

# Privacy and Poverty

Colton Grainger

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## Narratives

### Benefits Interview

An impoverished single mother on Medicaid faces mortifying questions, face-to-face with benefit managers, about her lovers, hygiene, parental shortcomings, and personal habits. For example,

Tina (“T”): Are you working?

Erica (“E”): No — I’m in college still.

T: How are you supporting yourself?

E: [long pause] How could I forget what it’s called . . . . Welfare!

[laughs]

T: You receive public assistance?

E: Yes.

T: How much?

E: Um, 354 . . . .

T: And does that include what they give you for your rent?

E: Yes. Well, I don’t pay rent.

T: You don’t pay rent?

E: I live in a shelter.

T: What shelter do you live in?

E: Beta Houses.

T: Who’s your caseworker?

E: Ms. C.

T: Do you have the number?

E: Yeah — I have the number: 1-212-555-1212. She has an extension: 1212.

T: And how long have you been there?

E: Almost four months.

T: And can you tell me what the circumstances were that put you in shelter?

E: Domestic violence.

T: And how long did the domestic violence last?

E: Two months.

T: So, you were in a domestic violence relationship for about two months, and then you moved to a shelter.

E: Uh-huh.

T: And how long was your relationship?

E: It wasn't really a relationship. It was, like, I would say — three months.

T: I'm sorry?

E: Three months — it was, like, a three-month relationship.

T: It was a three-month relationship. And do you have a police report and an order of protection?

E: The police report, yes. Not the order of protection — still didn't get it.

T: Would you like to talk to someone about the domestic violence?

E: No . . . .

T: Who's the father of the baby?

E: Nathaniel Thompson.

T: Is the father of the baby living with you?

E: No.

T: How long have you been in a relationship with the father?

E: 10 years.

T: The father of the baby?

E: Uh-huh. Same father as all the rest of them.

T: How old is he?

E: How old? 34.

T: Can you identify the father?

E: Yes . . . .

T: What's his name?

E: Nathaniel Thompson.

T: And how would you describe your relationship with the father?

E: Fine — now.

T: “Fine now”?

E: Uh-huh.

T: Does he intend to help when the baby comes?

E: Yes — he's my fiancé. I just didn't get my ring yet. He better hurry up.

T: Is he working?

E: Yes. No, he doesn't work. Sorry. He's in college.

T: How does he support himself?

E: I know that he's on public assistance, but I don't know what he gets or anything like that.

T: But, he's going to be able to support you and your child?

E: Yes, he's going to get a job by the time — he's about to be done with college.

T: You feel that when he's done with school, he's going to be financially able to support the child?

E: He's going to be making 43,000 [dollars] a year.

T: You know that already?

E: Yes. His job is already set up.

T: What does he do?

E: He's a computer technician. I don't know how he does it. I hate computers.

T: You are in a better situation than a lot of our patients.

E: I just have to get up out this dag-gone shelter. Then, I'll be fine.

What is remarkable about this exchange is that Erica was led into a conversation about a romantic relationship that tragically involved severe, homelessness-inducing violence, the healthiness of her relationship with the father of her children, her earnings capacity, the earnings capacity of the father of her children, and any previous contact that she had had with the welfare state (in addition to

answering questions about her history, if any, with tobacco and alcohol products, controlled substances, mental illness, and a host of other issues that I have not included in this excerpted portion of the interview) because she was pregnant and had presented herself to a public hospital with the hope of receiving state-assisted prenatal care . It is important to observe at the outset that this is an intensely personal, painfully intimate conversation that privately-insured pregnant women can avoid enduring.

[Khiara Bridges, “Privacy Rights and Public Families,” *Harvard Journal of Law and Gender* 34 (September 13, 2011): 113–74]

## **Autism Diagnosis**

“ASD and Me, Jessie Lynn McMains”

## **Critique**

“The Disparate Impact of Surveillance”. The Century Foundation. December 21, 2017.

- Civil libertarians too often speak of privacy solely in universalist terms. This approach fails to address the special burdens of surveillance on poor, brown, and other disfavored communities.
- Surveillance of mainstream citizens tends to come at a distance, with hard-to-measure effects. Among the poor and powerless, surveillance is local, ubiquitous, and palpable, with harms that include physical force, harsh financial pressures, and humiliating exposure of intimate lives.
- Police and welfare bureaucracies routinely subject marginal communities to coercive surveillance that is not only unfamiliar but unimaginable in affluent neighborhoods or among whiter, wealthier recipients of social benefits.
- Statutory and constitutional privacy protections, as interpreted by the courts, often rest on presumptions about property and financial means that substantially diminish their application to the poor.
- A truly universal privacy agenda will require close attention to differences in power and vulnerability. The real-world impact of surveillance in poor communities of color is an injustice in its own right and an important consideration in defining the limits of government surveillance authority writ large.

Government administrators justify these extraordinary protocols by invoking the need to protect vulnerable children, a compelling state interest by any account. Medicaid and welfare information systems are, in fact, intertwined with the enforcement arm of Child Protective Services (CPS). Any sign of an unsafe environment can trigger a CPS investigation, a traumatic and even more invasive affair.

[Doriane Coleman, “Storming the Castle to Save the Children: The Ironic Costs of a Child Welfare Exception to the Fourth Amendment,” *William and Mary Law Review* 47, no. 94 (2005): 413–540, <http://scholarship.law.wm.edu/wmlr/vol47/iss2/3>.]

No one doubts the need in some cases for intervention. The aggressiveness and tone of the screening, on the other hand, suggest a tendency to presume that poverty itself is a marker of risky parents or that poor mothers are deficient mothers until proven otherwise.

[Tina Lee, *Catching a Case: Inequality and Fear in New York City’s Child Welfare System* (New Brunswick, N.J.: Rutgers University Press, 2016); Diane DePanfilis, “Child Neglect: A Guide for Prevention, Assessment, and Intervention,” U.S. Department for Health and Human Services Office on Child Abuse and Neglect, 2006, <https://www.childwelfare.gov/pubPDFs/neglect.pdf>.]

By the numbers, poor families are likelier to be investigated and likelier to be found culpable for abuse and neglect, but there is little evidence that abuse itself is more prevalent among them than in society at large.

[Douglas J. Besharov, “Child Abuse Realities: Over-Reporting and Poverty,” *Virginia Journal of Social Policy and the Law* 8, no. 1 (2001): 165–205, [http://www.welfareacademy.org/pubs/childwelfare/childabuse\\_realities\\_00\\_fall.pdf](http://www.welfareacademy.org/pubs/childwelfare/childabuse_realities_00_fall.pdf).]

Justice Thurgood Marshall once asked, in dissent from the case that the Ninth Circuit relied upon in *Sanchez*: “Would the majority sanction, in the absence of probable cause, compulsory visits to all American homes for the purpose of discovering child abuse? Or is the Court prepared to hold as a matter of constitutional law that a mother, merely because she is poor, is substantially more likely to injure or exploit her child?”

[*Wyman v. James*, 400 U.S. 309 (1971) (Marshall dissent).]

Some scholars believe the psychosocial effects of poverty increase the actual incidence of abuse; others, that scarce resources make it difficult for children to handle the consequences of otherwise commonplace parental neglect; still others, that the hypervisibility of poor people—to the state—makes them likelier to draw attention from officials who are empowered or obliged to report suspected abuse.

## Discussion

- where do we feel client privacy could be improved?
- “CE-prevents-repeat-intakes”. Mindy B.

## Client expectations of privacy?

- What sort of system could be in place?
- “reflection”. Mindy B.
- volunteers already have agreed to confidentiality
- how to treat information on the shelter website?

### Example: Client Rights

From “Client Rights & Responsibilities | JCFS”. Retrieved April 12, 2018. - The right to treatment and to receive services in accordance with an assessment of your needs. - The right to be treated with respect and dignity. - The right to receive mental health services in the least restrictive setting. - The right to a current individualized treatment plan. - The right to informed participation in establishing your treatment plan. - The right to periodic information concerning your condition and progress. - The right to be informed of any treatment or therapy, including physical and medical consequences and the right to refuse a component of treatment or therapy program, with the right to be informed of all alternatives. - The right to have the opportunity to consult with independent specialists and counselors and to seek an outside psychiatric or psychological evaluation. - The right to freedom from the use of language of an intimidating, degrading, or derogatory nature. - The right to be free from abuse, neglect, harm and exploitation. - The right to have disabilities accommodated as required by the American with Disabilities Act , section 504 of the Rehabilitation Act and the Human Rights Act (775 ILCS 5). - The right to have assistance from an independent advocate when, in your opinion, your rights have been violated. You have the right to contact the Guardianship and Advocacy Commission, Equip for Equality, Inc., and IDCFS or DMHDD as appropriate. Client will be offered staff assistance in contacting these organizations at the address and telephone number provided:

### Example: Client Responsibilities

[Ibid.]

- Abide by all rules and regulations of JCFS/JVS including our concealed carry weapon prohibition and our non-smoking policy.
- Provide relevant information, to the fullest extent possible, which is accurate and complete when it impacts the services you are receiving.
- Actively participate in the services and work on the goals outlined in your treatment or service plan.
- Comply with program specific rules and expectations as outlined in your program’s handbook or rules. Please ask questions if you are unsure of what is expected of you within a specific program.
- Be considerate of facility personnel and property.

- Promptly meeting any financial obligations agreed to with JCFS/JVS when applicable.

## Appendices

### Volunteer Confidentiality Agreement

Basic to the maintenance of the professional ethics and community respect is the principle of confidentiality. Every employee, contracted professional, and volunteer of FSCSS has a high ethical responsibility to the families, the programs, the community, and to themselves. Families and individuals act in good faith, expecting their circumstances and personal matters to remain confidential. We are obligated by law and ethics to reciprocate.

I understand.

The records that are kept on clients should be used only for the program purposes and not for general perusal. Other agencies' operations requesting records of a given family member or persons should first obtain releases of information from the family member of individual. In no case should the records be automatically sent to another person or agency without first receiving a release specific to the information in question.

I understand.

Remember that persons always have immediate access to their data on file. Keep all information to facts and not speculation.

I understand.

*The only exception to this rule is mandated report of abuse & neglect to children and vulnerable adults as described an in accordance with Washington State laws and regulations.*

I understand this exception.

Here are guidelines concerning confidentiality and the rights of the persons who participate in our programs: - the right to have all records kept from public scrutiny and the right to anonymity and confidentiality; - the right to be treated with dignity and respect; - the right to a timely response; - the right to a response that is non-discriminatory to the differences of race, religion, language, gender identity, sexual orientation, disability, veteran status, socioeconomic condition, marital status, and/or pregnancy;

I acknowledge.

I am aware that any breach of confidentiality is grounds for dismissal. All information, written or spoken, that I come into contact with while performing my volunteer duties is considered confidential and will not be released unless specified by law.

I agree to maintain client confidentiality at all times.

## **Notes on Monitoring Arrests**

Important considerations before videotaping an arrest in the home or in public:

- Armed law enforcement officials are first and foremost concerned for their own safety. Before taking out a recording device, it is best to assess the situation and determine whether taking a video could escalate the situation and endanger anyone present.
- It is extremely important that if I choose to record, I make it obvious that I am recording. Almost every state has laws against “secret” recordings. I ought not to not cover up, hide or conceal my camera/phone.
- The right to record law enforcement usually comes with the qualification that one must not “interfere” as they are carrying out their “duties.” This means I should stand several feet away from any law enforcement action taking place if I choose to record.

[Immigrant Defense Project and Center for Constitutional Rights. “ICE Raid Toolkit”, 2017. Retrieved April 2, 2018.]