Ms. W. was unjustified because "ACS has not indicated that there are any safety concerns" and Ms. W. and Sapphire would be subject to unnecessary "intrusion in their lives, despite having done nothing wrong." A13. ACS never responded to these arguments or offered any reason for its supervision request. A7–A22. The Family Court acknowledged that Ms. W. was "not accused of anything and our goal is not to—not to punish you either for being the victim of a crime, assuming that that's what happened," but that it nonetheless had "the power to decide where Sapphire goes" and to issue other orders "that can affect your life." A9, A15. The Family Court explicitly found that Ms. W. was "able to care for Sapphire," and that ACS "already checked out your home and your home is fine." A15. The Court also acknowledged that Ms. W. did not want

Mr. L. in her home: "it sounds like [she] do[esn't] want him there right now." A10–A11, A15–A17.

The Family Court nevertheless granted ACS's baseless request for "ACS and Court supervision," requiring that Ms. W. "cooperate with ACS and Court Supervision, including maintaining contact with ACS, permitting ACS to make announced and unannounced visits to the home, and accepting any reasonable referrals for services." A14–A15, A23. The Family Court also issued a full order of protection against Mr. L. A12–A13. In ordering supervision, the Family Court noted that ACS would "make sure that Mr. L is not there" because "[s]ometimes people follow [orders of protection] very carefully but sometimes people, including the victims, sometimes change their mind and then the orders get violated." A15–A16.

ARGUMENT

I. The Unwarranted Supervision Order Highlights the Harmful Impact of ACS's Racially Disparate Surveillance of Black Families.

Widely available data and public reporting show that Black families are disproportionally over-represented in the family regulation system, and it is well-documented that ACS and Child Protective Services ("CPS") routinely engage in racially disparate interventions.[2] This appeal presents a clear example of the harmful impact that racially disparate ACS intrusion has on the lives of Black families.

[2] Scholars increasingly use the terms "family regulation system" or "family policing system" to describe the child welfare system because it includes institutions and practices associated with

Racial disparities in the family regulation system are well-established.[3] Across the United States, more than half of Black children will experience a CPS investigation before they turn eighteen.[4] Nearly one in ten Black children will be removed from their parents and placed into foster care—double the rate of white children—and once separated, Black families are also twice as likely to suffer permanent termination of parental rights.[5]

In New York City, these disparities are similarly pronounced, and they increase at each stage of a family regulation case.[6] Although Black people comprise only 23 percent of the New York City population, Black children are the subject of 38 percent of reports made to the family regulation system and 52 percent of children

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family surveillance and separation, including ACS or CPS, family courts, and foster agencies. *See* Dorothy Roberts, *Abolishing Policing Also Means Abolishing Family Regulation,* The Imprint (June 16, 2020), https://imprintnews.org/child-welfare-2/abolishing-policing-also-means-abolishing-family-regulation/44480; *see also* Nancy D. Polikoff & Jane M. Spinak, *Foreword: Strengthening Bonds: Abolishing the Child Welfare System and Re-Envisioning Child Well-Being*, 11 Colum. J. Race & L. 427, 431 (2021).

[3] *See, e.g.*, DOROTHY ROBERTS, TORN APART: HOW THE CHILD WELFARE SYSTEM DESTROYS BLACK FAMILIES—AND HOW ABOLITION CAN BUILD A SAFER WORLD (2022); Human Rights Watch, "*If I Wasn't Poor, I Wouldn't Be Unfit": The Family Separation Crisis in the U.S. Child Welfare System* (Nov. 17, 2022), https://www.hrw.org/report/2022/11/17/if-i-wasnt-poor-i-wouldnt-be-unfit/family-separation-crisis-us-child-welfare.

[4] Shereen White & Stephanie Marie Persson, *Racial Discrimination in Child Welfare Is a Human Rights Violation—Let's Talk About It That Way*, American Bar Association (Oct. 13, 2022), https://www.americanbar.org/groups/litigation/resources/newsletters/childrens-rights/racial-discrimination-child-welfare-human-rights-violation-lets-talk-about-it-way/.

[5] *Id.*

[6] *See* New York Civil Liberties Union, *Racism at Every Stage: Data Shows How NYC's Administration for Children's Services Discriminates Against Black and Brown Families* (Dec. 2023), https://www.nyclu.org/en/campaigns/racism-every-stage-data-shows-how-nycs-administration-childrens-services-discriminates (relying on ACS data).

removed from their home without a court order.[7] When ACS decides to formally file a case against a parent in family court, 41 percent of the time it is against a Black parent.[8] Only six percent of the cases that ACS files are against white parents.[9] Once in family court, Black children are still more likely to be removed from their home and family—in nearly half of all cases where a judge orders a child to be placed in foster care, the parents involved are Black.[10]

Not only are Black families more likely to be investigated, have those investigations substantiated, and experience a child removal—with or without a court order—family court judges are also more likely to require court-ordered supervision of Black and Latine families than of white families. As of 2019, 26 percent of New York City children were Black, yet they comprised 42 percent of children subjected to court-ordered supervision.[11] This disparity in court-ordered supervision is even more stark considering the vast number of families subjected to this traumatizing form of government intrusion. At its pre-pandemic peak in 2017, 15,459 New York City children were under court-ordered supervision, more than three times the number of children ordered into foster care that same year.[12] Indeed,

[7] *Id.*
[8] *Id.*
[9] *Id*.
[10] *Id.*
[11] Caterina Pisciotta, Nora McCarthy, & Ryan Brown, *Court-Ordered Supervision*, NYC Family Policy Project (Mar. 2024), https://familypolicynyc.org/data-brief/court-ordered-supervision/ (relying primarily on ACS data).
[12] *Id.*

racial disproportionality in court-ordered supervision rates represent one of the most widespread and significant symptoms of a family regulation system riddled with racial bias on both the individual and systemic level.

Indeed, ACS employees themselves have characterized the family regulation system as one that "actively destabilizes Black and Brown families and makes them feel unsafe."[13] An internal racial justice audit commissioned by ACS in 2020 systematically engaged Black and Brown parents, advocates, and frontline ACS staff to identify opportunities for antiracist improvements within the agency. It found that they all view ACS as an institution that treats Black families with more suspicion and less compassion than their white counterparts. Study participants, which include ACS's own employees, describe family regulation in New York City as a "predatory system that specifically targets Black and Brown parents" and subjects them to a "different level of scrutiny" as compared to white parents.[14] White parents are "presumed to be innocent," they say, while Black and Brown parents are presumed incompetent and a risk to their children.[15]

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[13] antwuan wallace, Abigail Fradkin, Marshall Buxton, Sydney Henriques-Payne, *Draft New York City Administration for Children's Services Racial Equity Participatory Action Research & System Audit: Findings and Opportunities*, National Innovation Service, 16 (2020), https://int.nyt.com/data/documenttools/draft-report-of-nyc-administration-for-children-s-services-racial-equity-survey/fc3e7ced070e17a4/full.pdf.
[14] *Id.* at 14.
[15] *Id.* at 15.

Within the context of a system rife with racial disparities and implicit bias, it is especially critical that family courts enforce constitutional constraints designed to protect people from state infringement on their rights. The judiciary's rigorous application of legal guardrails is the sole check to protect families like Ms. W.'s from unjustified government surveillance of the most intimate aspects of their lives.

II. The Fourth Amendment Limits Governmental Intrusion Like This Baseless Supervision Order.

a. ACS Supervision Is Intrusive and Has a Racially Disparate Impact on Black Families.

When a person is under ACS supervision, ACS caseworkers can come to that person's home unannounced as many times and as often as they like.[16] During these home searches, ACS can rifle through refrigerators, pantries, cupboards, bedrooms, drawers, closets, bathrooms, medicine cabinets, and any other part of the home.[17] Children are often sequestered from their parents and forced to sit through private

[16] Eli Hager, *Police Need Warrants to Search Homes. Child Welfare Agents Almost Never Get One.* ProPublica (Oct. 13, 2022), https://www.propublica.org/article/child-welfare-search-seizure-without-warrants ("With rare exceptions, all of these investigations include at least one home visit, and often multiple, according to a review of all 50 states' child welfare statutes and agency investigative manuals.").

[17] *See, e.g.*, *Doe ex rel. Doe v. Mattingly*, No. 06-CV-5761, 2006 WL 3498564, at *2 (E.D.N.Y. Nov. 6, 2006) (in case of woman who was placed under supervision because she was victim of domestic violence where there was no finding of abuse, neglect, or mistreatment, Court found that "ACS's unauthorized supervision" and "unnecessary interference" posed "significant costs to [the child's] mother and extended family," including repeated visits to the home where the parent and child lived, "unauthorized searches of the home down to the level of inspecting the refrigerator," ACS caseworkers refusing "to leave on occasions when they were denied admission," and subjecting the child to "strip searche[s] by ACS during these visits, as well as on other occasions"); *see also* Hager, *supra* note 16 (describing examples of years-long invasive home searches).

interviews with ACS caseworkers who may be strangers.[18] Children are routinely forced to display parts of their own bodies to the caseworker for inspection. In some cases, a child could be asked to strip down to their underwear for an inspection.[19] A term of court-ordered supervision can last months, and sometimes years, while an Article 10 proceeding is pending before the Family Court.[20] The ever-present threat of unannounced ACS home searches, and the looming fear that at any point ACS could take a parent's child away, leaves families under supervision in a constant state of stress and anxiety, which can have a lasting toll on the mental health of parents and children.[21]

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[18] *See* Tarek Z. Ismail, *Family Policing and the Fourth Amendment*, 111 Calif. L. Rev. 1485, 1535 (Oct 2023) (discussing practice of separating children from parents during interviews); Doriane Lambelet Coleman, *Storming the Castle to Save the Children: The Ironic Costs of A Child Welfare Exception to the Fourth Amendment*, 47 Wm. & Mary L. Rev. 413, 519 (2005) (same).

[19] *See, e.g.*, *Doe ex rel. Doe*, 2006 WL 3498564, at *2 (during "unauthorized supervision" . . . "Baby Doe was strip searched by ACS during these visits, as well as on other occasions"); *see also* Riya Saha Shah & Jessica Feierman, *Strip-Searching Children is State-Imposed Trauma*, American Bar Association, Human Rights Magazine, Vol 47, No. 1 (Nov. 22, 2021), https://www.americanbar.org/groups/gpsolo/publications/gpsolo_ereport/2021/december-2021/strip-searching-children-is-state-imposed-trauma/ (discussing practice and associated harms of CPS strip-searches of children).

[20] Hager, *supra* note 16 (describing examples of years-long invasive home searches); Jasmine Wali*, "I'd Rather Take a Beating Than Catch a CPS Case": Survivors Face an Impossible Choice*, The Nation (Apr. 5, 2023), https://www.thenation.com/article/society/child-welfare-domestic-violence/ (same).

[21] *See, e.g.*, Kristine A. Campbell, et al., *Household, Family, and Child Risk Factors After an Investigation for Suspected Child Maltreatment: A Missed Opportunity for Prevention*, Arch. Pediatr. Adolesc. Med., Vol. 164 (No. 10), 943, 944 (Oct. 2010) (describing increased depressive symptoms of parents whose children are the subject of abuse and neglect investigations); Kelley Fong*, Getting Eyes in the Home: Child Protective Services Investigations and State Surveillance of Family Life*, 85 Am. Socio. Rev. 610, 626 (2020) (highlighting pervasive fear and anxiety families experience when under CPS surveillance); *Surveillance Isn't Safety – How Over-Reporting and CPS Monitoring Stress Families and Weaken Communities*, RISE Magazine (Sept. 17, 2019), https://www.risemagazine.org/2019/09/surveillance-isnt-safety/ (describing daily fear

In this case, ACS subjected Ms. W. and Sapphire to this exact intrusive treatment in their home during supervision visits. ACS came to search Ms. W.'s apartment repeatedly, sometimes with warning by call or text, but multiple times unannounced.[22] During these home visits, ACS "searched everywhere."[23] "They came late at night," according to Ms. W., to "check every room, living room, bathroom, cabinets, [and] refrigerator."[24] Ms. W. expressed that her "home is [her] sanctuary," and described these ACS visits as "embarrassing" and that she felt she was "being judged."[25] In addition to searching her home, Ms. W. was also required to "remove [her] daughter's diaper and show [ACS] that she doesn't have any bruises."[26] When Ms. W. was a child, she was separated from her family by ACS and placed into foster care and said of the ACS home searches: "I'm so scared of saying the wrong thing . . . and then they will take my daughter away."[27]

Given the widespread nature of racial disparities in court-ordered supervision discussed *infra*, Black families like that of Ms. W. and Sapphire are far more likely to be subjected to these invasive home searches. The risk of harm that such sweeping

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of families living under ACS surveillance and collecting stories documenting fear and trauma caused by ACS investigations and supervision).

[22] Cayla Bamberger, *She Kicked an Abusive Partner Out Only to Find Herself Under ACS Supervision*, N.Y. Daily News (Dec. 6, 2023), https://www.nydailynews.com/2023/12/06/she-kicked-an-abusive-partner-out-only-to-find-herself-under-acs-supervision/.

[23] *Id.*

[24] *Id.*

[25] *Id.*

[26] *Id.*

[27] *Id.*

governmental surveillance poses underscores how necessary it is for courts to evaluate ACS supervision requests under applicable constitutional standards like the Fourth Amendment to the United States Constitution and Article 1, Section 12 of the New York Constitution.

b. ACS Supervision of Ms. W.'s Home and Child Violate the Fourth Amendment's Prohibition of Unreasonable Searches Without Probable Cause.

As a foundational matter, parents and children are afforded vast constitutional protections for the integrity of their familial relationship. "Parents . . . have a constitutionally protected liberty interest in the care, custody and management of their children," and "children have a parallel constitutionally protected liberty interest in not being dislocated from the emotional attachments that derive from the intimacy of daily family association." *Southerland v. City of New York*, 680 F.3d 127, 142 (2d Cir. 2012) (citing *Tenenbaum v. Williams*, 193 F.3d 581, 593 (2d Cir. 1999); *Kia P. v. McIntyre*, 235 F.3d 749, 759 (2d Cir. 2000); *Troxel v. Granville*, 530 U.S. 57, 65–66 (2000)).[28] In addition to these strong liberty interests, parents and children have the equally compelling constitutional right to be free from unreasonable searches of their homes and persons under the Fourth Amendment to the United States Constitution and Article I, Section 12 of the New York

[28] *Amici* do not expand upon these rights because they are fully addressed by Nonparty-Appellant and other *amici*.

Constitution. U.S. Const. amend. IV; N.Y. Const. art. I, § 12.[29] As with any other government agency seeking to enter a home or search a person, the Fourth Amendment applies to ACS. *See Southerland*, 680 F.3d at 142–43 (confirming viability of Fourth Amendment search-and-seizure claims against ACS).[30]

Because the right to be in one's "own home and there be free from unreasonable governmental intrusion stands at the very core" of these constitutional protections, it is "a basic principle of Fourth Amendment law that searches and seizures inside a home without a warrant are presumptively unreasonable." *Groh v. Ramirez*, 540 U.S. 551, 559 (2004) (internal citations and quotation marks omitted). Unauthorized entry by ACS into the home for the purpose of conducting a search gives rise to a Fourth Amendment unlawful search claim. *See People United for Child., Inc. v. City of New York*, 108 F. Supp. 2d 275, 299–300 (S.D.N.Y. 2000). ACS strip-searches and visual body cavity searches of children also give rise to Fourth Amendment claims. *Matter of Shernise C.*, 91 A.D.3d 26, 31 (N.Y. App. Div. 2011).

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[29] The New York Constitution has been interpreted to be even more protective in the area of search-and-seizure law than the Fourth Amendment. *See People v. Weaver*, 12 N.Y.3d 433, 445 (2009) (internal citations omitted) ("We note that we have on many occasions interpreted our own Constitution to provide greater protections when circumstances warrant and have developed an independent body of state law in the area of search and seizure."). If the Supervision Order's authorization of home searches here violates the Fourth Amendment, it would also violate the New York State Constitution, so this brief focuses on the Fourth Amendment.

[30] *See also generally* Ismail, *supra* note 18 (collecting cases); Josh Gupta-Kagan, *Beyond Law Enforcement: Camreta v. Greene, Child Protection Investigations, and the Need to Reform the Fourth Amendment Special Needs Doctrine*, 87 Tul. L. Rev. 353 (2012) (same).

In New York, ACS can only enter a home for an investigation in very limited circumstances as articulated in New York Family Court Act § 1034, which governs the State's power to order child protective investigations. The procedures governing § 1034 orders incorporate those required for obtaining a search warrant pursuant to New York Criminal Procedure Law § 690, which requires a showing of probable cause for the warrant to issue.[31] "[P]robable cause that there has been a violation of the law is ordinarily required even for searches that can be permissibly carried out without a warrant." *Tenenbaum*, 193 F.3d at 603 (quoting *New Jersey v. T.L.O.*, 469 U.S. 325, 340 (1985)). Here, there was no probable cause to support ACS's request for the Supervision Order to enter and search Ms. W.'s home and child because there were no allegations of abuse or neglect against Ms. W. whatsoever. The Family Court itself determined that Ms. W. was "able to care for Sapphire" and that ACS had already "checked out [Ms. W.'s] home" and found that her "home [was] fine."

[31] Even beyond a probable cause requirement, Section 1034 additionally includes specific factors the Family Court must weigh, grounded in the liberty interests of children and parents, specifically that any home entry and search "shall be the least intrusive to the family" and must be "necessary in light of the child or children's safety." Fam. Ct. Act § 1034(2)(e). Given that § 1034 incorporates the probable cause standard as articulated in N.Y. Criminal Procedure Law § 690, there is no reason that the same principles should not apply when court-ordered ACS supervision also includes ACS home entries and searches. Applying Family Court Act § 1034(2)(e), the Supervision Order was not "necessary in light of" Sapphire's "safety" because there were no safety concerns at all. The Supervision Order authorizing ACS home searches was not the "least intrusive" option to Ms. W.'s family; rather it was a significant intrusion into her and Sapphire's home.

A15. ACS provided no evidence to support its request for supervision, and the Family Court relied on no such evidence to issue the Supervision Order. A17-A22.

The Family Court's sole justification for the Supervision Order was to ensure that ACS would "make sure that Mr. L is not there" because "[s]ometimes people follow [orders of protection] very carefully but sometimes people, including the victims, sometimes change their mind and then the orders get violated." A15–16. This justification, however, is irrelevant to any allegation of abuse or neglect and is instead rooted in gender-based stereotypes about survivors of domestic violence, as discussed more fully *infra*. But the New York Court of Appeals held a decade ago that "exposing a child to domestic violence is *not* presumptively neglectful," and beyond that, even held that "exposure of a child to violence is not presumptively a ground for removal." *Nicholson v. Scoppetta*, 3 N.Y.3d 357, 375 (2004) (emphasis in original). While ACS argues in its brief that "the release order was imminently reasonable" because of the "allegations describing a pattern of neglectful domestic violence," ACS Br. at 41–42, here there were no allegations of neglect at all against Ms. W., let alone any that could overcome the *Nicholson* presumption that exposing a child to domestic violence is not a basis for neglect. Therefore, the allegations of domestic violence cannot be used as a justification for court-ordered searches of Ms. W.—a parent against whom no allegations of abuse or neglect exist—and her child.

Given that ACS's request and the Family Court order granting supervision had no basis in fact or law, there was no probable cause to support ACS's searches of Ms. W.'s home and child. The aspects of the Supervision Order that authorized ACS to enter and search Ms. W.'s home were therefore presumptively unreasonable and violated the Fourth Amendment's prohibition on unreasonable searches.

III. The Family Court's Order Was Based on Harmful Gender Stereotypes about Domestic Violence Survivors and Runs Afoul of the Equal Protection Clause.

a. Judgments and Expectations about Domestic Violence Survivors Often Reflect and Reinforce Harmful and Discriminatory Gender Stereotypes.

In addition to the Fourth Amendment concerns raised by this appeal, there are also significant equal protection concerns given that the Family Court's sole justification for the Supervision Order was based on gendered stereotypes about domestic violence survivors.

While people of all genders experience abuse by intimate partners, domestic violence[32]—and attitudes toward survivors of domestic violence—have been historically and inextricably linked to discrimination against women in the United

[32] Domestic violence is a "pattern of abusive behavior in any relationship that is used by one partner to gain or maintain power and control over another intimate partner." Office on Violence Against Women, U.S. Dep't of Justice, *What Is Domestic Violence?*, https://www.justice.gov/ovw/domestic-violence. Domestic violence includes "physical, sexual, emotional, economic, psychological, or technological actions or threats of actions or other patterns of coercive behavior that influence another person within an intimate partner relationship." *Id.*

States.[33] The overwhelming majority of individuals who experience domestic violence are women.[34] According to the U.S. Department of Justice's Bureau of Justice Statistics, women comprise about 85 percent of domestic violence victims.[35] The Centers for Disease Control estimates that about 41 percent of women in the United States have reported experiencing physical abuse, sexual violence, and/or stalking by an intimate partner.[36] Domestic violence, by its nature, also is rooted in and perpetuated by deeply gendered norms, beliefs, and perceptions about women, their role, and their subordinate status in public and private spaces.[37] Indeed, "rigid adherence to norms of male dominance and superiority is one of the primary individual and sociocultural risk factors for family violence."[38]

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[33] Julie Goldscheid, *Gender Violence and Work: Reckoning with the Boundaries of Sex Discrimination Law*, 18 Colum. J. Gender & L. 61, 71–72 (2008) ("Authorities ranging from the United Nations to the United States Congress recognize that domestic and sexual violence are inextricably linked to formal and informal manifestations of sex discrimination. International legal instruments recognize domestic and sexual violence as forms of sex discrimination."). *Amici* refer to the experiences of women survivors throughout this brief, recognizing that domestic violence disproportionately harms women—and particularly, women of color. *Id. Amici* recognize that people of all genders experience domestic violence. Ctrs. For Disease Control & Prevention, *NISVS: An Overview of 2010 Findings on Victimization by Sexual Orientation*, https://www.cdc.gov/violenceprevention/pdf/cdc_nisvs_victimization_final-a.pdf.

[34] Callie Marie Rennison & Sarah Welchans, U.S. Dep't of Justice, NCJ 178247, *Bureau of Justice Statistics Special Report: Intimate Partner Violence* 1 (2000), https://bjs.ojp.gov/content/pub/pdf/ipv.pdf.

[35] *Id.*

[36] Ctrs. for Disease Control & Prevention, *Violence Prevention*: *Fast Facts* (Oct. 11, 2022), https://www.cdc.gov/violenceprevention/intimatepartnerviolence/fastfact.html.

[37] Goldscheid, *supra* note 33, at 95–96; Sally F. Goldfarb, *Violence against Women and the Persistence of Privacy*, 61 Ohio St. L.J. 1, 4–5 (2000).

[38] Erica Franklin, *When Domestic Violence and Sex-Based Discrimination Collide: Civil Rights Approaches to Combating Domestic Violence and Its Aftermath*, 4 DePaul J. for Soc. Just. 335,

Given these significant disparities and the deeply gendered nature of domestic violence, survivors frequently face judgments and expectations that are grounded in pernicious gender stereotypes. Domestic violence survivors, for example, are often perceived as weak and submissive,[39] helpless,[40] and incapable of making decisions in the best interest of themselves and their children—all of which are based in stereotypes of feminine passivity.[41] Additionally, survivors are commonly stereotyped as choosing, accepting, or otherwise being at fault for the abuse they experienced.[42] In contrast, survivors who demonstrate assertiveness, strength, or anger may be disbelieved, mistrusted, or even viewed as having provoked abuse.[43] *See, e.g.*, *Balistreri v. Pacifica Police Dep't*, 901 F.2d 696, 701–02 (9th Cir. 1988).

Bias against domestic violence survivors is further compounded for individuals who hold multiple marginalized identities, including Black women and other women of color. Black mothers, in particular, face a heightened threat of unwarranted governmental intrusion into their lives due to intersecting race and sex

337 (2011) (citing American Psychological Association Presidential Task Force, *Violence and the Family*, 18 (1996)).

[39] Goldscheid, *supra* note 33, at 96.

[40] Martha R. Mahoney, *Legal Images of Battered Women: Redefining the Issue of Separation*, 90 Mich. L. Rev. 1, 49 (1991).

[41] Goldscheid, *supra* note 33, at 95–96 (2008); *see also* Naomi Cahn & Joan Meier, *Domestic Violence and Feminist Jurisprudence: Towards a New Ageism*, 4 B.U. Pub. Int. L.J. 339, 344 (1995).

[42] Deborah Epstein & Lisa A. Goodman, *Discounting Women: Doubting Domestic Violence Survivors' Credibility and Dismissing Their Experience*, 167 U. Pa. L. Rev. 399, 405–38 (2019).

[43] Sharon Angella Allard, *Rethinking Battered Woman Syndrome: A Black Feminist Perspective*, 1 UCLA Women's L.J. 191, 204–05 (1991).

stereotypes that devalue their ability to care for and protect their children.[44] Such discriminatory stereotypes—for example, that Black women are more likely to be perceived as uncaring, self-indulgent, promiscuous, or less trustworthy—have long been weaponized to justify paternalistic and punitive restrictions on Black motherhood, including forced sterilization and discriminatory policing throughout the child welfare system.[45] Because of these intersecting biases, Black women survivors of domestic violence are less likely to be viewed as credible and trustworthy in the legal system.[46]

Such stereotypes about domestic violence survivors are not only inaccurate and harmful, but also have long imposed significant barriers to women's equality in the United States.[47] The Family Court's authorization of unlimited supervision of Ms. W., solely because she is a survivor of domestic violence, reflects and reinforces such harmful and discriminatory gender stereotypes, as discussed further below.

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[44] Dorothy E. Roberts, *Unshackling Black Motherhood*, 95 Mich. L. Rev. 938, 946–54 (1997); *see also* Allard, *supra* note 43, at 199–200.

[45] Roberts, *supra* note 44, at 950–53; *see also* Dorothy Roberts, *How the Child Welfare System Polices Black Mothers*, The Scholar and Feminist Online, Issue 15.3 (2019), https://sfonline.barnard.edu/how-the-child-welfare-system-polices-black-mothers/; Lisa Rosenthal and Marci Lobel, *Stereotypes of Black American Women Related to Sexuality and Motherhood*, 40 Psychology of Women Quarterly 3 (Sept. 2016), https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5096656/.

[46] Epstein & Goodman, *supra* note 42, at 436–37; *see also* Tuozhi Lorna Zhen, *Racism, Implicit Biases Negatively Impact Credibility of Domestic Violence Survivors*, Bloomberg Law (Nov. 6, 2020), https://news.bloomberglaw.com/us-law-week/racism-implicit-biases-negatively-impact-credibility-of-domestic-violence-survivors-15.

[47] Franklin, *supra* note 38, at 337; *see also* Johanna R. Shargel, *In Defense of the Civil Rights Remedy of the Violence Against Women Act*, 106 Yale L.J. 1849, 1850 (1997).

b. The Family Court Substituted Gender Stereotypes about Domestic Violence Survivors for an Individualized Assessment about Ms. W.'s Parental Abilities in Violation of the Equal Protection Clause.

Both the U.S. and New York State Constitutions protect the right to equal treatment under law regardless of gender. U.S. Const. amend. XIV; N.Y. Const. art. I § 11; *see also United States v. Virginia*, 518 U.S. 515, 531–33 (1996); *Mississippi Univ. for Women v. Hogan*, 458 U.S. 718, 723–25 (1982). Because it relies on overbroad gender stereotypes and expectations about domestic violence survivors, the Family Court's order cannot survive any standard of review.

When evaluating the Family Court's order, "[c]are must be taken in ascertaining whether the [governmental] objective itself reflects archaic and stereotypic notions." *Hogan*, 458 U.S. at 725. Critically, the justification "must not rely on overbroad generalizations" based on gender. *Virginia*, 518 U.S. at 533; *see also Sessions v. Morales-Santana*, 582 U.S. 47, 64 n.13 (2017) ("Even if stereotypes frozen into legislation have 'statistical support,' our decisions reject measures that classify unnecessarily and overbroadly by gender *when more accurate and impartial lines can be drawn*.") (emphasis added); *People v. David*, 585 N.Y.S.2d 149, 151 (Cnty. Ct. 1991) (noting a gender-based classification must not be "merely the arbitrary classifying of people" by stereotypes). Gender stereotypes are associated with "'cognitive biases,' which cause people to ignore or exclude information that is inconsistent with a stereotype." *Back v. Hastings on Hudson Union Free Sch.*

Dist., 365 F.3d 107, 125 n.16 (2d Cir. 2004). Accordingly, reliance on overbroad generalizations and stereotypes cannot support differential treatment of domestic violence survivors. *See, e.g.*, *Fajardo v. Cnty. of Los Angeles*, 179 F.3d 698, 700 (9th Cir. 1999) (holding that the district court erred, as a matter of law, in holding that defendants' differential treatment of domestic violence cases survived rational basis review because its conclusion was based on broad assumptions); *Navarro v. Block*, 72 F.3d 712, 717 (9th Cir. 1995); *Balistreri*, 901 F.2d at 701; *Thurman v. City of Torrington*, 595 F. Supp. 1521, 1526–29 (D. Conn. 1984).

The Family Court improperly substituted its stereotypic notions and expectations about women domestic violence survivors for an individualized assessment of Ms. W.'s ability to care for her child. Specifically, the Family Court relied entirely on its overbroad belief and judgment that "sometimes people, including the victims [of domestic violence], sometimes change their mind and then the orders [of protection] get violated." A15–A16. This assumption reflects and reinforces many harmful stereotypes about women domestic violence survivors—including that they are weak, passive, and incapable of making the best decisions for the well-being of themselves and their children, and that they choose or otherwise are at fault for the abuse that they have experienced.[48] The Family Court's reasoning also perpetuates the stereotype that someone cannot be both a good parent and a

[48] Goldscheid, *supra* note 33, at 95–96; *see also* Cahn & Meier, *supra* note 41, at 344.

victim of domestic violence and that close supervision is necessary to ensure that a survivor adequately cares for their child, even where there have been no allegations that they cannot.[49]

In adopting such stereotypes as the basis for its order, the Family Court entirely disregarded significant evidence in the record revealing Ms. W.'s ability to care for Sapphire. Notably, the Family Court failed to credit Ms. W.'s sworn testimony throughout the hearing that she did not want to speak to or be around Respondent—even after acknowledging that Ms. W.'s testimony was credible and that "it sounds like [she] do[esn't] want him there right now." A10–A11, A15–A17. The Family Court's order also did not account for its explicit findings that Ms. W. was "able to care for Sapphire," that ACS found that her home was safe, and that she was not accused of any wrongdoing.[50] A14–15. Instead, the Family Court substituted unfounded and pernicious gender stereotypes for more accurate and individualized factual findings in rendering its decision.[51] Such reliance on gender

[49] *See* Amanda Mahoney, *How Failure to Protect Laws Punish the Vulnerable*, 29 Health Matrix 429, 441–42 (2019), https://scholarlycommons.law.case.edu/healthmatrix/vol29/iss1/12.

[50] Indeed, ACS did not file a petition against Ms. W., as it had no evidence to suggest that Ms. W. could not adequately care for her daughter. A5.

[51] In addition to impermissibly substituting stereotypes for factual findings, the Family Court revictimized Ms. W. by discounting her testimony and effectively punishing her by authorizing government surveillance because of her experience of abuse. *See* Epstein & Goodman, *supra* note 42, at 438–40. In doing so, the Family Court's order signaled to Ms. W. that her own experience and testimony did not matter as much as the Family Court's generalized and stereotypic judgments about domestic violence survivors. *See id.* Such discounting, particularly by a "gatekeeper" of the justice system, exposes women to additional harms beyond the abuse they have already experienced and ultimately discourages survivors from seeking assistance in the future. *Id.* at 438–43.

stereotypes cannot serve as a legitimate basis for differential treatment. *See, e.g.*, *Balistreri*, 901 F.2d at 701 (recognizing that a police officer's comments that he "did not blame plaintiff's husband for hitting her, because of the way she was 'carrying on'" suggested animus against women domestic violence survivors and an intention to treat domestic abuse cases less seriously than other assaults for purposes of an equal protection claim); *Navarro*, 72 F.3d at 717 (holding that plaintiffs stated equal protection claim because they could prove differential treatment of domestic violence victims, compared with non-domestic violence victims, fails even rational basis review); *Thurman*, 595 F. Supp. at 1528–29 (noting that archaic judgments about domestic violence cannot justify disparate treatment). Accordingly, the Family Court's order cannot survive any level of scrutiny and runs afoul of the Equal Protection Clause.

By authorizing unlimited surveillance of Ms. W. solely because she was a victim of domestic violence, the Family Court's Supervision Order also raises concerns of selective enforcement. An equal protection violation based on selective enforcement arises where (1) the person, compared with others similarly situated, was selectively treated, and (2) the selective treatment was based on impermissible considerations, such as membership in a protected class or an intent to inhibit or punish the exercise of constitutional rights. *Hu v. City of New York*, 927 F.3d 81, 91 (2d Cir. 2019); *see also 303 West 42nd St. Corp. v. Klein*, 46 N.Y.2d 686, 693 (1979)

(citing *Yick Wo v. Hopkins*, 118 U.S. 356, 373–74 (1886)). To prevail on such a claim, the party must show that the disparate treatment was the product of illicit motive. *Klein*, 46 N.Y.2d at 695. "When officials acknowledge uneven enforcement against a class that has been selected for some reason apart from effective regulation, an impermissible animus has been shown." *Id.* (citing *Betty-June Sch., Inc. v. Young*, 201 N.Y.S.2d 692, 696 (Sup. Ct. 1960)). Moreover, "because the importance of the right to be free from impermissible selective enforcement must be of more than theoretical value, . . . [l]atitude should be allowed in this complex area of proof." *Id.* (quoting *People v. Walker*, 14 N.Y.2d 901, 902 (1964)).

As discussed *infra*, the Family Court improperly singled out Ms. W. for government surveillance solely because she was a victim of domestic violence. Ms. W.'s status as a domestic violence survivor is the very kind of impermissible consideration that cannot justify selective enforcement. *See Hu*, 927 F.3d at 91. Notably, victims of domestic violence are a protected class under the New York Human Rights Law. N.Y. Exec. Law § 296 (McKinney). The federal government also has recognized the urgent need to address bias and discrimination against domestic violence survivors, including, most recently, through its 2022 reauthorization of the Violence Against Women Act with protections against housing discrimination. Violence Against Women Act, 42 U.S.C. § 13925 *et seq*. And, as discussed *infra*, courts and agencies have long recognized that disparate

treatment of domestic violence survivors constitutes a form of gender-based discrimination and unjustly impose barriers for women and their families. *See, e.g.*, *Balistreri*, 901 F.2d at 701; *Thurman*, 595 F. Supp. at 1528–30; U.S. Dep't of Housing & Urban Dev., *Memorandum on Assessing Claims of Housing Discrimination against Victims of Domestic Violence Under the Fair Housing Act and the Violence Against Women Act* (Feb. 9, 2011) ("[D]iscrimination against victims of domestic violence is almost always discrimination against women."). For these reasons, the Family Court's targeted authorization of surveillance against Ms. W. based on her status as a domestic violence survivor raises concerns of selective enforcement and underscores the need to limit such supervision orders in this case and similar cases.

CONCLUSION

Based on the foregoing, we respectfully request that the Court vacate the Family Court's Order as it relates to Ms. W.

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Respectfully submitted,

NEW YORK CIVIL LIBERTIES
UNION FOUNDATION

Jessica Perry
Jenna Lauter
Gabriella Larios
Molly K. Biklen
125 Broad Street, 19th Floor
New York, NY 10004
Tel: 212-607-3300
jperry@nyclu.org
jlauter@nyclu.org
glarios@nyclu.org
mbiklen@nyclu.org

AMERICAN CIVIL LIBERTIES
UNION FOUNDATION

Linda S. Morris*
Aditi Fruitwala*
Anjana Samant
125 Broad Street, 17th Floor
New York, NY 10004
Tel: 212-549-2500
lindam1@aclu.org
afruitwala@aclu.org
asamant@aclu.org

**applications for pro hac vice admission forthcoming*

Counsel for Proposed Amici Curiae