



Center for
Juvenile
Justice
Reform

ChapinHall
at the University of Chicago

Racial and Ethnic Disparity and Disproportionality in Child Welfare and Juvenile Justice: A Compendium

Foreword

Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice

Child Welfare Commentary

Juvenile Justice Commentary

Policy Reforms to Address Racial and Ethnic Disparity and Disproportionality in
the Child Welfare and Juvenile Justice Systems: Federal, State, and Local Action

Cover Art:

In the current child welfare and juvenile justice systems, some racial and ethnic communities are overrepresented while others are underrepresented. The two dominant colors of the cover art reflect that assumption. With conflicting ideas on how to address the disparity, there is no clear cut solution to solving these racial and ethnic inequalities. Accordingly, the edges are unrefined and rough with gaps in the present systems as represented by the black space between the two other colors.

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A Compendium**

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Foreword

For the past two decades, the federal government has sought to reduce the overrepresentation of children of color in both the child welfare and juvenile justice systems. Two pieces of legislation are emblematic of those efforts. The first is the Juvenile Justice and Delinquency Prevention Act, which established addressing disproportionate minority contact as a core requirement for states' juvenile justice agencies to receive federal funding. The second is the 2003 reauthorization of the Child Abuse Prevention and Treatment Act, which requires the federal government to support collaborative work across the child welfare and juvenile justice systems through data collection on youth known to be involved with both.

Though much has been learned over the past twenty years, much remains to be done to reduce disproportionate minority contact with both the child welfare and juvenile justice systems.

In March 2008, the Center for Juvenile Justice Reform at the Georgetown Public Policy Institute and Chapin Hall Center for Children at the University of Chicago brought together policymakers, practitioners, researchers, and advocates for a symposium titled "The Overrepresentation of Children of Color in America's Juvenile Justice and Child Welfare Systems." The symposium was designed to illuminate the work of juvenile justice and child welfare systems in this area—and the degree to which the systems' efforts are or are not integrated—and to focus on the ways in which the federal, state, and local government might support both systems in achieving better outcomes for children and youth and promote policies to better integrate their efforts.

This collection presents the content of that symposium. The program centered on a Chapin Hall paper (authored by Bridgette Lery, Ada Skyles, Fred Wulczyn, and Jeffrey Butts) titled *Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice*, which set the stage for the day's discussion. The goal of the paper is to stimulate discussion within the child welfare and juvenile justice

fields about the role of race and ethnicity in both systems. The authors propose a shared language and framework for understanding racial disparity in the two systems, and describe ongoing initiatives to address disproportionate minority contact with both systems.

Also included are the two commentaries on the Chapin Hall paper—one by Dennette Derezotes, Executive Director of the Race Matters Consortium, and the other by Raquel Mariscal, Senior Consultant for the Juvenile Detention Alternatives Initiative at the Annie E. Casey Foundation.

The symposium included four panel discussions in which researchers, practitioners, policymakers, and advocates explored the barriers they encountered and successes they enjoyed in efforts to reduce disproportionate minority contact. Panelists included experts from jurisdictions that have begun to employ a multi-systems approach to reducing disproportionality and policy experts who explored ways to foster progress through legislation and other nationally supported activities. The panels' presentations were enriched by questions and comments from the audience and the ensuing discussions. This collection concludes with reflections and a synthesis of those discussions, written by Shay Bilchik, Director of the Center for Juvenile Justice Reform at Georgetown University's Public Policy Institute, with writing and editorial assistance from Research Assistant David Barish.

As conveners of "The Overrepresentation of Children of Color in America's Juvenile Justice and Child Welfare Systems," we offer this compendium in the hope that these materials will be useful to policymakers, practitioners, advocates, and other researchers as a point of reference and a point of departure for future and ongoing efforts to tackle this important problem.

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Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice

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A discussion paper prepared for
The Overrepresentation of Children of Color in America's Juvenile Justice and Child Welfare Systems

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Foreword

In the past two decades, stakeholders in the child welfare and juvenile justice systems have taken important steps toward understanding the relationship between race, ethnicity, and the extent of children’s involvement in the two systems. Progress has taken a variety of forms, including legislation, advocacy, and research. It is fair to say that more is known today about how children of different races and ethnicities become involved in the two systems than ever before. It is also fair to say that more is being done to improve the quality of services offered to children and youth, regardless of their race and ethnicity. Even so, research suggests that we still have a long way to go before all children and youth receive the services that best meet their needs. To sustain progress, it is sometimes important to step back and examine again what is being done. The problems are complex, and a careful assessment provides an opportunity to apply what has been learned so that limited resources are used as effectively as possible.

To that end, this paper aims to stimulate discussion within the child welfare and juvenile justice fields about the role of race and ethnicity in both systems. Over time, the nomenclature used to describe disproportionality and disparity has evolved, but it is not always clear how

key concepts relate to one another, especially when the discussion involves both systems simultaneously. The paper starts by exploring the language used to describe the extent of racial and ethnic differences in the involvement of children in the two systems, and then offers a common language that is intended to clarify the meaning of the terms so that a more consistent conversation is possible.

The paper then describes current efforts to use what is known about disparity to improve services in the child welfare and juvenile justice systems. Efforts to address racial and ethnic disparities have increased in recent years. Although this paper does not attempt to review or assess each one, a handful of initiatives are identified to illustrate what is being done to address issues of race and ethnicity within the two systems. In anticipation of future initiatives, the paper offers a conceptual framework that may be used to build on past experiences. The framework uses the language offered in the paper. Finally, the paper explores the commonalities—and differences—that characterize the two systems. Here, the goal is to focus on the opportunities stakeholders have to work together and, where those opportunities exist, to solve common problems.

Introduction

Children of some racial and ethnic groups are overrepresented in America's child welfare and juvenile justice systems relative to their presence in the general population.¹ For example, the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) reported in 2006 that Black or African American youth accounted for 16 percent of all youth in the U.S. population (ages 10-17), but they represented 28 percent of juvenile arrests, 30 percent of youth adjudicated for delinquency charges, 37 percent of youth placed in secure detention, and 58 percent of youth sent to state prison (Snyder & Sickmund, 2006). A similar pattern is evident in the child welfare system. The U.S. Department of Health and Human Services reported in 2003 that although Black children accounted for 15 percent of the total child population, they made up 25 percent of victims in substantiated cases of child maltreatment and 45 percent of children in foster care (Chibnall et al., 2003).

The existence of race-related differences in child welfare and juvenile justice continues to attract the attention of policymakers, practitioners, and the public. State and federal laws encourage action to reduce overrepresentation, and the best methods for addressing the problem are debated routinely by researchers and practitioners. This paper is designed to inform these debates by identifying some of the critical concepts related to overrepresentation in both the child welfare and juvenile justice systems. It describes current practice and policy in both service systems and proposes a conceptual framework for considering future policy and practice initiatives.

¹ Several different terms are used in this paper to describe the race or ethnicity of various groups of children and families that may be involved with the child welfare and juvenile justice systems. These terms include White or Caucasian, Black or African American, Hispanic or Latino, American Indian or Native American, and children of color. Although such labels are far from perfect, they are used here for ease of description and economy of language.

Clarifying Language

A variety of words may be used to describe race-related differences in the experiences of children (and families) that have contact with the child welfare and juvenile justice systems. The most commonly used words are *overrepresentation*, *disproportionality*, and *disparity*. Each word contributes in its own way to a complete understanding of what is happening within the two systems. It is important to be clear, however, about what each term means, the extent to which they may have the same underlying meaning (i.e., are they interchangeable?), and the extent to which each term facilitates the search for solutions to the problem of racial differences in child welfare and juvenile justice. The latter is particularly important in that the goal of this paper is to foster productive debate about the most effective methods to change racial and ethnic disparity. Real solutions depend on remedies that take careful aim at well-defined problems.

Overrepresentation, Underrepresentation, and Disproportionality

Overrepresentation and underrepresentation are the simplest terms in this discussion because they speak directly and succinctly to the fundamental concern. For example, in the case of African American children, there are more African American children in the child welfare and juvenile justice systems than expected, given the composition of the general child population. In the case of other racial and ethnic groups, the story is somewhat more nuanced. Latinos, for example, are underrepresented in the foster care population, but they are often overrepresented in the juvenile justice population.²

² It can be very difficult to make general statements about over- and underrepresentation. National data, when they exist, may hide variation at state, county, and community levels. What is true at the national level may not be true at other levels of aggregation. It is not always the case, for example, that Hispanics are underrepresented in child welfare systems.

According to the dictionary, *overrepresentation* refers to situations in which a number or quantity (children, in this case) is disproportionately high or low. Although the terms *overrepresentation* and *disproportionality* are often used interchangeably, they are not the same because *underrepresentation* is also a form of disproportionality. Specifically, *disproportionality* refers to the state of being disproportional. Because they are relative terms (i.e., they imply a comparison), disproportionality and over- and underrepresentation are used with regard to a reference population. The racial and ethnic make-up of the child welfare or juvenile justice populations is usually compared with the racial and ethnic make-up of the general population. When a population is divided into two or more groups of unequal size, over- and underrepresentation co-occur by necessity. If one group represents more than its share of the total, another group will necessarily account for less than its share.

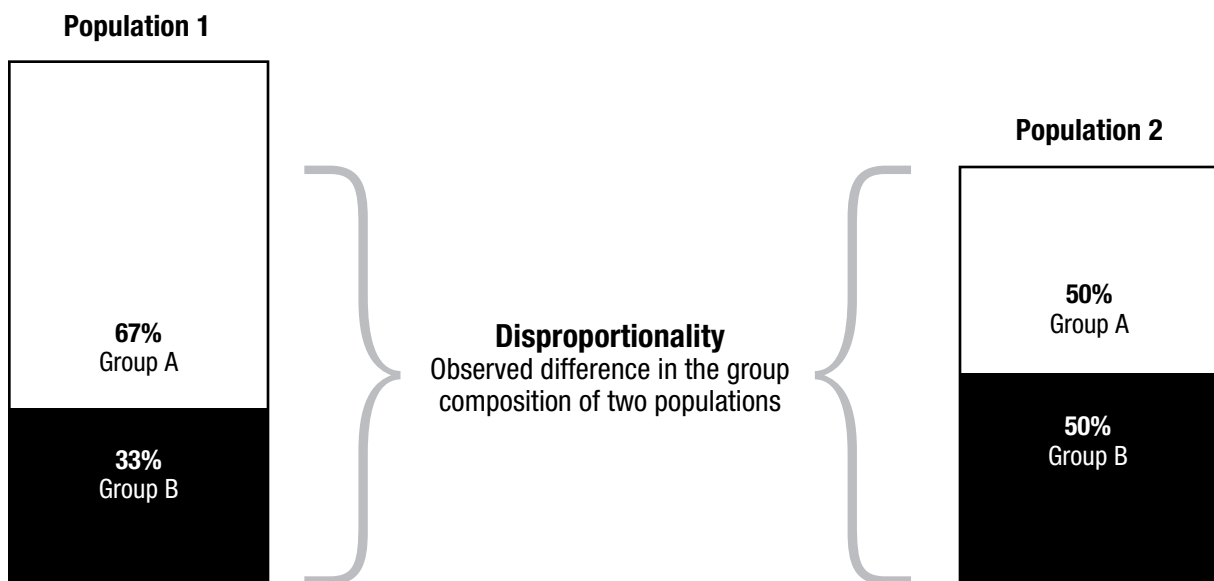
Figure 1 is a visual representation of disproportionality. It underscores the fact that the words *disproportionality* and *overrepresentation* are reserved for direct, quantitative comparisons of the compositions of two or more

populations. For example, let us say that one-third of the individuals in Population 1 (which could be the general child population) belong to Group B (possibly African American children), but half the individuals in Population 2 (which could be the foster care population) belong to Group B. The percentage of individuals belonging to Group B in the two populations is not equal in proportion. Not only is Group B overrepresented in Population 2, but it is also true that Group A is underrepresented in Population 2 relative to its proportion in Population 1 (50 percent compared with 67 percent). When populations are divided into three or more groups, the pattern of over- and underrepresentation is less clear, but as long as one group is overrepresented, there must be at least one other group that is underrepresented.

Disparity

Most dictionaries use the words *unequal* or *difference* to define the state of dissimilarity implied by the term *disparity*. If the likelihood of being arrested or being reported to the child protection system (as measured by an incidence rate) differs for one group of children when compared to another, the difference may be characterized

Figure 1: Disproportionality



as a disparity, as in arrest-rate disparities or reporting-rate disparities. For example, an arrest-rate disparity could be the relative rate of arrest (per 100,000) among Latino children compared with the rate among Black children.

Disparity is often used to describe differences in the experience of children with respect to their level of contact with the juvenile justice and child welfare systems, but it can also be used to describe differences in access to care, utilization of care, or quality of care (Braveman, 2006). Each of these uses implies an underlying connection to need. For example, given comparable levels of need, one would expect equal utilization of services. In this context, disparity implies that an observed difference is in some sense unnecessary. Quoting Whitehead (1992), Braveman notes that disparities research often focuses on differences that are avoidable, unfair, and unjust. In the case of foster care entry rate disparities, for example, most commentary centers on disparities in utilization—that is, placement rates for White children are lower because of an overreliance on foster care for African American children. This might have to do with the fact that the supply of in-home, family-based services in their community is lower than the supply found in another community. Thus, differences in supply produce disparities in access to care, which may lead to disparities in admissions. In turn, admissions disparities may result in observable disproportionality.

How Are Disproportionality and Disparity Related?

The words *disparity* and *disproportionality* (and other forms of the word disproportion) are widely used to describe the fact that some groups of children are more likely to be found within the juvenile justice and child welfare systems than would be expected given the composition of the general child population. Sometimes, the word disparity is used to describe the extent of disproportionality. For example, the relationship between two disproportionality rates is sometimes described as a disparity ratio. The term disparity might be used just as easily to characterize differences in rates of contact (e.g., arrest-rate disparities).

Because disparity and disproportionality are both used to characterize differences, it is not surprising that the terms are used interchangeably or in cross-referential ways (e.g., using disparity to describe the extent of disproportionality). Nevertheless, using the terms interchangeably hides an important relationship: disparities produce disproportionality. Put another way, with specific reference to race and ethnicity, the reason African American children are overrepresented (disproportionately represented) in child-serving systems is because of disparities in the likelihood of coming into contact with the system and disparities in the likelihood of ending involvement with the system (Wulczyn & Lery, 2007). More importantly, without addressing underlying disparities, it would be next to impossible to alter disproportionality. To better understand the relationship between disproportionality and disparity, one should examine the basic differences.

Disproportionality refers to the state of being out of proportion. In the juvenile justice and child welfare contexts, racial and ethnic disproportionality refers to how the composition of the population of children or youth considered in the system compares with the general population of children or youth. Whether a child is counted as being a member of a system population depends on the rate of contact with the system (e.g., maltreatment reports per 1,000 children or arrests per 10,000 youth). If a rate of contact is greater for one group of children, all else being equal, then the proportion of children from that group who have contact with the system will be greater as well. Given that the rate of contact is different or not equal, one may, by definition, describe the situation as a disparity in the rate of contact. This disparity is at least partly responsible for any subsequent disproportionality in the composition of the population of children in the system population.

The number of children counted as members of the in-system population is also a function of whether and at what rate they leave the population. Foster care is an easy example of the importance of exit rates, but the general principle is widely applicable. African American children are overrepresented in the foster care system partly because of admission rate disparities (i.e., African American children are more likely to be admitted to foster care). The admission disparities are matched, in a manner of speaking, by the fact that African American

children are also less likely to leave the system (i.e., their length of stay is greater). In other words, the extent of the disproportionality is greater due to length-of-stay differences than it would be if entry rate disparities were the only reason African American children were overrepresented.

The composition of a population is always a function of entry and exit rates. Entry events may be defined in different ways depending on the service context and the variety of contact points through which children and youth move from one population to another. Key entry events in the juvenile justice system would include arrest, the filing of charges, adjudication, detention, and a range of other points of contact. In the child welfare system, critical points of contact would include reporting, disposition, and placement among others. Each point of contact is aligned with a different stage in the process of becoming more deeply involved in the system, and each stage marks a child's entry into a unique (sub)population. The same can

be said for exit events in that discharge or case closure events mark the time when the child is no longer counted as a member of the population.

When disproportionality is conceptualized as a function of disparities in rates of entering and exiting various populations, it is apparent that disproportionality cannot be influenced directly.³ Policies and practices to address disproportionality must target the underlying disparities that lead to it. More specifically, to the extent that entry and/or exit disparities are a function of differences in the way children are treated because of their race, because of their needs, or for some other reason, those sources of disparate treatment have to be evaluated relative to the processes that define entry into and exit from the system.

The discussion next reviews the contexts in which the U.S. child welfare and juvenile justice systems operate and then describes several examples of policy and practice reforms designed to identify and resolve racial disparities.

³ *Disparities may exist in the absence of disproportionality. Specifically, if entry rate differences are offset by exit rate differences (in the opposing direction), the composition of the respective populations will be the same even though there are disparities that may be of interest from a policy or practice perspective.*

Child Welfare Policy and Practice

Billingsley and Giovannoni (1972) wrote a stinging rebuke of the nation's child welfare system that attributed the overrepresentation of Black children in foster care to institutional racism. Little has changed since that time with regard to the actual levels of racial disproportion in foster care. Public and professional awareness of the problem, however, has grown considerably, largely because information about the scope of the problem is more widely available. Policymakers and practitioners are in a better position to examine and address the problem in detail.

This section uses the taxonomy described above to explore overrepresentation in three ways. First, it looks at the extent to which the nature and scope of disproportionality and disparity have been documented. Second, it examines policies that have been responsive to disproportionality and reducing disparity. Third, it presents some of the latest initiatives and strategies designed to mitigate the problem. The discussion then evaluates to what extent each of the three areas—research, policy, and practice—address entry and exit disparities as the main contributors to disproportionality.

Research on disproportionality in child welfare tends to focus on two major categories: *scope* and *root causes*. Scope refers to studies that describe disproportionate representation within the population and disparity at one or more stages of the basic entry and exit processes in child welfare: reporting, investigation, substantiation, placement, length of stay, exit, or reentry. Scope also includes studies of disproportionality and disparity that examine variation by age, geographic location, and time. Root causes are the reasons why some children are treated differently and the extent to which disparate treatment has its source in issues of race as opposed to other factors, such as need. The factors connected to race may include institutional racism and segregation, as well as such cultural factors as racial differences between caseworkers and clients. A number of studies have examined these issues in relationship to the general problem of overrepresentation.

Scope of the Problem

Recently, Robert Hill (2006) reviewed the literature on both the scope and nature of disproportionality in child welfare, concluding that children's experiences differ by race and ethnicity at all system decision points except for reentry into foster care. His review concluded that community factors such as poverty fit within the constellation of factors that are important in understanding disproportionality. This paper considers the findings of research completed after Hill's review appeared.

Studies show that Black or African American children are more likely to be reported, investigated, substantiated and placed in care, and that they stay longer in care and are less likely to be reunified with their families.

In recent years, a number of studies have followed groups of children through more than one decision point in the child welfare system in an effort to identify where the differential experiences of children by race and ethnicity emerge and at which stage or stages the problem deepens. Generally, these studies show that Black or African American children are more likely to be reported, investigated, substantiated, and placed in care, and that they stay longer in care and are less likely to be reunified with their families (Hill, 2006). A recent birth cohort study found dramatic differences in the proportion of Black versus White children in the population who had contact with various stages of the child welfare system (Magruder & Shaw, forthcoming). For example, roughly 39 percent of all Black children were at least referred to the child welfare system, 13 percent had a substantiated referral, and 10 percent entered foster care, all by the age of 7. The corresponding figures for White children were roughly 20 percent, 6 percent, and 3 percent, respectively.

Another recent study found that although after controlling for county of residence, county characteristics, family

characteristics, and allegation type, Black children were no more likely than White children to be reported to child welfare authorities, the reports were more likely to be substantiated (Johnson et al., 2007). Black children in the same study, however, were less likely than White children to be placed in care, and more likely to be reunified with their families if they were placed in care. In a study of the Tennessee foster care system, Black children, especially babies, stayed longer in foster care than White children, but not in every region of the state. Racial differences in length of stay varied according to the type of placement (Wulczyn, Lery, & Haight, 2006). Together, these findings reinforce the idea that observed racial disparities can be complicated and may not be explained as a simple function of race alone.

Researchers are also investigating racial and ethnic differences involving groups other than African American children. Two recent studies (Church, 2006; Church, Gross, & Baldwin, 2005) found that reports of maltreatment of Latino or Hispanic children, when compared to non-Hispanic White children, are more likely to be substantiated and that those children are more likely to be placed in care and to stay in care longer. Another study, however, found no differences between the two groups at any stage of the child welfare process (Johnson et al., 2007). In their birth cohort study, Magruder and Shaw (forthcoming) found that among all children born in California in 1999, those of Hispanic ancestry were not significantly more likely than non-Hispanic White children to have contact with the child welfare system by age 7.

Reports involving Asian/Pacific Islander children were more likely than those involving White children to be substantiated but the groups did not differ at other decision stages.

Some studies have considered whether Asian/Pacific Islander children and Native American children have different experiences. The early findings are mixed. Johnson and colleagues (2007) found that reports involving Asian/Pacific Islander children were more likely than those involving White children to be substantiated, but the groups did not differ at other decision stages. American Indian children showed no difference compared to White children at the reporting stage and were less

likely to be substantiated, but were more likely to be placed. Harris and Hackett (2008) found representation to be higher for Native American than White children at each stage in the system. Magruder and Shaw found that a smaller proportion of Asian/Pacific Islander children than White children experience any stage of system involvement, while Native American children experience system involvement at each stage at about the same or slightly higher rate than African American children. Hill's (2007) analysis of data from the National Child Abuse and Neglect Data System (NCANDS) and the Adoption and Foster Care Analysis Reporting System (AFCARS) was consistent with these findings. African American and Native American children experience the highest levels of disparity at each system stage, while Hispanic and Asian/Pacific Islander children generally experienced the least disproportionate representation.

Most of the available child welfare studies did not disaggregate by age, place, or time or explicitly study disparity as opposed to disproportion. For instance, the AFCARS data are not longitudinal and can only describe disproportionality among children in foster care at a given point in time. By themselves, point-in-time data do not distinguish between the admission and duration components of the foster care population. Therefore, raw comparisons between children in the foster care population and the general population cannot determine the contribution of either component to differential risk according to race.

Other datasets are longitudinal, allowing for the use of cohorts to measure disparity. Johnson and colleagues (2007) take a longitudinal perspective, following a cohort of children who were alleged victims of maltreatment in 2001 and estimating the odds that a child of a particular racial or ethnic group would progress to the next stage in the system. Magruder and Shaw (forthcoming) use longitudinal child welfare administrative data combined with a population birth cohort to calculate the probability that a child of a given race/ethnicity in California has had contact with the system (referral, substantiation, and placement) by the age of 7.

Two recent studies measured African American to White placement disparity among children of different age groups, in different regions, and over two time periods

(Wulczyn & Lery, 2007; Wulczyn, Lery, & Haight, 2006). Collectively, in the fourteen states studied, disparity actually decreased from 2000 to 2005 because the placement rate for White children increased at the same time that the rate for African American children declined (Wulczyn & Lery, 2007). Disparity was highest for infants because although placement rates for both groups were highest for babies, the rate for African American babies was nearly three times the rate for White babies in 2005. Between 2000 and 2005, placement rates declined in urban counties (much more so for African American children) and increased in nonurban counties. Placement rate increases among infants in nonurban counties were among the steepest. Disparity actually decreased, however, for infants in nonurban areas because the placement rate for White babies increased more than the placement rate for African American babies. Disparity increased for teens over time across all areas (Wulczyn & Lery, 2007). Such nuanced findings cannot emerge without examining disparities for different subgroups, at different times, and in different places at the points of entry into and exit from systems.

Root Causes

Accepting that the differential treatment of children by race and ethnicity has been established, some of the research literature turns to examining the possible structural or cultural factors that may give rise to the problem. Roberts (2007), for example, notes that institutional racism may explain placement disparity. She interviewed twenty-seven women in a predominantly African American neighborhood of Chicago where child welfare placement rates are particularly high. The reason African American children are more likely than White children to be placed in foster care, according to Roberts, is that residents of poor and disadvantaged neighborhoods are forced to submit to the formal, punitive system of child welfare because of a relative absence of social programs and other potentially supportive resources.

Other studies have examined the linkages between poverty (both individual and neighborhood) and other social indicators with regard to child maltreatment and placement (Freisthler, Bruce, & Needell, 2007; Garland et al., 1998; Schuck, 2005). Specifically, the elevated risk for African American children and some other racial

and ethnic groups can be understood at least in part in relation to the higher prevalence of poverty among those groups, even though neighborhood poverty seems to increase the risk of maltreatment regardless of race or ethnicity (Freisthler, Bruce, & Needell, 2007). Wulczyn and Lery (2007) did not find that county-level poverty was associated with placement disparity.

Other measures of community resources have been linked to racial and ethnic differences. A study of census tracts in three California counties examined social conditions in relationship to rates of maltreatment. For African American children, poverty rates and the density of alcohol outlets were positively associated with maltreatment risk, but high levels of residential instability and higher percentages of African American residents were negatively associated with maltreatment risk. The percentage of female-headed households, poverty, and unemployment predicted higher maltreatment rates for Hispanic children. The percentage of elderly or Hispanic residents, poverty, and the ratio of children to adults was associated with higher maltreatment rates for White children (Freisthler, Bruce, & Needell, 2007). In another study of maltreatment, concentrated poverty and high levels of female-headed households in poverty were associated with higher maltreatment rates for African American, but not for White children, partially explaining the gap between maltreatment rates for the two groups in Florida (Schuck, 2005). One study of Tennessee counties and another of 700 counties in fourteen states found similar relationships to placement disparity. Counties with high levels of single, female-headed households and residents with less than a high school education tended to have higher placement rates but lower disparity rates (Wulczyn & Lery, 2007; Wulczyn, Lery, & Haight, 2006).

Another way to approach the description of disproportionality and disparity is to examine agency culture and caseworker and case characteristics. As part of Texas's efforts to address disproportionality, for example, Dettlaff and Rycraft (in press) held focus groups with community members, legal professionals, and caseworkers in the two communities with the highest disproportionality rates in the state. They identified a negative agency climate, disparate responses to African American families, ineffective interventions, workforce issues, lack of cultural sensitivity, and barriers to kinship care as major problems

contributing to disproportionality there. They also described stressful social conditions in these communities, barriers to resources, and a lack of engagement between the agency and the community.

Some research suggests that the race of the interviewer-parent dyad may be subject to interviewer bias in measures that require interviewers to make subjective assessments about child safety (Berger, McDaniel, & Paxson, 2005). Given that neglect is the most common allegation type—even more common for African American children—and that cases of neglect may be more ambiguous than other types of maltreatment, it is possible that this bias may be more likely to occur in cases of maltreatment among African American children. On the other hand, a review of Minnesota case records found no significant relationship between a child's race and major case decisions, and very little difference by race in services delivered (Minnesota Department of Human Services, 2005). Caseworker race does not appear to explain or moderate the longer stays and reduced likelihood of reunification for African American children (Ryan et al., 2006).

Recent research suggests that age and poverty are factors contributing to maltreatment and foster care placement risk, commonly measured as the percentage of children entering care for the first time relative to the total population of children (Wulczyn et al., 2005). Although administrative records are an imperfect measure of the true level of maltreatment, data from the National Child Abuse and Neglect Data System (NCANDS), a federal data collection system of administrative records of child maltreatment reports from most states, indicate that in high-poverty counties, the risk of maltreatment for African American infants is nearly four times the rates for White and Hispanic infants in the same counties. However, the maltreatment risk for other age groups is lower. In low-poverty counties, the differences are more marked and extend across all age groups. Among children who proceed through the child welfare system to the point of foster care placement, the racial differences are similar to those found in reported maltreatment rates. African American children in low-poverty areas are about twice as likely to enter foster care as Hispanic children and three times as likely as White children. In high-poverty areas, the placement rate for African American children is more

than twice that for Hispanic and White children of the same age (Wulczyn et al., 2005).

In summary, looking across and within the experiential pathways of children's contact with the child welfare system is the best way to disentangle the ambiguities about disparity among the population of maltreated children, children in foster care, and children in the general population. A number of studies have documented disproportionate representation of children of color (usually African American children) at the major stages in the child welfare system, but nearly all of them measured disproportionality rather than disparity, and most of them were not disaggregated by age, place, or time.

Policy Responses

Since the late 1970s, federal legislation has taken on issues of race and ethnicity within the child welfare system in two ways: the Indian Child Welfare Act of 1978 (ICWA) and the Multi-Ethnic Placement Act of 1994 (MEPA). ICWA responded to the longstanding practice of placing Native American children in boarding homes and foster homes outside of the child's tribe and culture. The law required that Native American children in foster care be placed near their homes and with extended family if possible, or in Indian foster or adoptive homes consistent with their tribal culture (Indian Child Welfare Act, 1978). This was the first federal law that expressed an explicit preference for kinship care (Hegar, 1999).

Over the two decades following ICWA, research revealed that African American children were more likely to enter out-of-home care, and once in care were less likely to leave (Barth et al., 1994; Goerge, Wulczyn, & Harden, 1994). As an attempt to address the underlying problem of protracted placements, the Multi-Ethnic Placement Act of 1994 stipulated that foster or adoptive placements could not be based solely on race, color, or national origin. The Act required states to make efforts to recruit minority foster and adoptive homes to increase the supply of potentially permanent placements so as to remove barriers to children leaving the system (Shaw, 2005). MEPA was amended in 1996 under the Inter-Ethnic Placement Act (IEPA) to prohibit the consideration of race in placement decisions due to concerns that MEPA did not go far

enough to remove race as a barrier to achieving stability and permanency for children of color (Shaw, 2005).

ICWA and MEPA-IEPA specifically target race and ethnicity. Other federal policies have had an impact on disparity while not targeting race and ethnicity *per se*. For example, the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) in 1996 and the Adoption and Safe Families Act (ASFA) in 1997 both stated a clear preference for the use of kin as foster care placements. Although the preference is not extended specifically to families of color, the provision had implications for disparity because kinship resources are so commonly utilized for children of color. ASFA's focus on outcomes affected disparity by generating greater attention to outcomes in general. The Act drew special attention to disparities in outcomes for African American children. Federally financed state investments in information technology and tracking have also contributed to this attention. In addition, changes in adoption have facilitated the likelihood of adoption differentially for African American as compared to White children (Wulczyn, 2003).

Of course, not all of the policy influence in child welfare has been at the federal level. States have responded to the issue too. Several states enacted legislation that more specifically addresses disproportionality (not disparity) in child welfare or that enacted mandates to study the problem. In 2001, Minnesota legislators called for a study of outcomes for African American children in the state's child welfare system (Needell, 2007). Senate Bill 271 in Michigan in 2005 required a task force to study the disproportionate representation of children of color in both the child welfare and juvenile justice systems (Michigan Department of Human Services & Skillman Foundation, 2006). That same year, Texas Senate Bill 6 directed a study of the issue (Texas Health and Human Services Commission, 2006).

Not all of the policy influence in child welfare has been at the federal level. States have responded to the issue too.

All of the reports coming out of these mandates conclude that African American children are overrepresented at

nearly every stage of system contact. Not all, however, go further and call for research or solutions that involve the changeable components of disproportionality—entry and exit disparities. The Minnesota study led to the creation of the Children of Color Outreach project, which aims to eliminate disproportionality by supporting research, community partnerships, and policy change (Needell, 2007). They issued a practice guide for a strength-based approach to working with African American families (Rockymore, 2006). The Michigan report recommended targeting more flexible funding, such as pursuing a Title IV-E Waiver, in order to devote more resources to placement alternatives and cultural proficiency. This solution would have the potential to impact entry rates. Florida enacted the One Church, One Child of Florida Corporation Act, which utilizes African American churches to recruit adoptive homes for African American children in foster care (Needell, 2007). This would, in theory, reduce the amount of time that African American children spend in nonpermanent settings, thereby reducing exit disparity.

A 2007 report by the federal Government Accountability Office (GAO) made several recommendations for congressional consideration and state agency action. It recommended that Congress consider amending federal law to allow federal reimbursement for legal guardianship similar to that currently provided for adoption. It also encouraged states to develop strategies based on the regular collection of state and local data on the disproportionality of children in foster care. Although disproportionality data on the population in care describe one aspect of the problem, states would be better served by going further and collecting data on changeable conditions—that is, the disparities operating at major decision points throughout the system, particularly entry and exit.

Practice Responses

A number of organized efforts to address disproportionality and disparity in child welfare practice are underway across the country. This section describes some of these initiatives as an overview of current activity. The list is by no means exhaustive, either in scope or depth. Many of these strategies and initiatives are relatively new, and although preliminary results and self-evaluation reports

are available for several of these projects, rigorous evaluations of their outcomes and effectiveness are not yet available.

The following descriptions illuminate the working definitions of disproportionality and disparity, and they point to entry and exit disparities as actionable targets of intervention. The examples suggest a number of key questions. Which strategies are the most appealing and relevant? What aspects of disparity does each initiative address—Disparities in need? Disparities in access? Or disparities in utilization? Do the initiatives tend to focus on the factors that lead children into the system, or the factors that lead children out of the system?

Family to Family Initiative

Established by the Annie E. Casey Foundation in 1992, the Family to Family Initiative supports states in reforming their foster care systems to improve outcomes for abused and neglected children. The Initiative is based on the principles of child safety, preferably through remaining with their own families, and community partnerships to build stronger, neighborhood-based systems of services. Family to Family sites commit to achieving several measurable outcomes, including reducing the number of children placed in foster care by providing alternatives to placement or placement with relatives and reducing length-of-stay in care. Reducing racial disparities is a goal associated with each outcome (Annie E. Casey Foundation, 2006a).

One of the ways Family to Family addresses racial disparities is the use of Team Decision-Making (TDM). TDM includes a meeting of community representatives, family members, and social workers who review every decision to remove a child from her parents or any change of placement, including reunification or adoption. A related practice called Family Group Decision-Making (FGDM) has demonstrated some possibility for reducing placement disparities (Crampton & Lewis Jackson, 2007). FGDM involves including a child's extended family when planning for the child's protection and care. During the meetings, opportunities for kinship placements sometimes emerge as a way to avoid foster care. A nonexperimental study of 257 cases involving children of color found that 24 percent

may have been diverted from foster care through FGDM (Crampton & Lewis Jackson, 2007).

California Disproportionality Project

The California Disproportionality Project began in 2006 as a partnership among the Annie E. Casey Foundation, Casey Family Programs, and the California Department of Social Services. The effort initially involved elements of the Breakthrough model described below and the development of a framework and a self-assessment tool to integrate with Family to Family's racial disparity component. The group aims to select up to fourteen California counties to participate in early 2008 (Annie E. Casey Foundation & Casey Family Programs, 2007a). Another mission is to collect data that describe disproportionality and disparity at the county and state levels, which can be used to track improvement. Community, family, and youth engagement as well as staff training are important components (Annie E. Casey Foundation & Casey Family Programs, 2007b).

California Disproportionality Project and Family to Family Rating Tool

This is a joint effort to offer specific approaches for public child welfare agencies to address disproportionality and disparity within the framework of Family to Family's four core strategies. The strategies are: (1) building community partnerships; (2) team decision making; (3) resource family recruitment, development, and support; and (4) self-evaluation (Annie E. Casey Foundation, 2006b). Examples of disproportionality goals that correspond to these strategies are: (1) building community partnerships with tribal agencies; (2) engaging birth families and youth as partners; (3) looking for the least restrictive, appropriate, and supported placements; and (4) collecting and using data to understand patterns of decisions that include race (Needell, 2007).

Minority Youth and Families Initiative

The Minority Youth and Families Initiative is a demonstration project in Des Moines and Sioux City, Iowa, that seeks to address the overrepresentation of Native American children in the child welfare system. The sites have identified strategies intended to affect entries and exits. For instance, Sioux City targets the recruitment

of Native American foster homes and data collection on placements and reunification rates. The project is being evaluated by the National Resource Center for Family Centered Practice's Disproportionate Minority Contact Resource Center at the University of Iowa (National Resource Center for Family Centered Practice, 2008).

Breakthrough Series Collaborative

One prominent example from the child welfare field uses leadership and management reform to inspire changes that are intended to reduce disproportionality. During a one-year period ending in September 2006, thirteen jurisdictions worked with the Casey-CSSP (Center for the Study of Social Policy) Alliance for Racial Equity under the Breakthrough Series model from the health care field. The Breakthrough Series Collaborative was based on a Plan-Do-Study-Act approach. Under this approach, a team is formed consisting of child welfare and human services agency staff, a judge, community members such as a birth parent, and a former foster youth. Each member of the team chooses one idea for change and implements it immediately for testing in the field. The group reconvenes to discuss each member's trial. Each member takes the group's feedback, returns to the field, and tests the idea again, perhaps expanding it to include more caseworkers, for instance. The feedback cycle is then repeated. This strategy is based on a theory of small-scale, action-oriented change that builds an evidence base over time (Miller & Ward, 2007). The collaborative experience was recently extended to seven additional jurisdictions that are continuing to develop and test practice-change ideas using the Breakthrough framework. The Casey-CSSP Alliance is providing technical assistance and consultation to selected jurisdictions that are making a long-term commitment to addressing disproportionality (Casey Family Programs, 2007).

Undoing Racism

The People's Institute leads three-day community-organizing workshops nationwide that seek to convey "...what it is [racism], where it comes from, how it functions, why it persists, and how it can be undone." Participants (often child welfare agency staff) use a common language to understand institutional and other forms of racism and to learn how it is present in their

work. For instance, one module consists of Power Analysis—a discussion of the etiology of poverty and how poverty is reinforced by institutional racism (People's Institute for Survival and Beyond, 2007).

AECF Race Matters Toolkit

The Annie E. Casey Foundation has developed a toolkit for making child welfare decisions in a race-informed way. Tools include fact sheets, visual aids, an organizational self-assessment, and other leadership guides. The toolkit is based on best-practices evidence, focus groups, and feedback from racial equity advocates (AECF, 2006c).

APHSA/NAPCWA Workgroup

The American Public Human Services Administration (APHSA) and the National Association for Public Child Welfare Administrators (NAPCWA) are developing an assessment tool to improve understanding of the societal, systemic, and individual spheres of influence that contribute to disproportionality. Within each sphere, they have identified the specific categories in which action can be directed, including strategy, culture, policy, legal system, communications, training and education, resources, practice, economic issues, technology, and people (Needell, 2007).

Courts Catalyzing Change

In partnership with Casey Family Programs, this national working group convened in 2008 consists of members from the National Council of Juvenile and Family Court Judges and the Victim's Act Model Courts. The purpose is to produce protocols and best practices to help family court judges address racial disproportionality and disparity in their jurisdictions and across the nation. The work includes technical assistance, strategic planning, publication of briefs, and research. In addition, the Disproportionate Representation of Minority Children in Out-of-Home Placements Committee presents its findings to the National Council. The aims of the Committee are to: (1) collect baseline race data on individuals who come into agency contact; (2) set cultural competency training goals for the next year with staff and managers; and (3) set three agency policy-related goals and develop an action plan regarding the disparate treatment of minorities in the system (Carrasco, 2008).

General Strategies

In addition to the major strategies and initiatives mentioned above, several organizations that deal with child welfare issues have disseminated reports, surveys, or issue briefs assessing or describing the problem of disproportionality and how it affects the work that the organization does. Some examples are Court Appointed Special Advocates (CASA) (Austin, 2007) and NAPCWA (Vandergrift, 2006). Each of the Casey organizations (Annie E. Casey, Casey Family Services, Casey Family Programs, Marguerite Casey Foundation, and Jim Casey Youth Opportunities Initiative) has partnered with the Center for the Study of Social Policy, the Race Matters Consortium, and the Black Administrators in Child Welfare to form the Casey-CSSP Alliance on Racial Equity. One

aspect of their work is the development of a scorecard in four locations to assess disproportionality and disparity at different decision points. Those sites are Woodbury County (Sioux City), Iowa, focusing on Native Americans; Guilford County (Greensboro), North Carolina, focusing on African Americans; Ramsey County (St. Paul), Minnesota, focusing on African Americans, Native Americans, Latinos, and Hmong; and King County (Seattle), Washington, focusing on African Americans and Native Americans. Finally, as part of the Casey Family Programs systems improvement and reform plan, the organization has stated its goals of reducing foster care by 50 percent before 2020 and improving child well-being through reinvesting in education, mental health, and employment services.

Juvenile Justice Policy and Practice

Juvenile justice debates about racial disparity are dominated by the language used in federal laws and regulations governing investments in state and local juvenile justice systems. In 1988, the U.S. Congress amended the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 and mandated that states address the issue of *disproportionate minority confinement* in order to receive their share of funding under the federal juvenile justice Formula Grants Program. In 2002, Congress substituted the term *contact* for the term *confinement* in the JJDP Act, requiring states to examine disparities at a wider range of contact points rather than simply at the point of detention or correctional placement. Since that time, racial disparities in juvenile justice have been described uniformly as *disproportionate minority contact* (or DMC).

There is very little evidence about the actual effectiveness of DMC-reduction efforts. In many ways, the DMC-reduction field is just developing.

The research and practice literature on disproportionate minority contact has grown considerably in recent years. In February 2008, an internet search using Google Scholar with the key words *disproportionate minority contact* and *juvenile* with *evaluation* or *research* yielded fifty-three results. Unfortunately, much of this material is descriptive. Scores of researchers and practitioners have written papers and reports about the importance of racial disparities as well as the federal guidelines for addressing them. There is, however, very little evidence about the actual effectiveness of DMC-reduction efforts. In many ways, the DMC-reduction field is just developing.

If one tracks down the references and citations found in the research literature, it is clear that most references to *studies* and *research* on DMC refer to descriptive works alone. For example, Pope, Lovell, and Hsia (2002) observed that, "To implement DMC efforts, states have sponsored numerous studies at the state and local levels

and published many reports of their findings. There are now three national reports that summarize states' DMC efforts at each phase since the enactment of the amendment." They continued, "In addition to the state and national DMC reports, a variety of social science journals have published a body of research that examines race and juvenile justice processing." Although one might expect the referenced studies to document the effectiveness of DMC-reduction efforts, the authors note that the existing body of research on DMC consists mainly of descriptive works that simply summarize DMC efforts or that examine race and juvenile justice processing without any evidence of impact.

Policy Responses

Policymaker concerns about DMC have been growing for at least twenty years (Hsia, 2006). Federal, state, and local authorities have been charged with understanding the causes of DMC and implementing interventions and strategies to ameliorate it. The 1992 amendments to the JJDP Act included taking action to address DMC as one of four core requirements and tied future funding to compliance with those requirements. The four requirements are: deinstitutionalization of status offenders; sight and sound separation of juveniles from adults in jails and lock-ups; adult jail and lock-up removal; and disproportionate minority contact. States that do not meet the DMC core requirements risk losing one-fourth of their Formula Grant funds for each requirement they fail to meet. Whereas a previous version of the law focused on the extent to which minority youth were confined in proportions greater than their overall representation in the population, the 2002 revision directed states to address racial and ethnic proportions at all stages of the juvenile justice system. This resulted in a dramatic increase in state and local DMC initiatives, as well as a greater awareness of national policy and the role of data (Snyder & Sickmund, 2006).

Currently, fifty-seven states and territories participate in the JJDP Act Formula Grants program. To satisfy the

program's requirements, each jurisdiction must address DMC in several stages of effort. First, states must identify the extent to which DMC exists, and then they must assess the reasons for it. During the next stage, states must develop and implement intervention strategies to address the causes of DMC. Finally, states have to evaluate these interventions and monitor future trends to determine whether additional strategies need to be employed or adjustments need to be made. The progress of states in meeting these goals is, to say the least, varied. Responses to an OJJDP survey in November 2000 indicated that "the most frequently adopted strategies [of states] were community-based prevention, intervention, and diversion programs (30 states) and cultural sensitivity training (20 states)" (Hsia, Bridges, & McHale, 2004). Examples of these strategies have included developing minority family advocates, reentry programs, electronic monitoring programs, and cultural sensitivity curricula, as well as providing materials in languages other than English.

Existing knowledge about DMC is often limited to methods of identifying and understanding the disparity problem rather than reducing the problem. The Department of Justice Office of Juvenile Justice and Delinquency Prevention recently acknowledged that "conducting analyses beyond measuring performance may present an excessive burden on the states" (OJJDP, 2006). Each state and territory participating in the JJDP Act must report regularly to OJJDP about its progress towards identifying DMC, developing intervention strategies to address it, and evaluating their success; however, these evaluations usually focus on the process of implementing DMC interventions rather than on the effectiveness of interventions in eliminating DMC.

Leiber (2002) found that, "with a few exceptions... information regarding state responses and progress toward compliance with DMC is lacking." He attributed the states' challenges with compliance, in part, to OJJDP's initial "tentative approach" to DMC. Because OJJDP did not provide specific guidelines or criteria for measuring compliance with the DMC provisions of the JJDP Act, states were left to devise their own strategies. Many of the strategies did not consider all of the complicating factors involved in DMC, and "attempts to comply with the identification and assessment stages of the DMC requirement...[were] fraught with problems" (Leiber,

2002). Even the 2006 OJJDP DMC Technical Assistance Manual noted that "few DMC reduction strategies have been shown to be effective. Those that have are in the area of reducing disproportionality at detention, in part because of the more than 10 years' focus on minority overrepresentation in confinement" (OJJDP, 2006).

Hsia, Bridges, and McHale (2004) highlighted five challenges that states must address in order to achieve a reduction in DMC: (1) all states must complete their quality assessment projects; (2) juvenile justice data systems must be enhanced to address incomplete and inconsistent information; (3) DMC efforts must be continually monitored and evaluated to determine any modifications or new strategies; (4) states need to expand their strategies to include systemic change in addition to the programmatic interventions; (5) states should institutionalize their measures to assess and respond to DMC. The report highlighted Washington State's approach as "a good example of a comprehensive, research-based approach to DMC that incorporates systems change and programmatic efforts" (Hsia, Bridges, & McHale, 2004).

Washington was one of the first states to collect and analyze comprehensive DMC data on an annual basis.

Since 1988, Washington's state and local agencies, researchers, and legislature have worked in concert to assess DMC and to implement DMC-reduction efforts. Between 1993 and 1997, the Washington legislature enacted four laws to address racial disparity in the juvenile justice system. The bills mandated the creation of standards and annual monitoring requirements and the establishment of advisory committees. The bills also provided funds for evaluation. Washington was one of the first states to collect and analyze comprehensive DMC data on an annual basis. Beginning in the 1990s, researchers in Washington published a series of studies that examined the impact of juveniles' race and ethnicity throughout their contact with the juvenile justice system, and the state implemented a range of programs and policies to reduce DMC.

Despite increasing attention to racial disparities in Washington's juvenile justice system, it is still difficult to

establish a causal relationship between DMC intervention strategies and actual reductions in DMC. Although disproportionality dropped across the various stages of Washington's juvenile justice system between 1990 and 1999, the findings were not conclusive (Hsia, Bridges, & McHale, 2004). In 1990, minority youth accounted for 32 percent of delinquency adjudications. That rose to 35 percent by 1993 and then returned to 32 percent by 1999. The proportion of minority youth sentenced to correctional supervision fluctuated between 38 and 40 percent between 1990 and 1997, but between 1997 and 1999, the proportion increased to 43 percent.

Even in more advanced jurisdictions, DMC-reduction efforts have not resulted in consistent or significant reductions in DMC. This is not to say that diversity and cultural awareness trainings, minority family advocates, diversion programs, and other interventions are not worthwhile. These strategies at least raise awareness of DMC, and there have been decreases in some DMC indicators. Still, most research on DMC interventions in juvenile justice merely verifies the existence and scope of disproportionality, as opposed to identifying the sources of disparity and evaluating the effectiveness of measures to reduce disparity.

Practice Responses

In the past twenty years, several major initiatives have been launched to identify and reduce racial and ethnic disparities in juvenile justice.

Federal Improvements to Data Infrastructures

One of the reasons for the lack of progress in correcting racial disparities in juvenile justice is the extreme difficulty encountered by practitioners and researchers as they attempt to organize juvenile justice case-processing data in sufficient detail. Tracking case movement throughout the stages of the juvenile justice process requires the collection and merging of data from several sources, including state and local police agencies, juvenile courts, juvenile probation agencies, prosecutors, and sometimes state social services when they are responsible for juvenile intake functions. Each of these agencies has its own responsibilities and its own priorities, and their various data systems are not

easily coordinated. Agencies are sometimes barred from cooperating by state and federal laws designed to ensure the confidentiality of juvenile records.

In the Juvenile Justice and Delinquency Prevention Act as amended in 2002, Chapter II, Section 223, Congress details the requirements for states and territories to follow in order to maintain compliance with the Act and to receive their portion of federal juvenile justice funds. The Act defines its parameters for evaluation efforts in 223(a)(10), 223(a)(21)(A), and 223(a)(21)(B). These provisions, respectively, mandate: "the development of an adequate research, training, and evaluation capacity with the State;" that the state agency "give priority in funding to programs and activities that are based on rigorous, systematic, and objective research that is scientifically based;" and that the state agency "...not less than annually review its plan and submit to the Administrator an analysis and evaluation of the effectiveness of the programs and activities carried out under the plan, and any modifications in the plan, including the survey of the State and local needs, that it considers necessary" (see JJDP Act of 2002).⁴ The JJDP Act requires states to engage in systematic, objective, and scientific (i.e., statistically valid) methods of evaluating their progress in advancing the DMC policy agenda. Assisting states in meeting their DMC obligations under the JJDP Act is a priority of OJJDP. The collection and maintenance of detailed, case-level data is clearly an important part of this effort.

In many jurisdictions today, however, it is still not possible to track individual cases through all phases of the delinquency process. Police usually make the first contact with young people suspected of delinquency offenses, and many youth are then diverted from formal handling. There may be dozens of police agencies in a single community, depending on its size. Youth whose charges are not diverted (or adjusted) by police are sent to some type of juvenile justice intake, which may be managed by a court, by a prosecutor's office, or by a county- or state-level social services agency. About half of these cases will be handled informally and the youth may be referred to various youth services programs; the other half, however, will be handled formally (i.e., charged with delinquency

⁴ For more information, see: <http://www.ojjdp.ncjrs.gov/about/ojjdpact2002.html>.

and sent to court). At this point, the case may be screened again by a social services agency, the prosecutor's office, or the court itself. About half the cases move forward to formal adjudication, but the remaining cases are again diverted to social services in lieu of formal adjudication. At each of these stages, a completely different agency may take responsibility for a case. Youth then move on to some type of dispositional hearing and may be referred out to a wide variety of public or private service providers, state facilities, county facilities, correctional agencies, or private residential treatment centers.

Few of these agencies share common identifiers. In some communities, they may not even provide other agencies with comparable data. They may produce regular reports about their workloads and even share key case events with partner agencies, but they may use different *units of count* to track their work. Police may track arrests, while prosecutors count filings, courts count cases, and service providers count youth.

Recognizing the significant obstacles presented by data issues in monitoring disparities in juvenile justice, the U.S. Department of Justice has invested heavily in an internet-based data entry and management system for state juvenile justice agencies. The system enables states and localities to enter raw data about the volume of their juvenile justice activities by race and ethnicity at different decision points and to calculate the existence and extent of DMC as defined by OJJDP (i.e., the Relative Rate Index, or RRI). The RRI approach is designed to support the identification of DMC even in jurisdictions that cannot track individual cases across the various components of the juvenile justice process using a consistent unit of count. It calculates rates using the best available information. For example, adjudication rates may be modeled as the number of cases adjudicated divided by the number of petitions filed, or the number of petitioned charges may be divided by the number of youth arrested. The web tool is designed to provide a central repository of state and local data across the country and to facilitate within-state or within-locality comparisons of DMC changes over time. Much work remains to be done in state and local data systems, but the broad investments inspired by federal law and OJJDP regulations have advanced the quality of information available to monitor DMC.

Juvenile Detention Alternatives Initiative

One of the most well-known efforts to reform juvenile justice policy and practice in recent years focuses on detention but has direct implications for disparities as well. The Juvenile Detention Alternatives Initiative (JDAI), funded by the Annie E. Casey Foundation of Baltimore, Maryland, encourages juvenile justice officials to reserve secure detention for youth who really need to be securely confined, and to use community-based alternatives for other youth. Detention is analogous to jail in the criminal (adult) justice system. It is used to keep youth out of the community while they wait for juvenile court processing or while they wait to be placed in long-term correctional facilities or other placements after the court process has concluded. Without strict monitoring, local jurisdictions may end up using detention for an inappropriately wide array of offenders, including youth charged with nonviolent offenses and those who could be supervised successfully and less expensively in nonconfinement settings. The inappropriate use of secure detention is also frequently identified as a principal source of racial disparity in juvenile justice.

In many of the state and local jurisdictions participating in JDAI, the size of the juvenile detention population decreased 30 to 40 percent during the period of implementation, and the average length of stay in detention dropped by 10 to 20 percent.

The JDAI provides support to state and local officials through direct technical assistance, conferences, and written materials. It focuses on the creation and operation of effective community-based programs, detention screening and risk assessment tools, and case flow management techniques to accelerate the legal processing of delinquency cases to minimize the time youth spend in detention awaiting the conclusion of court proceedings. Starting in a handful of jurisdictions during the 1990s, the JDAI effort is now working in dozens of cities and counties across the country. The results of the initiative are encouraging, judging by the reported changes in two principal measures of possible impact—average daily detention populations and average lengths of stay in detention. In many of the state and local jurisdictions

participating in JDAI, the size of the juvenile detention population decreased 30 to 40 percent during the period of implementation, and the average length of stay in detention dropped by 10 to 20 percent (JDAI News, 2007).

These changes can help to reduce disparities. In some communities implementing the JDAI approach, controlling the use of detention facilities has affected overall levels of disproportionality. In Pima County, Arizona, for example, local officials have been working with JDAI for several years to improve their juvenile detention practices, and the county recently reported that detention admissions had declined among African American, Native American, and Latino youth (Pima County, 2006). Importantly, lengths of stay in detention were also falling. In just one year, the average length of stay in detention dropped by 10 days for African American juveniles (from 22 to 12 days on average). Length of stay dipped by 2 days for Hispanic youth and by 5 days for Native American youth during the same period.

Other JDAI jurisdictions report similar results. One of the first JDAI sites, Multnomah County, Oregon, saw racial differences in detention virtually disappear between 1994 and 2000 (Lubow, 2007). In 1994, minority youth arrested in Multnomah County were far more likely to be detained than were White or Anglo youth (42 percent versus 32 percent). By 2000, not only had the detention rate for all youth declined, but the percentages of minority youth and Anglo youth that were detained after arrest were equal (22 percent).

More than fifteen years of experience suggest that changing practices and procedures to bring greater rationality to the use of juvenile detention could be an important component in efforts to reduce disparity.

Of course, it is difficult to isolate the empirical results of JDAI and to attribute all the observed changes to the initiative itself. Much of the implementation period for JDAI overlapped precisely with the 1995–2005 drop in violent crime in the United States (Butts & Snyder, 2006). Many jurisdictions in the United States experienced reduced demand for detention during that time due to the dramatic

decline in youth violence. Moreover, minority youth were often disproportionately involved in arrests for the very offenses that were associated with both the rise and fall of juvenile crime rates, particularly drug arrests and arrests involving firearms. Thus, some of the shrinking racial disparity in juvenile detention between 1995 and 2005 could be due to the falling portion of juvenile arrests that involved serious and violent crimes.

Some JDAI jurisdictions, however, became active in the initiative only in 2003 or 2004, when most of the impact of the nationwide crime decline had already occurred. Even in these jurisdictions, juvenile justice officials reported important changes in the use of detention. For example, juvenile justice officials in New Jersey began to participate in JDAI in 2004. By 2005, detention populations had dropped 11 percent in Atlantic County, 24 percent in Hudson, 35 percent in Camden, 38 percent in Monmouth, and 43 percent in Essex (JDAI News, 2006). These reductions occurred while overall violent crime in New Jersey remained largely unchanged. According to the FBI Uniform Crime Reports for 2006, the violent crime rate in New Jersey increased 1 percent between 2005 and 2006 (Federal Bureau of Investigation, 2007, Table 4). Whether or not New Jersey's falling detention numbers are due completely to JDAI, the fact that they occurred during a period of stable crime rates is encouraging. At the very least, more than fifteen years of experience suggest that changing practices and procedures to bring greater rationality to the use of juvenile detention could be an important component in efforts to reduce disparity.

Burns Institute Model for System Change and Leadership

In recent years, the W. Haywood Burns Institute (BI) of San Francisco became one of the more popular sources of energy and ideas for reducing juvenile justice disparities. The Institute's staff and its director, James Bell, are called upon frequently by state and county juvenile justice officials seeking help with reducing disparities. The Burns Institute works with jurisdictions to organize and develop indicator data for their juvenile justice process and to mobilize traditional and nontraditional stakeholders in each site, including parents, young people, judges and probation staff, prosecutors, public defenders, law

enforcement, political leaders, service providers, and community groups. When the Institute is invited to assist a community with a disparity-reduction effort, it works with these local stakeholders to achieve consensus on a plan of action, to begin an ongoing examination of system data, and to oversee a revolving process of planning, acting, and reviewing outcomes (Burns Institute, n.d.).

According to James Bell, the BI process helps communities use their own data to identify action targets and to assess the impact of their efforts on improving the fairness of their juvenile justice system:

The stakeholders begin their work with data analysis—baseline data on the extent of disproportionality in the site, and an analysis of local juvenile crime data by race, offense, location, and time of day. Next, the stakeholders use this data to identify the neighborhood that contributes the highest number of youth to detention. We then lead a community profile conducted by youth and parents consisting of focus groups, physical mapping, and service identification. The community profile enumerates the target community's strengths and deficits and assesses the community's existing services.

— James Bell, *personal correspondence*,
February 2008

The Burns Institute adapts its approach for each jurisdiction in which it works. In 2003, for example, the Illinois Juvenile Justice Commission funded four sites (Peoria County, St. Clair County, the south suburbs of

Cook County, and the Lawndale community area in Chicago) for a period of three years to intensify their DMC-reduction efforts. Each community formed a local advisory group and began working to create greater community awareness of DMC. Each community also hired a locally based DMC Coordinator to work with the Burns Institute. The BI process in Illinois involved the leadership of each community in organizing its juvenile justice data, in mapping community resources, and in planning and conducting focus groups to gather qualitative data about community perceptions of the juvenile justice process (Illinois Juvenile Justice Commission, 2004). The Illinois project was implemented as a multi-phase effort that focused on three decision points in the juvenile justice process that were thought to be associated with disparity:

1. The police decision to arrest
2. The probation department's decision to detain
3. Prosecutorial and judicial decisions at disposition

The Illinois sites worked with BI to expand the availability of local data (i.e., detention admissions, time of offense, location of offense, and racial composition of pertinent census tracts) and to create resource maps using the data. The Institute then facilitated a process whereby each community examined these data on a periodic basis, identified their community's strengths and deficits, and made recommendations for improvement in services and programs for youth. The Juvenile Justice Commission intended to use the results to design even more initiatives for tackling disparities throughout the state.

Planning Future Initiatives in Policy and Practice

Children and youth from varying racial and ethnic groups may have different experiences in the child welfare and juvenile justice systems. The fact that one group is overrepresented may be simply an artifact of a correlation between social problems in America and the race and ethnicity of those affected by such problems. If so, the logical way to address racial disparities would be to tackle the structural and cultural problems that affect children and families. On the one hand, some groups may be overrepresented as a consequence of the structures, procedures, and decision-making climate within service systems. On the other hand, some population differences may be produced by other forms of discrimination. Decision makers may discriminate without ever making an explicit reference to race or ethnicity and perhaps without being conscious of the effects of their behavior. A juvenile court, for example, might use telephones to provide legal notice of upcoming court hearings, and then penalize youth for failing to appear, in communities where many families do not have home telephones. Similarly, a child welfare agency might be more lenient with families that arrange their own preventive and therapeutic services, but those services may be more prevalent in predominantly White communities.

Some disparities result from complex dynamics that are difficult to identify. One might find, for example, that different rates of access to services are a source of race-related disparities in referral to court or to out-of-home placement. Perhaps exposure to prevention services is related to disparity in rates of foster care entry because children are exposed to services of varying quality. If these differences in service quality are associated with race, with Black children being more likely to come into care as a result of poor service quality, then the extent of service involvement may be a source of admission rate disparities. If it can be shown that the differences in service quality are unnecessary or preventable, then one could describe such differences as unjust and, therefore, an example of racial inequity.

Disproportionality is a way to describe differences in the composition of a population. The factors leading to disproportionality vary according to the population being examined, but disproportionality can be conceptualized as unequal rates of entry and exit between populations, whether populations are defined by physical location, stage of court processing, legal status, and so on. The factors leading to disparity may include a range of other system features, such as the quality and availability of workers responsible for service delivery and case management, the decision-making culture established within agencies and courts, the extent to which specific standards of care exist or are followed, and disparities in need for services and access to supports and resources.

Conceptual Framework

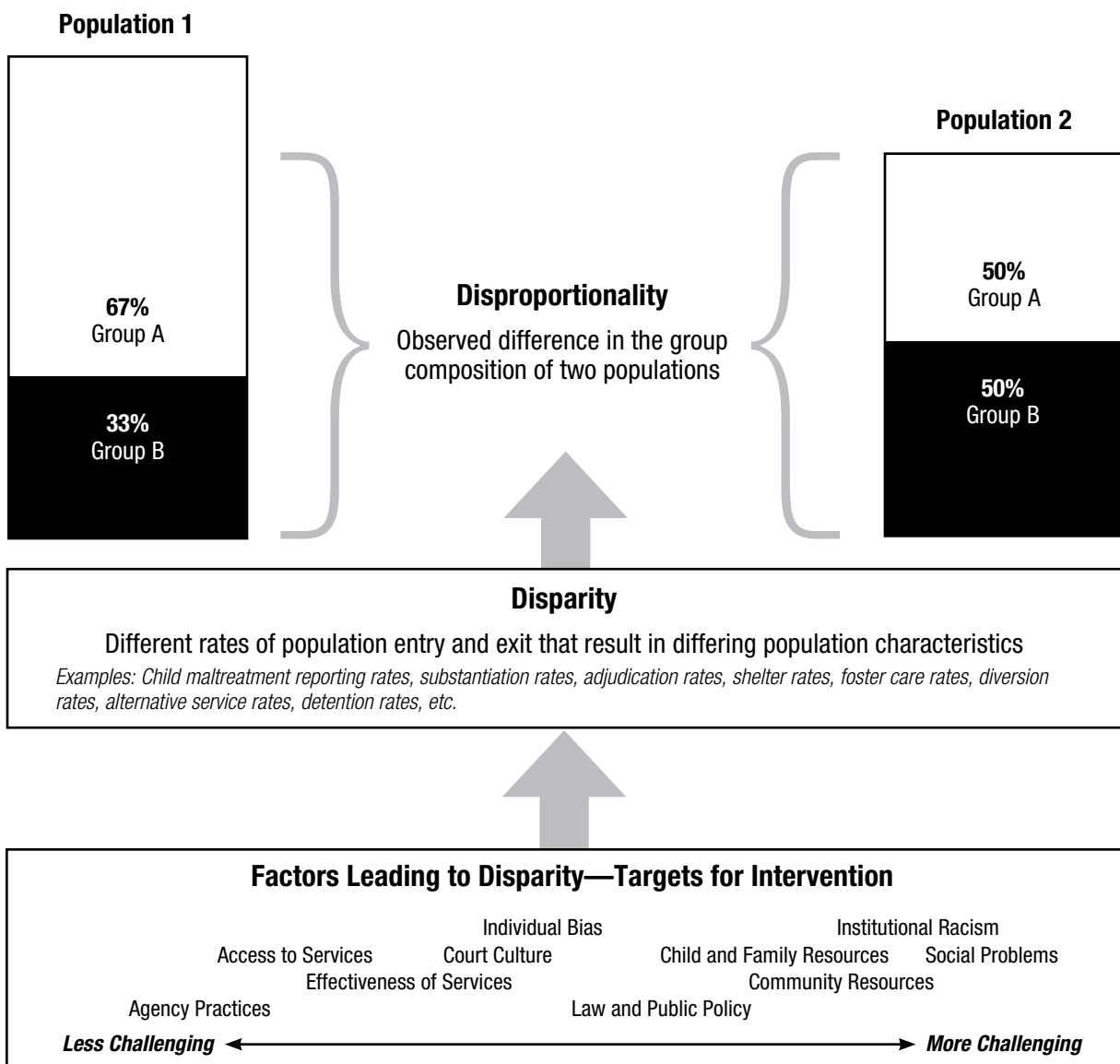
Figure 2 is a conceptual framework for considering efforts to address disparity. It is a graphic portrayal of the relationships between disproportionality, the disparity that produces disproportionality, and the various factors that may be responsible for disparity.

Figure 2 uses the word *disparity* to describe the various race-related differences in system contact, case processing, and service delivery that lead to disproportionality. The type of disparity involved depends on the systems being compared and the points of contact that are relevant to the populations being investigated. Figure 2 also highlights an essential analytical feature of the conceptual framework's use of the term *disparity*. Disparities are modeled as differences in the rates at which individuals *enter* and *exit* particular populations. This allows the model to account for duration. The length of time an individual spends in a population becomes critical when duration has high policy salience or economic impact, or simply when duration is long enough to matter. If African American youth enter detention at the same rate as other youth but then stay three times longer, these youth will be overrepresented in the detention population despite the equality in their rates of admission.

If one were analyzing disparities that lead to disproportionality in a juvenile disposition population versus an adjudication population, it may not be essential to incorporate duration in the model. These events are often separated by mere minutes or hours. One could, however, still use an entry-rate and exit-rate approach to examine such disparities. The reverse, however, is

not true. In some contexts, modeling population changes without incorporating duration would render analyses wholly incapable of measuring the relationships between disparity and disproportionality. Analyzing disparities as entry and exit rates is simply a more general model. Figure 2 also depicts some of the factors that may generate disparity. The factors listed are merely

Figure 2: Conceptual Framework



suggestive of the wide range of potential areas that may be suitable targets for policy and practice interventions to address disparity. Some factors may be more challenging targets for intervention than others. Such distinctions must be made within the particular context of each system and each community. Disparities must be monitored and analyzed to determine whether they are appropriate targets for intervention.

In selecting targets for intervention, policymakers and practitioners should be most conscious of disparities that might be considered examples of inequity. Inequity could be described as a special form of disparity—a subset of things found to be disparate. Disparities rise to the level of inequity when one can demonstrate that they are avoidable, unjust, or unnecessary, usually in relation to some definition of need, whether that is the need of an individual, family, or community. When particular disparities are tied to race, and when an analysis determines they may be systematic and intentional, but at odds with the objective needs of a population, such disparities could be considered racial inequities.

Intervention Strategies

Future policy and practice initiatives to address race-related disparities in child welfare and juvenile justice have to be clear about their goals and their methods. As shown above, there are many different intervention strategies that could be pursued as part of an effort to correct unwanted disparities. The various approaches are divided here into five basic types, each with its own strengths and potential applications.

1. Increasing Transparency

One of the most important ways to begin reducing unwanted disparities is to make the inner workings of a human services system as transparent as possible. The agencies and organizations that make up the child welfare and juvenile justice systems track the individuals and families with whom they have contact and monitor how they navigate various components of the system as they move from one stage of the process to another or from one population to another. Agencies rely on management information systems to generate comprehensive and detailed data about the characteristics of each case and

the children and families involved in the case. These management information systems must be able to collect race and ethnicity information and they must be able to cross agency boundaries (for example, merging information about court processing with data from treatment providers).

2. Re-Engineering Structures and Procedures

Perhaps the most obvious intervention strategy for reducing disparities is to reform or re-engineer the structures and procedures that shape an agency's decision-making environment. The sources of disparity can be very complex, but many of the decisions made in a social services or legal process have the potential to aggravate race-related disparities. Systems pursuing this strategy review their own processes and procedures on a routine basis to determine whether they contribute to disparities, and when they identify aspects of their own structure or process that could generate disparity they re-design them. In the juvenile justice system, for example, the Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative works on multiple fronts to address race-related disparities in detention. JDAI consults with courts and social services to increase the use of effective community-based alternatives for youth in order to reduce the demand for detention, but it also advocates the use of screening and risk assessment tools and promotes methods of accelerating the court processing of detained youth to minimize the time they spend in detention.

3. Changing Organizational Culture

Several well-known disparity-reduction efforts have been designed to influence the attitudes and values of agency staff in order to shape organizational culture in ways that identify and reduce disparities. Service systems that embrace cultural change strategies often bring in diversity consultants and trainers to conduct workshops that raise employee awareness of racial bias. Cultural change programs often teach participants about the subtle ways institutional racism affects policy and practice. The efforts of the People's Institute, for example, target the role of language and power in perpetuating institutional racism. By asking their employees to participate in cultural change programs, agencies hope that staff members learn to see how perceptions of race intersect with other

social problems and how their decision making and behavior could contribute to the existence of race-related disparities.

4. Mobilizing Political Leadership

Building information to increase agency transparency, reforming agency procedures, and changing organizational culture all require strong political leadership. In both the child welfare and juvenile justice systems, effective leadership is critical for sustaining large-scale change efforts that require the participation and support of, and partnership with, multiple organizations and service sectors, including the judiciary, prosecutors, defense bar, social services, mental health and substance abuse treatment providers, as well as community organizations. Judicial leadership, in particular, is often a central component of effective system reform. The juvenile justice reform efforts of the Burns Institute, for example, often include strategies for building awareness and consensus among the key decision makers in a juvenile justice system in order to advance needed changes in policy and practice.

5. Partnering in Developing Community and Family Resources

Regardless of how effective system reform efforts may be, and despite the thoroughness with which organizational culture changes may be implemented, disparities will likely continue to exist as long as there are race-related differences in community and family resources. The issues of poverty, family violence, poor housing, poor health care, educational failures, crime, drug abuse, and neighborhood disorder are inevitably bound up with the problems that propel children and youth into the child welfare and juvenile justice systems. Agencies addressing disparity quickly find that they must go outside their own organizational boundaries and begin to work at the community level to build better support systems for families. Addressing racial disparities in child welfare and juvenile justice is not a technical or administrative task. The work to improve outcomes for children and youth from overrepresented groups is inseparable from other efforts to foster community and family well-being.

Two Systems, One Challenge

Providing the services children and families need when they are needed for the time they are needed, regardless of race and ethnicity, is the central challenge facing both the child welfare and juvenile justice systems. The significant overrepresentation of children and families from certain groups (e.g., African Americans) together with the underrepresentation of other children within the respective systems suggests that there are indeed avoidable differences in what happens if and when children come in contact with one or both of the systems. The critical assessment of racial and ethnic disparities now underway is as timely as it is essential.

Progress toward the day when the mix of services offered is based on what a family needs to raise its children successfully is likely to be uneven. Nevertheless, there are ways to move the process of change forward at a quicker pace. Among those ways, the realization that the child welfare and juvenile justice systems share structural and functional characteristics is high on the list. Language is perhaps the easiest way to reveal the similarities. To the extent that over- and underrepresentation of racial and ethnic groups is a defining feature of both service populations, the notion that disparities in the likelihood of entry and exit give rise to disproportionality focuses attention on the chain of events (and resources) where policy and practice leverage is the greatest.

Viewed through the lens of communities, neighborhoods where the number of official child maltreatment reports is high are often the very same communities where contact with the juvenile justice system is also high.

In the context of questions that ask why children (and their families) are involved with one or the other system, it is apparent that the systems serve many of the same families, literally and figuratively. Viewed through the lens of communities, neighborhoods where the number of official child maltreatment reports is high are often the very same communities where contact with the juvenile

justice system is also high. Poverty and violence form a social context that shapes the childhood of too many children. Local institutions (formal and informal) can transform the social context, but only if their structure and function build on the resilience of people rather than on the crude generalities of race and ethnicity. The child welfare and juvenile justice systems have a vital role to play in the protective capacity communities have if the focus is on access to quality services that people want to use because of the help they offer.

In a life course perspective, early experiences with the child welfare system for some children may foreshadow later involvement with the juvenile justice system. It does not always happen that way, but when it does and the two systems become, in effect, one system, it is even easier to see how closely connected and interdependent the two systems are. Service providers (public and private), the police, and the courts together with families shape the odds a child will go on to lead a productive life. The riddle of disparity and its effects on children of different races and ethnicities will not be solved if the failure to see childhood as a series of linked developmental transitions persists.

There are, of course, important differences that exist between the two systems. At a most basic level, the child welfare system's service responsibilities span a wider age range. The fact that so many children come into the child welfare system in the first few months of life means that health care providers, day care centers, and other early childhood service providers are more natural partners when it comes to building a service delivery system that dissolves unwanted disparities. Moreover, children, especially the very young, are seen as victims of maltreatment and parents are usually, though not always, the perpetrators. In the juvenile justice system, child behavior is the central theme, even if the origins of behavior tie back to family influences. If sentiment hardens public attitudes toward youthful offenders, reforms that take aim at disparity in the juvenile justice system will have to contend with the fact that being tough

on crime has a particular salience (which is not to say that the child welfare system isn't tough on parents) in the policy and practice culture found in the juvenile justice system.

In sum, the child welfare and juvenile justice systems are located at the deep end of the service continuum. So much of what matters happens long before a family or a child first touches one or the other system. So much of what happens early bears the imprint of disparities that are present in virtually all facets of life that affect growing up. Neither the child welfare nor the juvenile justice system is in a position today to influence access to good jobs, educational opportunity, or the availability of quality health care. That said, the two systems separately and together are in a position to improve access to services that make a difference for the families they serve. Doing

so requires an appreciation for the often subtle distinctions that separate what happens when the real needs of people differ, as opposed to differences that arise because people make decisions for other, less-useful reasons.

Ending disparities that are rooted in the worst forms of bias will require more than determination. Re-engineering structures and procedures, changing organizational culture, mobilizing political leadership, and partnering in developing community and family resources are a few of the strategies in play in various parts of the country. Together and separately, these strategies offer the mix of approaches that promise authentic change. However, without transparency—the willingness to show and tell—none of the strategies offer a connection to what matters most: improving outcomes for children.

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Child Welfare Commentary to “Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice”

by
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I would like to begin by thanking Shay Bilchik, founder and Director of the Center for Juvenile Justice Reform at the Georgetown University Public Policy Institute, for taking the leadership role in creating an environment that allows us to begin these conversations bridging knowledge of two very much related, but historically disconnected systems.

I would also like to applaud the researchers from Chapin Hall for providing us with a framework for this groundbreaking discussion. I support each of the five strategies identified by the authors to move this effort into the future:

- Increasing transparency
- Re-engineering structures and procedures
- Changing organizational culture
- Mobilizing political leadership
- Developing community and family resources

I would also like to highlight some nuances of the work that I believe were touched upon in the discussion paper, but that require greater attention to adequately impact both these systems to make change sustainable. My comments come from my experiences speaking with people throughout the country and working with them to make change at local, state, and national levels.

When I began my preliminary review of the document, attempting to fully comprehend the authors' intent, some questions came to mind that often do as I read through documents intended to help us make change:

- What is the purpose of these systems?
- What are they intended to do?
- What do they do, and what would I like them to do?
- Can this process get us there?
- If not, what else might help us get there?

It is my observation that the authors view overrepresentation as a negative event, while leaving us to believe that underrepresentation is better. This is not an uncommon perspective, and in fact is the conversation that brought us here. I am not arguing this point, just stating that it exists.

I am confident that everyone reading this discussion paper has entered his or her designated profession not to hurt children and families, but to help them. If this is the case, why do we believe that the entry of children and families into the juvenile justice and child welfare systems is bad? I would like to propose that it is because we don't like the systems very much the way they are. Not just for children and families of color, but for all children.

Indeed, the authors state that we need to re-engineer our systems' structures and procedures, but I challenge us to think bigger. If you could indulge me for a moment, I would like everyone to imagine a perfect world. One that has child welfare and juvenile justice systems designed to support and strengthen children and families. What would that look like to you? What would the goals of these systems be? What would the correct percentages of children and families who come in contact with them be? How long should they stay? What kinds of services would the systems provide? What would the experiences of children and families be?

As the authors mentioned in their paper, Joe Ryan from the University of Illinois at Urbana-Champaign School of Social Work suggests that these systems shouldn't be two, but rather one integrated, continuous system. What would it take to create this phenomenon? What other systems do you see connected to the work? How do the systems interact with one another?

By keeping our discussions on changing things within the system or systems rather than re-conceptualizing the systems themselves, we are merely providing topical treatment rather than providing a sustainable cure.

Institutional and structural racism impact all of the systems in this country—as well as our own responses, as we have been taught in and are continually influenced by institutions within this country. By keeping our discussions on changing things within the system or systems rather than re-conceptualizing the systems themselves, we are merely providing topical treatment rather than providing a sustainable cure.

The fact that some racial and ethnic communities are overrepresented throughout the country (most noticeably African Americans and American Indians), that others are most often underrepresented (most notably, Asians), and yet others are sometimes overrepresented and other times underrepresented (Hispanic/Latinos), suggests to me that in addition to (not instead of) drilling down to find out what is happening to children of different ages, geographical areas, and cohorts, we have to learn more about the cultural communities of which children and families are a part.¹

Increasing transparency through data collection as the authors suggest is indeed critical. Just by looking at the data on disproportionality and disparities throughout the country put together by people like Fred Wulczyn, Bob Hill, and Barbara Needell, we can examine trends by race and ethnicity. Without that information, we would not even have a sense of what is going on.

It is not enough, however, to just notice the differences. We need to learn—for each community—what under- or overrepresentation is the result of for them. The authors refer to “root causes.” However, I believe one feature of the root causes not explicitly identified by the authors is institutional and systemic racism—an aspect we don’t much like to talk about. Part of this racism involves our continued attempts to fit children and families of different cultures into the models of the dominant culture. Whether we call this racism, colonialism, or consistency, the fact is that if we listen to representatives from cultural communities, they tell us that we aren’t helping them, we are just helping ourselves.

At a recent gathering in a local community in Ramsey County, Minnesota, where federal funding had just been received for a research project in which residents had no input, Kwame McDonald, a cultural consultant and community liaison for the African American community, stated, “We have outsiders coming into our community, evaluating our community, to measure their success—the success of the governmental agency. They are not interested in how the needs of the community are being

met. These measures blame the ineffectiveness of these systems back onto the family, without understanding our culture and just what our children and families need within our context.”

Families, individuals, and cultural communities that are not acculturated and that choose to maintain their cultural identities do not fit into our current structures and inform us of this every day, if we listen.

Now, I know there are some people reading this who are thinking that the above paragraphs do not apply to them because they are objective participants who cannot fall prey to cultural biases. I ask you all, whatever your background and professional orientation, please be skeptical of yourself and your confidence in your objectivity. In his best-selling book *Blink*, Malcolm Gladwell writes about Project Implicit, a Harvard study that has been examining racial biases for nearly two decades.² With data from more than forty-three million people, the study shows that over 80 percent of the people who participated in the study were biased against Black folks (and more positively inclined toward White folks), including 50 percent of the African American participants.³ In a related study, the same Harvard researchers found that when medical doctors were tested on their objectivity in diagnosis, the more secure they were that they were not biased, the more biased they were. We all contribute to the perpetuation of these biases—not intentionally, and not with malice, but by the nature of our participation in this culture.

So, recognizing that each of us in this room has the potential for some bias in the development of change, how can we better create systems that meet the needs of children and families from various cultural communities?

We need to learn—from each community—what under- or overrepresentation is the result of for them. We cannot assume that similar numbers are created by similar forces. Do the communities have strengths to protect

¹ Hill, R., 2005, *Overrepresentation of children of color in foster care in 2000*, Unpublished working paper available through the Race Matters Consortium at <http://www.racemattersconsortium.org/docs/whopaper7.pdf>.

² Gladwell, M., 2005, *Blink: The power of thinking without thinking*, New York: Little, Brown & Co.

³ More information about Project Implicit, as well as an opportunity to participate in the bias research, can be found at <https://implicit.harvard.edu/implicit/research>.

their children and support their families? Are they afraid of the systems and therefore doing everything they can to avoid them? Do they understand what is happening when system representatives come to visit them? How are the actions of the systems interpreted by the recipients? Do they understand what is being said? Do they know how to do what is being asked of them? Are you sure? Does what is being asked of them make sense to them within their cultural context?

We need to look at the communities themselves and examine how they interact with the systems to better understand what is going on.

We have to stop making cookie-cutter systems within a mainstream culture, placing them over people with different racial and ethnic world views, and expecting them to work.

Yes, the authors speak of developing resources, strengthening communities, and developing cultural competence, but what is missing is a commitment to authentic partnering with the community. It is the development of an understanding of the history of a people, their understanding of their own history, their history in this country, the history of their relationships with the systems in this country, the types of relationships they have right now in your jurisdiction, and the kinds of relationships they have right now, with you, that has to be examined and understood in order to develop systems that meet the needs of a people. We have to stop making

cookie-cutter systems within a mainstream culture, placing them over people with different racial and ethnic world views, and expecting them to work. In the words of Frank LaMere, American Indian advocate and Interim Executive Director of the Sioux City Indian Education Committee, “Research is for academics. If you want to understand what we need, learn who we are and ask us what we need.”

I ask you to shift the paradigm for a moment, to imagine racial and ethnic communities working alongside systems as partners to help craft systems’ practices that better meet the needs of their communities.

This aspect of the work is one that is embraced by many of the projects identified by the authors in the paper, and I merely highlight it here to juxtapose a deeper understanding of efforts that are currently underway to create sustainable change. The Casey-CSSP Alliance on Racial Equity views inclusion of community partners as one of six unique levers necessary to effect long-term, sustainable change. But this approach is not unique to this effort, and other models for including community members as participants in a comprehensive, authentic way do exist. Vehicles such as Undoing Racism and other cultural competence-developing mechanisms help us to see the need for partnering in this way. But at the same time that we are learning about what has been created and attempting to deconstruct it to better fit the needs of children and families, we need to recognize that there are experts in this area from whom we can learn.

Juvenile Justice Commentary to “Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice”

by
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The approach to this commentary is through the lens of place-based work and through an analysis that identifies the take-aways: how does this discussion paper help the on-the-ground racial and ethnic disparities reduction work?

I begin with a brief response to the federal government's role in shaping policy and practice, move on to integrating the juvenile justice policy and practice responses with the proposed strategies for future initiatives, and conclude with collaboration between the juvenile justice and child welfare systems.

Shaping Juvenile Justice Policy and Practice

As noted by the authors, debates about racial disparities have been dominated by the language developed by the Office of Juvenile Justice and Delinquency Prevention (OJJDP). However, of greater significance are the ill-defined scope of work, the lack of results-based methodologies, and the populations narrowly defined by race, all of which were originated by OJJDP. These shortcomings have contributed mightily to the stagnant nature of efforts to reduce disparities and disproportionality.

The ill-defined scope of work to which I refer is the historical development of OJJDP requirements with regard to disproportionality reductions, as outlined by the authors. The different versions of "requirements" generated through the years by OJJDP have been vague and overly broad in nature at best. Due to the lack of methodologies, let alone criteria and guidelines, jurisdictions have been left to their own devices to develop plans to reduce disproportionality.

In the absence of accountability measures tied to the funding of state and local reduction strategies, activities such as midnight basketball qualified for funding as a preventive measure. Cultural competency and sensitivity trainings became widely popular, which in many cases resulted in a child being detained in his/her own language. Such prevention and consciousness awareness measures in a vacuum have proven not to be effective disparity reduction strategies. Yet funding for such "strategic" measures continued as federally directed process evaluations neglected to focus on efficacies.

The lack of both a well-thought-out methodology and results-based accountability measures and incentives has contributed to the status quo of the "coloring" of the juvenile justice system. Although the data infrastructure has been enhanced to assist state and local jurisdictions, no clear methodology with adjunct technical assistance has emerged to assist states in meeting their DMC obligations under the JJDP Act.

The authors have done a fair, if somewhat gentle, assessment of OJJDP's policy and practice responses to disproportionality. One of the take-aways is the expectation that the federal government will demonstrate determined leadership with muscle to eliminate this insidious injustice.

Take-away for the Field: Language Clarity

Defining words that have heretofore been used interchangeably and clarifying them should be beneficial. Indeed, place-based practitioners have expressed the same foundational principle articulated herein—that disparities produce disproportionality. Clarifying and affirming this

The terms disparities and disproportionality are used interchangeably in such a way as to result in misinformed and sometimes divisive and fiery debates.

is a positive convergence of academia and place-based work and should help focus future discussions. The terms disparities and disproportionality are at times used interchangeably in such a way as to result in misinformed and sometimes divisive and fiery debates. For example, picture diverse demographic groups sitting together in a forum where the issue is framed as "DMC" (disproportionate minority confinement) of all youth of color within that jurisdiction. Everyone in the room gets incensed, as they should. Then a particular racial/ethnic group claims DMC, when in reality there is no disproportionality, but no doubt there are disparities. The ensuing debates are unnecessary. What is important is that the claim of DMC has raised the red flag to get at the disparities.

What then of youth of color who aren't overrepresented in the juvenile justice system but are experiencing

disparate treatment with resulting negative impacts? The authors point out the importance of addressing underlying disparities to alter disproportionality. As such, jurisdictions should be in a better position to identify how disparities impact opportunities differently for all youth of color.

Framework for Future Initiatives

Conceptual Framework

The conceptual framework presented by the authors provides a cross-cutting framework for both the juvenile justice and child welfare systems. This is a step forward for the future integration of disparity reduction efforts by both systems.

Intervention Strategies for Juvenile Justice Practice Responses

The strategies for future initiatives proposed by the authors have long been the lexicon of place-based work within the Juvenile Detention Alternatives Initiative (JDAI) and the W. Haywood Burns Institute (BI). Both JDAI and BI have been strategic in partnering and defining the value that each brings to detention and equity reform. Pima County, Arizona, referenced by the authors as a JDAI site, is in fact the first jurisdiction nationally in which JDAI and BI commenced reform efforts simultaneously. The tangible and intangible results to date demonstrate the value each initiative brings to ensure equity.

The authors assert a decline in the use of detention coinciding with a drop in violent juvenile crime and shrinking racial disparities between 1995 and 2005. However, research has shown that use of detention is not correlated to the seriousness of juvenile crime. The data continue to reveal the use of detention for low-risk youth. A one-day snapshot of youth in detention by offense in 2003 showed that the majority of youth did not fall into the category of violent offenders: 28 percent were detained for status offenses and technical violations; 41 percent for property, drug, and public offenses; and 31 percent for violent offenses.¹ The authors' conclusion of a corresponding "shrinking racial disparity" during this

time period is not borne out by the data. Between 1995 and 2003, White youth in detention decreased from 44 percent to 35 percent, while youth of color in detention increased from 56 percent to 65 percent.² In spite of some reductions in overcrowded facilities, a key motivator for sites throughout the nation wanting to reform their systems has been the persistent overrepresentation of youth of color.

Transparency

References to transparency in detention and equity reform go beyond that outlined in the discussion paper. Jurisdictions committed to detention and equity reform are quite cognizant that data capacity is the foundation for change. Moreover, because race, ethnicity, and place matter, the Burns Institute, in establishing methodologies and working on the ground with jurisdictions, has firmly demonstrated the need to disaggregate all data by race, ethnicity, gender, geography, and offense. Yes, data are essential for transparency, but transparency also entails system self-examination, accountability, and meaningful collaboration with all stakeholders, including community, families, and youth. Transparency is indicative of political will. The results of reform efforts have borne evidence that transparency is essential to an equitable and transformed system.

Re-engineering Structures and Procedures

Vigorous change to policies and practices to reduce racial and ethnic disparities is a fundamental objective of place-based work. The focus is on those decisions over which juvenile justice stakeholders have control, such as admissions, violations of probation, and length of stay, to name a few. Reform efforts have witnessed the inevitable reduction in unnecessary detention, with some corresponding reductions in youth of color, upon implementation of an objective admissions screening instrument. For a variety of reasons, many jurisdictions get stuck at this point, and there is no digging deeper at the indicators within their control to get at the persistent representation of youth of color.

¹ Sickmund, M., Sladky, T. J., & Kang, W. (2005). *U.S. youth in secure detention by offense (2003)*, in *Census of juveniles in residential placement databook*, available at www.ojdp.ncjrs.org/ojstatbb/cjrp.

² Sickmund, M., Sladky, T. J., & Kang, W. (2005). *Youth in detention by race/ethnicity (1985-2003)*, in *Census of juveniles in residential placement databook*, available at www.ojdp.ncjrs.org/ojstatbb/cjrp.

Jurisdictions committed to mapping their decision points to identify factors contributing to disparities, strategizing and implementing relevant policy and practice changes, and monitoring the impact of the changes on youth of color have demonstrated positive results. For example, jurisdictions have been quite successful at implementing community-based and culturally responsive alternatives to reduce both admissions to detention and the use of detention for violations of probation. To quote Judy Cox, Chief Probation Officer in Santa Cruz County, California, and a leader in disparity reduction efforts, “Pick a point and work at it!”

Changing Organizational Structure

It’s not all about tools and technologies. If systems staff “ain’t feeling it,” making changes to reduce racial and ethnic disparities will be a challenge. This is about overcoming biases and changing the culture within the juvenile justice agencies. Our experience has shown that relevant components include an organizational structure that is responsive to race, culture, and youth; that is asset- and strength-based; and that values community and family as partners in the development of solutions. We’ve learned that to be successful, culture change and other reform efforts must have the support of all levels of any given justice agency.

Mobilizing Political Leadership

In addition to the respective core strategies used by JDAI and BI, we’ve learned that no specific strategy seems more important than the determination and tangible commitment of system leaders to racial and ethnic justice. Political will and administrative dexterity, particularly from the judiciary and probation/court services, are critical to disparities reduction. We have found that the most successful sites not only have leaders demonstrating political will, but also champions in the community as integral partners.

Developing Community and Family Resources

This strategy proposed by the authors speaks to “beyond the juvenile justice system,” in many cases getting at the provision of support for high-need, low-risk youth whom we have found to be a “persistent” population of detained youth. Our work across the nation has generally revealed that these high-need youth in detention are youth

of color. As Judy Cox notes, “The formal justice system alone is ill-equipped to make changes in people’s lives. Community programs are life-saving way stations along this pathway.”³

JDAI’s efforts have proven to be a bridge to broader reform efforts in some of the more mature and successful sites. Through local collaborative efforts, these sites have developed a range of community-based programs that are responsive to culture and race, enabling youth to remain at home while connecting them to services in their neighborhoods. A similar paradigm shift has occurred with regard to youth- and family-focused strategies to reduce racial and ethnic disparities.

Nevertheless, meaningful partnerships to develop and/or recognize community and family resources have been a challenge for most systems. Disparities are iterative—they happen in layers and broaden out to larger societal factors. Community and family responses are an essential part of the solution. The Burns Institute has been at the forefront in advancing the intentional integration of communities of color to participate fully in collaborations with system stakeholders. Equally significant to equity reform is the work of the Community Justice Network for Youth (CJNY). A project of the Burns Institute, CJNY is a national network of approximately 140 community-based organizations that provide culturally appropriate neighborhood-based services to youth of color and their families.

The Communities of Color program in Multnomah County, Oregon, is another prime example. The Department of Community Justice contracts with two community organizations that serve the African-American and Latino communities. These organizations subcontract with service providers located in the communities where youth and their families live, providing comprehensive, culturally relevant services. Both CJNY and Communities of Color are examples of the folks who are in a better position to negotiate a youth’s successful exit out of the system.

My comments herein are all to say that a well-founded methodology is necessary to actively apply the five

³ Mendel, R. (2007). *Pathways to juvenile detention reform #14: Beyond detention, system transformation through juvenile detention reform*, Baltimore, MD: Annie E. Casey Foundation, 49.

strategies outlined by the authors. Jurisdictions wanting to substantively tackle this issue have repeatedly expressed the need for the “how.”

Collaboration Between Juvenile Justice and Child Welfare

The authors do a good job of pointing out similarities and differences between the two systems. Each system has a continuum of services with some of the same tools at their disposal. Some of the major child welfare initiatives responding to disparities employ core strategies similar to, if not the same, as JDAI and BI. Entry and exit indicators are a logical focal point for both systems. However, a glaring difference is the power of the juvenile justice system to detain a youth in a locked facility.

Those jurisdictions that show promise in future collaboration are sites that have implemented in-depth reform efforts in conjunction with a system of care.

Many jurisdictions can provide data revealing the number of youth of color dually involved in and/or “graduating” from the child welfare to the juvenile justice system. It is not unusual for child welfare and juvenile justice systems players to argue about which system should have jurisdiction. When this occurs, juvenile justice players feel like child welfare is “dumping” the youth into the juvenile justice system, while child welfare workers may feel like they have exhausted all of their limited resources and are no longer equipped to address the youth’s behavior. Those

jurisdictions that show promise in future collaboration are sites that have implemented in-depth reform efforts in conjunction with a system of care.

Each system has developed practice responses to disparities and disproportionality. Each system is implementing vigorous changes that have produced positive results. Each system is working within its realm of jurisdictions to get it right, to establish fidelity and sustainability to the respective methodologies. As I see it, this distinct approach has been the focus of each system. This is not to say that such efforts are wrong. There’s urgency for equity and for change in the national character of each system. The juvenile justice system is fragmented. It is not designed to do the job it is responsible for, and this mis-design continues to be tolerated because it affects the most disadvantaged youth and youth of color. It’s hard to envision collaboration with a broken system. On the other hand, like the systems themselves, such fragmentation does not serve our youth and families well.

Conclusion

This discussion paper identifies those policy and practice responses in play and keeps the issue at the forefront. The paper goes into greater depth about the various policies and practices presented, including their interconnectivity. Clearly there are initiatives working on the ground that have provided empirical evidence that racial and ethnic disparities can be reduced. The urgency to implement changes to level the playing field and better the outcomes for youth of color and their families is not only a social justice issue, it’s a matter of our humanity.

Policy Reforms to Address Racial and Ethnic Disparity and Disproportionality in the Child Welfare and Juvenile Justice Systems: Federal, State, and Local Action

by
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*Much credit goes to David Barish, Research Assistant, Georgetown University
Center for Juvenile Justice Reform, who contributed significantly to the writing,
editing, and production of this paper.*

Introduction

This paper presents the thoughts and reflections of Shay Bilchik, Director of Georgetown University's Center for Juvenile Justice Reform, on the Chapin Hall paper on racial and ethnic disparity and on the symposium titled "The Overrepresentation of Children of Color in America's Juvenile Justice and Child Welfare Systems," which was held at Georgetown University in March 2008. The symposium brought together representatives from the juvenile justice and child welfare systems who have devoted much time and energy to reducing the disproportionality that exists in these two systems, but have not always informed one another or learned from each other's work. It was Georgetown University and Chapin Hall's belief that much could be learned from this exploration and sharing. As demonstrated both in the paper and at the symposium, this hope has been realized. However, there is much learning and collaborative effort that now needs to be undertaken with great intentionality as we seek to more closely align these two bodies of work and enrich the efforts of so many practitioners, policymakers, and family and community members who are at the forefront of this issue.

As a backdrop for the discussion, Chapin Hall created a paper that identified five strategies for addressing racial and ethnic disparities,¹ which can be utilized across the two systems. We use this framework as we consider specific policies and practices at the federal, state, and local levels. Interventions within each of these strategies will result in children who are safer, better nurtured, and provided with the opportunities that keep them out of both the child welfare and juvenile justice systems. If interventions are carefully chosen within each of these strategies, real and significant change can be achieved

¹ *The Chapin Hall authors use the words "unequal" and "difference" to define disparity. They state that, in the context of racial and ethnic disparities in the juvenile justice and child welfare systems, "Disparity is often used to describe differences in the experience of children with respect to their level of contact with the juvenile justice and child welfare systems, but it can also be used to describe differences in access to care, utilization of care, or quality of care" (Chapin Hall Center for Children, 2008).*

If interventions are carefully chosen within each of these strategies, real and significant change can be achieved in reducing racial and ethnic disparities and disproportionality in child welfare and juvenile justice—changes that will result in greater equity and a more just system of care that better serves all children and families.

in reducing racial and ethnic disparities and disproportionality in child welfare and juvenile justice—changes that will result in greater equity and a more just system of care that better serves all children and families. Focusing on interventions within each of these strategies also provides a framework for beginning to organize the issues related to institutional racism and individual biases that are inherent in our systems and that must be addressed in tandem with other more operational and programmatic approaches in reducing racial and ethnic disproportionality.

This paper goes beyond the Chapin Hall paper and the symposium in that it incorporates the presentations, suggestions, and comments made by symposium panelists and participants, all of whom have years of experience working in the child welfare and juvenile justice fields.² This paper examines another aspect of the systems that contributes to the challenges laid forth that was not a part of the symposium: a review of specific policies and practices and how they impact racial and ethnic disparities and disproportionality. Finally, this paper suggests ways we can make progress in addressing these complex issues.

² *Names and affiliations of the presenters are provided in appendix A.*

Background

There is strong evidence that both racial and ethnic disparities and disproportionality exist within child welfare and juvenile justice systems across the nation. The result is an unequal and, in many instances, unjust exposure to these two systems experienced by all the children, youth, and families, particularly those of color, who should and need to be able to count on the supports that will allow them to achieve a stronger, more positive foothold in their lives. The 120 symposium participants from across the juvenile justice and child welfare fields came together to continue correcting this situation and exploring ways that the two systems could work together in doing so.

Both the paper and the panelists addressed the issues of racial disproportionality and the interrelationship between the two systems. Research shows that children and youth who have been abused and/or neglected are at elevated risk of becoming delinquent (Widom, 1989; Wiig, Widom, & Tuell, 2003; Thornberry, Huizinga, & Loeber, 2004). Though perhaps less common, this pathway is also seen in reverse, with many youth in or leaving the juvenile justice system entering the foster care system. Because youth involved in the child welfare system are at increased risk of involvement in the juvenile justice system, there is evidence that the racial and ethnic disparities in the child welfare system increase disproportionality in the juvenile justice system (Herz & Ryan, 2008). The disproportionality in the juvenile justice system may be further exacerbated by the fact that the child welfare system and the crossover population both contain a disproportionate number of minority youth (Herz & Ryan, 2008). It is essential that these systems begin to work in a more integrated and effective manner with a common, genuine, and empathic purpose because "...it is apparent that the systems serve many of the same families, literally and figuratively" (Chapin Hall Center for Children, 2008). The need for a common focus was central to the keynote remarks by David Sanders, Executive Vice President of Systems Improvement at the Casey Family Programs, who stated, "...in many cases the two systems are dealing with the same kids, the same families, the same communities, and the same funding sources. So it is absolutely

imperative that the systems work together... To get the two systems focused on a single issue is... complex, but disproportionality and disparity is absolutely the right issue because it is at the heart of outcomes for children and families." The work across the child welfare and juvenile justice systems is essential, not only in confronting issues around disproportionality, but also in ensuring that all children who enter or who are at risk of entering these systems benefit from the integration of their work. A continuum of supports and services must be in place throughout the developmental path children follow into adulthood, one mutually supported by the juvenile justice and child welfare fields.

To better integrate the work of the child welfare and juvenile justice systems with the goal of achieving racial and ethnic equity, it is important to recognize that racial and ethnic disparities in both systems, and the resulting disproportionality, are affected by several factors:

- Public policies and other factors that influence decisions made at specific points in both systems and that reflect structural or institutional racism³
- Personal or individual biases
- Societal factors such as poverty, access to and effectiveness of services, inequalities in the education system, inadequate housing, and lack of access to health care, each of which may be impacted by racial and ethnic inequities

³ *Structural racism refers to "the many factors that work to produce and maintain racial inequities in America today. It identifies aspects of our history and culture that have allowed the privileges associated with 'Whiteness' and the disadvantages associated with 'color' to endure and adapt within the political economy over time. It also points out the ways in which public policies, institutional practices, and cultural representations reproduce racially inequitable outcomes." Definition from the Aspen Institute, Roundtable on Comprehensive Community Initiatives Project on Racial Equity and Community Building (2003), Operationalizing a structural racism analysis: The structural racism theory of change process, http://www.aspeninstitute.org/site/c/huLWJeMRKpH/b.612045/k.4BA8/Rountable_on_Community_Change.htm, 003.*

This point was made repeatedly during the panel discussions and in questions and comments from the audience as well as in the conceptual framework put forward in the Chapin Hall paper on page 32. Although poverty and the constellation of other issues that accompany it often contribute to racial and ethnic disparities and disproportionality in both systems, these disparities and the resulting disproportionality remain even when controlling for poverty. Addressing poverty at the local, state, and federal levels is essential and would likely reduce racial and ethnic disparities and disproportionality in both systems, but addressing this issue alone will not create the racial and ethnic equity we desire. Attacking poverty must not be a substitute for working directly to address racial and ethnic disparities, and should not in any way delay our work at these other levels.

The Chapin Hall paper provides five general strategies to frame the work of addressing racial disparities:

- Increasing transparency
- Re-engineering structures and procedures
- Changing organizational culture

- Mobilizing political leadership
- Partnering in developing community and family resources to impact both of these systems

In this paper we examine some of what has been done, and what can be done in the future, at the federal, state, and local levels to address these five strategy areas as well as to impact the societal factors referenced above. The goals, therefore, become multi-level:

- Change the policies and practices at various decision points that can reduce racial and ethnic disproportionality
- Change the policies and practices on a societal level that will help to achieve greater racial and ethnic equity

Because of the overlap inherent in these five strategy areas and in the policies and procedures related to addressing each, the reader may find that some of the following proposals could easily relate to efforts in more than one of the strategy areas.

Increasing Transparency⁴

Federal Role

In the 1990s, the federal government enacted policies aimed directly at increasing the transparency of disproportionality in the juvenile justice system. The Juvenile Justice and Delinquency Prevention (JJDP) Act includes specific requirements that states determine the level of racial and ethnic disproportionality within their juvenile justice systems and take measures to address the problem. Although this was an important first step, there is recognition in the field that it does not go far enough. Increasing transparency is more than data collection. True transparency necessitates improving use of the data, evaluation, and analysis in both systems. A number of panelists focused on the issues of data collection and data use. In addition to stating that data collection in and of itself was only the beginning of a strategy, Mark Soler, Executive Director of the Center for Children's Law and Policy, indicated that he would like to see much more robust data collection efforts undertaken. There is no substitute for data that can be analyzed both jurisdictionally at the local level, as well as at the individual level. Describing the problems of disparate treatment and disproportionate minority representation in the juvenile justice and child welfare systems as "an onion that we have to keep peeling," Mr. Soler argued that "the problem with the federal requirement now is that it keeps us at the top of the onion and people are not motivated to dig deeper into it." Many of Mr. Soler's suggestions on how to achieve better, more useful data are under consideration in the current work to reauthorize the JJDP Act.

The information collected must also be accurate and accessible to communities, families, policymakers, and caseworkers across systems of care to enable them to improve services and systems. Aggregate data can and should be available to the public. Mr. Soler advocated

regulations mandating that a specific individual be responsible for ensuring that data are collected accurately and that action be required when the data indicate racial and ethnic disparities and overrepresentation. The primary goal of increased transparency is, of course, to increase system accountability and improve outcomes for clients.

By making this area of focus one of its core requirements, the JJDP Act both brought attention to this issue and prompted states to take action to reduce disproportionate minority contact in their systems. Because of the many parallels between the juvenile justice and child welfare systems, there is much that the child welfare system can and should learn from the work that has already been accomplished in juvenile justice over the last fifteen years. As noted by Linda Spears, Vice-President of the Child Welfare League of America, the child welfare system can use the work of the juvenile justice system to "create mechanisms for accountability and learn from the DMC work [in juvenile justice] what's good about accountability mechanisms and what doesn't work, and really rethink what that means to create accountability through data collection."

When the Child Abuse Prevention and Treatment Act (CAPTA) is reauthorized this year, Congress should consider incorporating language requiring states to collect data on the extent of disproportionality within their child welfare systems and to develop an action plan for addressing this disproportionality where it is found to exist. However, CAPTA could go beyond what the JJDP Act currently requires by insisting that an action plan be developed with specific progress measured toward meeting the goal of reducing disproportionality. These measures could also be included as part of a revised Child and Family Service Review (CFSR) instrument. CFSRs are meant to be an accountability-based system of federal oversight that measures outcomes related to child safety, permanency, and well-being. In the last panel discussion of the day, Jane Morgan, Director of the Capacity Building Division of the Children's Bureau, stated that "at the

⁴ When discussing increasing transparency, the Chapin Hall authors refer to developing management information systems that are able to collect race and ethnicity information and cross agency boundaries (Chapin Hall Center for Children, 2008).

federal level, we see this [the Child and Family Service Reviews] as one of our opportunities to drive some of this change we're talking about." If the measurement and reduction of disproportionality were added to CFSRs, the federal government could hold states accountable for not making measurable progress in addressing this issue. Similar measures could be included in the reauthorization of the JJDP Act, and in fact, as of this writing, Congress is considering including similar provisions. If both systems had similar requirements and measurements, it would be far easier to bring them closer together through a shared data system.

Although many of the requirements regarding what data must be collected and potentially how it will be used will likely come from the federal government (which has funding to leverage these requirements and create some level of uniformity across states), much of the work will be left to the states and local jurisdictions. To ensure that states and localities have the capacity to collect and analyze data under these new or expanded requirements, the federal government will need to partner with the states in both the juvenile justice and child welfare arenas and provide financial support to develop the means to establish or upgrade the systems necessary to comply with new regulations.

Data collection is a critical and necessary first step to understanding what is occurring. However, it is not enough to simply have the data. The data must be interpreted accurately in order to develop the policies and procedures that will best serve the needs of children and families of various racial and ethnic backgrounds who are receiving services. When the data questions are developed, strategies formulated, and changes monitored over time, racial and ethnic communities need to be at the table to help policymakers and practitioners understand the issues. In the past, omission of these participants in the planning and running of these data systems has contributed to policies, practices, and inquiries that do not meet their needs and that contribute to racial and ethnic inequities. This issue will be discussed in greater depth later in this paper.

State and Local Role

The states and local jurisdictions must also work to improve transparency, because much of the data

collection will take place at those levels. States can aid in these efforts by adopting policies, regulations, and legislation that support data collection and by eliminating or revising provisions that impede increased transparency. Support for such efforts from state leadership will be essential if it is to be successful. In some jurisdictions, one area where work to increase transparency is moving forward—and should be encouraged—is in information sharing among the child welfare, juvenile justice, and other youth- and family-serving agencies. Evidence is growing that increasing the ability of agencies to share information appropriately can lead to improved outcomes for youth. Unfortunately, many agencies are reluctant or are unable to share information, often resulting in negative consequences for youths and for the community as a whole. Appropriate identification of the children and youth known to both systems could ensure enhanced, joint case planning and management, as well as more effective cross-systems provision of services.

Increasing transparency at the state and local levels goes beyond data collection mandated by the federal government. Better integration of the juvenile justice and child welfare systems, as well as other youth- and family-serving systems at the state and local levels—though difficult—is needed. The symposium presenters agreed that it is essential work in improving outcomes and reducing disparate treatment and disproportionality in both systems. Joyce James, Assistant Commissioner for Child and Protective Services, Texas Department of Family and Protective Services, said it this way: "The data and research that the University did convinced me that this was not an issue that child protective services could tackle alone. And it wasn't just our problem. It would require a community response as well as a response from other family- and child-serving systems that would be absolutely necessary if we were going to make any progress." In addition to Texas, several states have enacted laws requiring reports on disproportionality in the child-serving systems, with Michigan specifically mandating an evaluation of both child welfare and juvenile justice. These states are leading the way with laws that require an evaluation of the data, a remediation plan with measures for improvement, and an annual report on progress demonstrated by the data.

Re-Engineering Structures and Procedures⁵

Federal Role

Though much of the re-engineering of structures and procedures must inevitably occur at the state and local levels, Congress could greatly strengthen the permanency and well-being of many of the children in foster care if it were to provide the kind of supports contemplated in several pieces of pending legislation. Sonja Nesbit, who works for the majority on the Subcommittee on Income Security and Family Support of the House Committee on Ways and Means, discussed legislation that ultimately became the Fostering Connections to Success Act sponsored by Congressman Jim McDermott and later signed into law by President Bush. She stressed the importance of various provisions in the bill essential to supporting kin. Similar bills in the Senate include the Kinship Caregivers Support Act and the Improved Adoption Incentives and Relative Guardianship Support Act. Some of the provisions in these bills that have the potential to address racial disproportionality in child welfare include the Kinship Navigator Program, Subsidized Guardianship, notice to relatives, expanded respite care services for relative foster parents, support for family-finding models as an alternative to out-of-home nonfamily placements, separate licensing standards, and guardianship incentive payments. Federal legislation allowing states to provide supports to kin would likely reduce the number of children placed with unrelated foster parents and reduce the number of placements children in the foster care system experience. Because children of color are more likely to enter the formal foster care system and be placed outside their homes, increasing the number of these children placed with family members would reduce disproportionality in the child welfare system and the eventual pathway that many follow into the juvenile justice system (Hill, 2006).

⁵ According to the authors of the Chapin Hall paper, "Systems...review their own processes and procedures on a routine basis to determine whether they contribute to disparities, and when they identify aspects of their own structure or process that could generate disparity, they re-design them" (Chapin Hall Center for Children, 2008).

The bottom line is, just because the federal government says you should do it, it is not going to happen unless there are other kinds of supports in place.

A debate is currently taking place on the federal Multi-Ethnic Placement Act (MEPA) of 1994 and the 1996 amendments to this Act. MEPA mandated that neither race nor ethnicity should be considered when foster placements are made. MEPA also mandated that an increased effort be made to find and recruit potential foster families of color. Kay E. Brown, Acting Director for Education, Workforce, and Income Security with the Government Accountability Office (GAO), noted that MEPA has had mixed results. Many states have been unsure exactly how to interpret the "colorblind" provisions and have not had success recruiting foster families of color. Ms. Brown suggested, "The bottom line is, just because the federal government says you should do it, it is not going to happen unless there are other kinds of supports in place."

On the juvenile justice side, the reauthorization of the JJDP Act provides an opportunity for the federal government to prompt changes in structures and procedures. Amending the DMC core requirement in the legislation to require states to collect and analyze data by race and ethnicity at the local level and to make this information public would increase transparency and help focus attention on localities with the most significant DMC problems. The Act might also provide funding for states to upgrade and improve their data collection systems to make this type of analysis possible. Other possible changes to the federal legislation might include requiring states to identify key decision points in the system and to develop specific, unbiased decision-making criteria to implement at these points. Currently, the JJDP Act requires states to work toward reducing disproportionate minority contact, but the requirement is very general and does not specify that the states must make progress to continue receiving

federal funds. Often, states that have made very little progress addressing this problem have not been held accountable for their lack of success. In reauthorizing the JJDP Act, a provision could be added to require states to develop and implement detailed plans of action, including measurable outcomes related to their efforts to reduce disproportionate minority contact.⁶ As noted earlier, several of these ideas are under consideration in the reauthorization legislation currently pending in Congress.

All of these proposals are likely to have a positive impact on racial and ethnic disparities and disproportionality.

State and Local Role

At the state and local levels, re-engineering structures and procedures should focus on the points in each system where decisions are made as to whether a youth enters or leaves the system and how far the youth penetrates the system. Racial and ethnic disparities can be found in both systems at numerous decision points, and the decision points in each system have parallels in the other. In the child welfare system, the major decision points include:

- The decision to report suspected abuse or neglect
- The decision to investigate
- The decision to substantiate such reports
- The decision to allow a child to remain in the home and provide supports or services to the family or remove the child from the home and place him or her in out-of-home care
- The decision to return the child to the family, maintain the child in out-of-home care, or terminate parental rights and seek another permanent home for the child

The decisions of mandatory reporters, such as hospitals and schools, to report a suspected case of abuse or neglect may also vary systematically and be affected by factors such as neighborhood, race, and income level, which could result in disparate treatment and increased disproportionality. In addition, the effort expended to find

⁶ These suggestions, among others, are laid out in the Coalition for Juvenile Justice's Platform Position Regarding Reauthorization of the Juvenile Justice and Delinquency Prevention Act, available at http://www.juvjustice.org/media/resources/resource_146.pdf.

suitable family members for a child to stay with, rather than place the child in the formal foster care system, is also an important point where racial and ethnic disparities can be found and disproportionality may increase. In the juvenile justice system, parallel decision points include:

- The decision to warn or divert, cite and release, or arrest
- The decision to release or detain
- The decision to divert cases from the formal process or to file charges, as well as the number and type of charges filed
- The decision to release, monitor electronically, utilize home supervision, or place in locked facilities
- The decision to return the youth home and to the community

Institutional and structural racism, as well as personal biases, have the potential to impact decision making in each of these structures and in each of these levels.

Other systemic decisions that may influence racial and ethnic disparities and disproportionality include things like where and in what number police are deployed and the size of probation officers' caseloads. Historically, research has indicated that as youths progress deeper into each system, disproportionality also increases, though recent research indicates that early decision points may be larger contributing factors than later decision points. Referring specifically to disparities created by the structures, procedures, and policies of the systems as a whole, and not primarily to the decisions of individual caseworkers, Denette Derezotes, Executive Director of the Race Matters Consortium, points out, "Institutional and structural racism, as well as personal biases, have the potential to impact decision making in each of these structures and in each of these levels." Raquel Mariscal, Senior Consultant for the Juvenile Detention Alternatives Initiative at the Annie E. Casey Foundation, agrees, citing lack of cultural understanding as well as racism as factors influencing decisions made at these points.

There is a need for objective and race-neutral decision-making criteria at each decision point. In many jurisdictions, unrestrained decision-making discretion on the part of caseworkers, brought about by the lack of specific, codified decision-making criteria causes increased disproportionality. Even when objective and race-neutral criteria are in use, however, the system may not provide alternatives that take into account situations that are more frequently present in distressed communities, predominantly communities of color. This can result in the institutional or structural racism referenced frequently in the literature and discussed at the symposium. For example, in the child welfare system, the decision to keep a child in a home and provide services to the family, as opposed to removing a child from the home, may be the result of the availability of these services. If there is a systematic difference in the availability of support services between poor and heavily minority communities and largely White communities, this disparate treatment is likely to increase disproportionality. The disparity in the availability of services may be further impacted by the ability of wealthier families to utilize private services when public services are not available. A similar situation exists in the juvenile justice system. Because jails tend to be located in poor neighborhoods, detaining juveniles may be the easiest, most convenient response to a juvenile's actions in these communities. In other places, diversion may be just as easy. The lack of access to transportation, or the inability of a parent to leave work without threat of termination to pick up a child being held at the detention center, may lead to that youth's detention. Further, the use of telephones to remind youth and families about court appearance dates may negatively impact individuals without telephones, who are more likely to be poor and potentially disproportionately people of color. Lack of sufficient numbers of bilingual staff in family court proceedings may result in disparate treatment of Latinos and other non-native English speakers. The racial and ethnic make-up of the agency workforce and police force could also increase minority overrepresentation in these systems if cultural misunderstandings, personal bias, or racism influence the decisions of staff, police officers, courts, or service providers. Additionally, certain regulations regarding the release of a detained youth, such as into whose custody they may be released, may increase the likelihood that a poor youth of color remains locked

up overnight whereas a wealthier White youth may be released without being detained.

The second step in the departmental effort to address DMC is to map the key decision points affecting decisions to arrest, book, detain, release, and place.

A careful and systemic review of procedures at various decision-making points in both systems, with a focus on the potential for these procedures to lead to disparate treatment, must be undertaken. For example, risk assessment and safety tools believed to be objective can lead to disparate treatment if they, in fact, contain unrecognized inherent biases. Judith Cox, Chief Probation Officer in Santa Cruz County, California, cites certain underlying biases in policies, such as adding extra risk points for gang involvement or lack of employment, that may result in the detention of a disproportionate number of youth of color (Cox, 2000). In his presentation, Jim Stegmiller, project consultant for the Juvenile Detention Alternatives Initiative (JDAI) in Multnomah County, Oregon, stressed the importance of mapping decision points in the juvenile justice system and collecting good data at each point to assess where racial and ethnic disparities are occurring. This decision point mapping and data collection play a key role in increasing the transparency in each system. Ms. Cox agrees: "The second step in the departmental effort to address DMC is to map the key decision points affecting decisions to arrest, book, detain, release, and place" (Cox, 2000). Ms. Cox also stresses that if data are not available, for example, by ethnicity, a plan to collect the data must be established. After baselines are established, a trend line should be used to help determine whether progress is being made (Cox, 2000). Of course, the same type of comprehensive set of actions comprising an approach such as JDAI also applies to the child welfare system in terms of decisions to investigate, substantiate, and remove children from the home or reunify them with their families. Again, this decision point mapping and data collection may be a place where the two systems can learn from one another. Many jurisdictions have undertaken these tasks in their juvenile justice and child welfare systems, with some states mandating the reviews by law.

In addition, approaches such as JDAI have been working to develop methods—largely through the use of reliable, objective risk and safety assessment tools and the establishment of a strict set of criteria to be met at each decision point—to reduce the number of youths entering the formal juvenile justice system. Mr. Stegmiller attributes a large part of the drop in the number of youth detained in Multnomah County’s juvenile justice system (from about 2,000 in 1992 to 600 in 2003) to the careful analysis of decision points and the use of specific detention criteria. Increasing the availability of alternative options to detention is also an important factor in reducing the number of children who enter the formal system. Child welfare systems across the nation that are reducing the number of children in foster care are mirroring this work in many ways. In addition, as child welfare systems begin to make progress in these areas, their learning will prove useful to juvenile justice systems in the development of community-based resources for both systems.

In addition to examining racial and ethnic disparities occurring at specific decision points, it is important to look for broader structural biases and specific statutes or policies that may lead to these biases. Ms. Mariscal described how zero-tolerance policies in schools are criminalizing behavior that used to be handled solely within the schools through disciplinary action. These policies will lead to increased racial and ethnic disproportionality if more police resource officers are assigned to schools located in minority neighborhoods or if these police are more likely to arrest students involved in school fights than officers in primarily White schools. Skiba and Rausch (2006) have pointed out that where there is more discretion (e.g., “threats” compared to “weapons offenses”), there is more racial and ethnic disproportionality. Other policies—such as the treatment of gang-involved juveniles or juveniles in the proximity of gangs, or discretion related to the decision to label juveniles as gang members and charge them as such (e.g., through the use of “sweeps”)—can also cause disparate treatment and increase racial and ethnic disproportionality.

Changing Organizational Culture⁷

Federal Role

As Chapin Hall makes clear in its paper, changing organizational culture is another important aspect of reducing racial and ethnic disparities. This topic was touched on by a number of speakers in a variety of ways and resonates strongly across both systems. Addressing cultural misunderstanding, insensitivity, and personal bias is one aspect of changing organizational culture. Ms. Derezotes and Ms. Mariscal both pointed to personal and system bias as issues requiring immediate attention. Federal regulations and legislation can act as a stimulus to encourage change on the local level. The Juvenile Justice and Delinquency Prevention Act spurred many state and local agencies to change the way they approached racial and ethnic disproportionality by elevating the issue to a core requirement for federal funding. While this only indirectly changes organizational culture and does so over a potentially long period of time, it is a significant step. The development of further federal requirements, such as demanding action plans with measures of progress and public reporting to address racial and ethnic disproportionality in child welfare—and improving accountability standards in both systems—would help change organizational culture over time. Federal agencies can model organizational change by promoting an internal examination of and improvement in institutional or individual biases that contribute to the development of policies and procedures that fail to promote racial and ethnic equity.

The federal government can also help change organizational culture by conducting trainings and providing technical assistance. These trainings should be highly sensitive to the fact that the lens through which many in the dominant culture view the world has inherent biases and that cultural norms may differ among different racial and ethnic minorities. These differing norms must be

respected. Both the Office of Juvenile Justice and Delinquency Prevention (OJJDP) and the Children's Bureau should expand the roster of training and technical assistance topics already offered to localities to include cultural norms, institutional racism, and best practices from around the nation relevant to disproportionality. The U.S. Department of Justice can contribute to organizational change through its activities on reducing language barriers and ensuring equal access to the courts.

State and Local Role

Ms. James and Joe E. Smith, the associate district court judge of the juvenile court in Des Moines, Iowa, highlighted the opportunity to change organizational culture at the state and local levels. Both Ms. James and Judge Smith discussed the value of appropriate staff training, such as the Undoing Racism workshops offered by the People's Institute, as a major component in this change.⁸ Texas has already trained almost 2,000 staff, youth, parents, and community members through the Undoing Racism workshops, and has done so across the child welfare and juvenile justice systems. In addition, jurisdictions must ensure they have the resources available to provide proper support and legal representation to children and families of all races, ethnicities, and cultures. Ms. Mariscal pointed to language as one potential barrier, particularly for Latinos. She cited a case where the younger sister of a Latino teen facing court proceedings had to serve as a legal interpreter because no other interpreter was available. Though this incident is anecdotal, it is believed by many to be representative of a larger pattern and is a good example of disparate treatment that is likely to increase racial and ethnic disproportionality.

Perhaps the most urgent shift in organizational culture, however, is how the systems view—and work with—the

⁷ "...efforts have been designed to influence the attitudes and values of agency staff in order to shape organizational culture in ways that identify and reduce disparities" (Chapin Hall Center for Children, 2008).

⁸ Though these comments were made in the context of work occurring at the state level, federal policymakers could also benefit greatly from these trainings.

families and communities they serve. A recent survey distributed by the Center for Juvenile Justice Reform to members of the Council of Juvenile Correctional Administrators and the American Probation and Parole Association found that family engagement proved to be one of the most important operational issues (along with community-based services and aftercare) facing local agencies, and the most difficult issue for these agencies to address. It was also ranked as the most significant concern regarding institutional care (with lack of available community services ranked as the most significant challenge within probation).⁹

Family group decision making and similar practices found increasingly in both the child welfare and juvenile justice systems empower families and communities, make them a part of the process, and give them a say in outcomes rather than establishing an often adversarial relationship in which the agency dictates outcomes to them.

Ms. Cox recommends conducting customer surveys to help eliminate barriers to family engagement (Cox, 2000). But the shift in how these systems relate to families and communities must go even further. Many panelists stressed the need to truly engage communities, to assess their needs, and to develop a system based on the strengths of families rather than on their deficits. Ms. Derezotes pointed out that these families and communities have strengths and resources and understand their needs better than the “so-called experts” because the experts are making decisions without understanding the culture within which the people live. She argued that agency officials must work more closely with these communities. “I wouldn’t say develop community and family resources, I would see that as an outcome. But ultimately we need to focus on truly having authentic partnerships with those communities to understand, number one, really deeply what their needs are and then create the community and family resources based on how they identify their needs along with our expertise. Not our expertise imposed on

them.” This is a perspective that cuts across both child welfare and juvenile justice.

Full community engagement is also necessary to build trust between the communities and the agencies and improve outcomes for children, youth, and families. Elizabeth Kromrei, Director of Staff Services for Child Protective Services for the Texas Department of Family and Protective Services, discussed how Texas is using family group decision making to ensure that families have a voice in the process and in the decisions made concerning the placement of, or supportive services for, children. Ms. Kromrei indicated that the use of this process has reduced the number of out-of-home placements of children, has led to more placements with kin rather than formal entrance into the foster care system, and seemed to have had the most positive impact among African American and Latino communities. Family group decision making and similar practices found increasingly in both the child welfare and juvenile justice systems empower families and communities, make them part of the process, and give them a say in outcomes rather than establishing an often adversarial relationship in which the agency dictates outcomes to them. Though the evidence is limited, family group decision making appears to reduce racial and ethnic disparities and improve outcomes for children and youth (Crampton & Jackson, 2007). Ms. James believes that taken together, all of these reforms are leading to a “philosophical shift in the way we do our work and our attitudes toward families and young people.”

Another difficult aspect of changing organizational culture is continuation of the shift in the way the juvenile justice system views its mission. An essential part of this mission is, and always will be, to protect the community from dangerous individuals. Because none of these children are “throw-away” kids, the juvenile justice system must focus on addressing their needs from a child and youth development perspective, rather than one focused predominantly on punishment. An increasing number of juvenile justice systems around the nation, including in the jurisdiction where the symposium took place (Washington, D.C.) have already taken this philosophy to heart. Others are not yet there. This shift in philosophy will make integrating the operation of the child welfare and juvenile justice systems easier and more effective and will

⁹ Full survey results are available at <http://cjjr.georgetown.edu/resources.html>.

improve outcomes for these youth, their families, and the community.

Lastly, in addition to reconsidering and altering the way agencies train their staff, the way they interact with and engage families and communities, and the way they view their missions, agencies must examine the way their cultures influence their interactions with each other. Mary Nelson, Administrator for the Division of Child and Family Services, Iowa Department of Human Services, described some of the work that Iowa has undertaken to better integrate its youth- and family-serving systems with the goal of reducing racial and ethnic disproportionality and improving outcomes. In 2004, Iowa redesigned its child welfare system and created the Minority Youth and Families Initiative, building on a foundation of progressive integration and state leadership. Through an early effort called “de-categorization,” designed to promote local community planning and encourage the juvenile justice and child welfare systems to work together more closely, local child welfare directors began meeting with juvenile justice officials on a bimonthly basis to build relationships and cross-systems initiatives to divert youth from entry into their systems. In addition, the Iowa Collaboration for Youth Development, which also includes public health, education, and workforce development, focuses on ways to promote positive youth development. In 2002, the DMC Resource Center was established at the University of Iowa, School of Social Work’s National Resource Center for Family Centered Practice, to work on strategies to reduce racial and ethnic disproportionality in both child welfare and juvenile justice. These efforts have been possible through dedicated leadership in the state. The governor has charged these agencies to work together, and this integrative approach has been supported by the Iowa supreme court and legislature. Michael Ware, Director

If you’re really going to solve this problem, you need to be involved in all these systems...In order to deal with disproportionality, you have to have all systems working.

of Family Services for Self Enhancement, Inc., based in Portland, Oregon, said, “If you’re really going to solve this problem, you need to be involved in all these systems...In order to deal with disproportionality, you have to have all systems working.” And Ms. Nelson said,

It isn’t just training, although we’ve done that; it isn’t just creating programs, and those are good as well. It really takes...multiple levels, across systems...sustained efforts in multiple different directions at the same time to keep the effort moving forward...Education and mental health, I think, are absolutely critical partners... The children and families, they have to be part of the solution...Partnering with the community is absolutely essential.

Mistrust, misunderstanding, and protection of turf, which exist among the child welfare, juvenile justice, and related systems, must be addressed to improve outcomes for youth and their families. Perceived differences in mission, tensions over which agency is responsible for which youth and services, and concerns over funding contribute to the atmosphere of mistrust. Sometimes agencies simply do not know enough about the work of other agencies to work together effectively. Building trust among agencies, and bringing them together with families and community so they can work collectively to improve outcomes, is a vital element in changing organizational culture.

Mobilizing Political Leadership¹⁰

Federal Role

Mobilizing political leadership is an essential step to begin the process of reducing disparate treatment of youth of color in these systems. The process starts with the prioritization of this issue by political leaders in the executive and legislative branches of the federal government. Many of the federal actions related to the five strategies discussed in this paper will never occur if the political leaders at the highest levels of our government are not willing to take on the challenges of attacking the disproportionate representation of children of color in our child welfare and juvenile justice systems. Perhaps most importantly, the process must include an honest and forthright dialogue led by officials in our federal government on the societal factors that lead to racial and ethnic disproportionality, including the issues of institutional racism and individual biases. This dialogue should include the President, Congress, and federal agencies, in particular the U.S. Departments of Health and Human Services, Justice, Education, Labor, and Housing. The discussion should focus on the policies the executive and legislative branches must develop and support to address these issues and the changes needed to make agency programs more successful.

The federal government can also assist in leadership development and mobilization at the state and local levels, as noted by Ms. Morgan, Director of the Capacity Building Division at the Children's Bureau, through initiatives such as a new federally funded child welfare leadership institute at the University of Utah. This institute trains middle managers on cultural competency, racial and ethnic disproportionality, and reduction of disparate outcomes. The Office of Juvenile Justice and Delinquency

Prevention has a similar capacity to reach both middle managers and agency leaders through its training and technical assistance programs. Because leadership at the very top of organizations is comparatively unstable and changes with new administrations, to truly institutionalize changes in these agencies and systems it is essential to have well-trained agency leaders and middle managers.

State and Local Role

To make true systemic change, you must develop leaders who are committed to addressing the issue.

The issue of effective and dedicated leadership is discussed in the Chapin Hall paper and was addressed by nearly all of the symposium panelists. In Texas, after finding that bias existed in the State's child welfare system, the Department of Family and Protective Services decided to focus on leadership. As Ms. James stated, "To make true systemic change, you must develop leaders who are committed to addressing the issue." Ms. Cox has also stressed the importance of strong and committed leadership: "The first step in getting started at the agency level is that the administration must embrace the reduction of DMC as a key organizational objective. Accordingly, departmental resources; personnel practices (recruitment, hiring, and training); outcome indicators; and service and program strategies must all support the effort" (Cox, 2000). Santa Cruz has made significant strides in reducing the overrepresentation of Latinos in its juvenile justice system. Between 1997–98 and 2000, Santa Cruz reduced the percentage of its secure juvenile population that was Latino from 64 percent to 46 percent (Cox, 2000).

Leadership becomes even more important when attempting to integrate multiple systems in a collaborative effort. This fact was made clear by Dr. Sanders, when he pointed to the work of Judge Michael Nash in Los Angeles County. Dr. Sanders stated, "There are legitimate

¹⁰ "In both the child welfare and juvenile justice systems, effective leadership is critical for sustaining large-scale change efforts that require the participation and support of, and partnership with, multiple organizations and service sectors, including the judiciary, prosecutors, defense bar, social services, mental health, and substance abuse treatment providers, as well as community organizations" (Chapin Hall Center for Children, 2008).

structural differences between the two systems, but the court... can be key in providing leadership to bring the two systems together, and there are financial incentives to work together.” Over nine years, Los Angeles was able to reduce the number of children and youth in foster care from about 48,000 to 19,000. The reduction was greatest among African American children. Dr. Sanders gave a lot of credit to the leadership of the courts and of Judge Nash in particular, indicating that if the court takes the position that the systems are going to work together, then the systems will find a way to do so. Over the past two years, Los Angeles County has undertaken a separate initiative to bridge the gap between the child welfare and juvenile justice systems. One anticipated goal of this effort is the reduction of racial and ethnic disproportionality. And as discussed previously, Iowa’s multi-systems approach to reducing minority overrepresentation had the backing of the governor, the legislature, and the courts. Indeed, the legislature of the state of Iowa was the first to pass legislation requiring the Department of Human Rights to develop a protocol for analyzing the impact of legislation on minorities and complete a racial impact assessment (2008 HF 2393 Minority Impact Statements).

Partnering in Developing Community and Family Resources¹¹

Federal Role

While much of the work to re-engineer structures and procedures and change organizational culture occurs at the local level through the work of grassroots organizations and strong local leadership, the federal government can help foster an environment in which this work can occur by supporting the development of community and family resources. In this regard, there are multiple roles the federal government can and must play, both in its interactions with state and local governments and on its own in helping to eliminate racial and ethnic disparities and disproportionality. In addition to providing a framework for addressing the racial disparities that occur at specific decision points within each system by helping states and localities with the four strategies outlined above, the federal government must also work to address the overarching societal issues that lead to disparities and disproportionality in our child welfare and juvenile justice systems. Of importance in this area of focus is the federal government's role in setting policies and partnering in developing community and family resources.

We know, for example, that societal issues, such as poverty, distressed communities, and all that generally accompany them—poor schools, inadequate housing, high levels of unemployment and underemployment, and high levels of addiction—increase both the risk that a child will enter the foster care system¹² and the chances that he

or she will become involved in the juvenile justice system. Because minorities are overrepresented in poor and distressed communities, these factors are likely to contribute to children of color being overrepresented in the child welfare and juvenile justice systems as well. Other factors, including cultural insensitivity, cultural misunderstanding, personal bias on the part of social workers and other system officials, and structural racism, also contribute to disparities and disproportionality in these systems. In order to fully address the causes of racial and ethnic disproportionality within these two systems, therefore, we must find ways to address both societal issues and those related to systemic and personal bias. Both paper commentators, Ms. Mariscal and Ms. Derezotes, addressed these issues even further, discussing the interplay between the societal issues and the decisions at specific points within the two systems.

If we, as a nation, are serious in our stated desire to level the playing field for children of color, to provide equal opportunities for all our children to succeed, and to reduce the overrepresentation of children of color in our child welfare and juvenile justice systems, one of the top priorities for the federal government must be to address these issues at the societal level by reducing the number of children and families living in poverty. In 2005, approximately 25 percent of African Americans, 22 percent of Latinos, and 17.6 percent of children in the United States lived in poverty (DeNavas-Walt, Proctor, & Lee, 2006). What's more, about 35 percent of the poor in this country are children.¹³ Addressing this overarching societal issue, which disproportionately affects minority families and indirectly leads to racial and ethnic disproportionality in our child-serving systems, requires a great deal of political will. However, we must work toward the goal of lifting families out of poverty as a key strategy in making progress on the disproportionality issue. What follows are

¹¹ "The issues of poverty, family violence, poor housing, poor health care, educational failures, crime, drug abuse, and neighborhood disorder are inevitably bound up with the problems that propel children and youth into the child welfare and juvenile justice systems... The work to improve outcomes for children and youth from overrepresented groups is inseparable from other efforts to foster community and family well-being" (Chapin Hall Center for Children, 2008).

¹² For a brief review of the literature surrounding this issue see Harris, M. S., & Hackett, W. (2008), *Decision points in child welfare: An action research model to address disproportionality*, *Children and Youth Services Review*, 30(2).

¹³ National Poverty Center, University of Michigan, <http://www.npc.umich.edu/poverty/>. Accessed on July 8, 2008.

brief descriptions of ways the federal government can take a leadership role on both a policy and programmatic level.

In terms of federal policy, for example, the way we measure poverty in the United States is largely unsatisfactory to those adhering to both conservative and progressive political constructs. Reforming these measures is politically difficult, but the federal government should nevertheless immediately undertake this effort in order to meaningfully impact the lives of children and provide opportunities for all families to fully participate in today's society. The creation of an effective poverty measure will ensure poverty reduction programs that better target their services to those who are at greatest risk of involvement with the child welfare and juvenile justice systems due to a lack of community resources.¹⁴

The work to improve outcomes for children and youth from overrepresented groups is inseparable from other efforts to foster community and family well-being.

In addition to changing the way we measure poverty, we must also expand our poverty reduction efforts. As the authors of the Chapin Hall paper state, "The work to improve outcomes for children and youth from overrepresented groups is inseparable from other efforts to foster community and family well-being" (Chapin Hall Center for Children, 2008). This issue was commented upon by a number of symposium attendees as well. For example, Marsha Wickliffe, a consultant for Annie E. Casey's Family to Family Initiative stated, "We need to get upstream, which means that we have to address the lack of wealth and good jobs, because we can do the best we can do with our systems but until we address people having real jobs that...lift them out of poverty, we're just...doing the same thing over and over again." Some efforts to raise incomes and lift individuals and families out of poverty have already proven successful. Perhaps

¹⁴ For more information on the way poverty is currently measured in the U.S., the way poverty is measured in select other countries, and proposals to reform the way the U.S. measures poverty, please see, Blank, R. M. (2007), *How to improve poverty measurement in the United States*, *Journal of Policy Analysis and Management*, 27(2); and Citro, C. F., & Michael, R. T. (1995), *Measuring poverty: A new approach*, Washington, DC: National Academy Press.

our most successful policy has been the Earned Income Tax Credit (EITC), which can and should be enhanced to benefit greater numbers of families. The federal EITC not only provides additional income to more than 22 million workers a year (costing just under \$44 billion in 2006), but it also provides a strong incentive for individuals to enter the labor market, and for many, to increase the number of hours they work. This has been especially true for single mothers who generally benefit the most from the EITC. It has led to higher workforce participation, higher incomes, and increased self-sufficiency.

A number of potential reforms to the EITC might make it an even more effective tool for reducing poverty and perhaps encouraging family formation. Perhaps the most obvious reform would be to increase the generosity of the subsidy. A related reform would be to postpone the phase-out of the credit or reduce the rate at which benefits are lowered, which would allow individuals to keep more of the subsidy as their earnings increase. This change would have the added benefit of providing an incentive to those who are able to work additional hours. Yet another possible reform would be to reduce the "marriage penalty" inherent in the structure of today's EITC by instituting separate benefit phase-out schedules for married couples and singles or by disregarding a portion of a second earner's income when computing the benefit phase-out. These and other federal poverty reduction programs might help stabilize families and prevent children from entering child welfare or becoming delinquent. Noncash transfers, including food stamps, energy assistance, child care credits, housing subsidies, and early childhood education supports, are essential to increasing stability for poor families, helping to raise them out of poverty and provide opportunities for their children to thrive.

Poverty, and the numerous societal issues that surround it, increase the chances that children and youth will enter and deeply penetrate the child welfare (Hines et al., 2004) and juvenile justice systems (Kramer, 2000; Currie, 1998). Therefore, it is essential that the federal government focus squarely on reducing the number of families in poverty and the number of children growing up poor. This effort will improve outcomes for all poor children, reduce disparate treatment of children of color, reduce racial and ethnic disproportionality, and pay future dividends for society as a whole.

The federal government must also strengthen existing legislation and provide more flexibility governing the use of funds to reduce racial and ethnic disparities in the child welfare and juvenile justice systems. For example, the manner in which funding under Title IV-E and through the Adoption and Safe Families Act (ASFA) is provided must be addressed. Continuing to tie eligibility for Title IV-E to 1996 Aid to Families with Dependent Children (AFDC) eligibility levels results in fewer children meeting eligibility requirements every year simply due to inflation. Ms. Nesbit discussed this issue, saying that many in Congress are unaware of this funding structure and, when told, are surprised. Gaps in available federal funds continue to increase, and states are expected to shoulder more of the financial burden. Federal funding must be increased, and the rules governing existing funding streams must be made more flexible. Whether abused or neglected children have access to needed funds and services should not depend on whether they live in a wealthy state that can adjust its budget to accommodate changes in federal funding or in a poor state that is forced to adjust services provided to its most vulnerable children. Until the Title IV-E/AFDC funding mechanism is updated, this will continue to be the case and, as a result of inflation, exacerbated.

Another area where the federal government may be able to directly help reduce racial and ethnic disparities and disproportionality is in the provision of additional funding for prevention efforts. Unfortunately, the amount of federal funds available for prevention programs in juvenile justice has decreased drastically since the late 1990s (CWLA, 2006). In her description of the findings of GAO's recent report on racial disproportionality in the child welfare system, Ms. Brown indicated that current inflexibility regarding the use of federal funds for prevention purposes is viewed by the states as a hindrance in their efforts to reduce racial disparities. As Ms. Brown stated, "[The] current child welfare funding structure in which the proportion of federal funds that is dedicated to payments for children in foster care compared with that that is available for prevention or diversion didn't help localities and states address these issues." The federal government should increase the funding available for prevention efforts in both child welfare and juvenile justice. This would allow states and localities to "go upstream" and address potential problems through early supports, interventions,

and diversion programs, rather than wait until problems result in children being taken from their parents' care or committing delinquent acts and becoming entangled in the juvenile justice system. Ms. James also commented on the benefits of increased flexibility regarding the use of federal funds. In her presentation, Ms. James described how Texas has developed a Strengthening Families initiative aimed at enhancing the delivery of services to families through the use of the much more flexible Temporary Assistance for Needy Families (TANF) block grant funds.

State and Local

States must also help develop both community and family resources. Returning to the idea that families and communities already have many resources and a great deal of knowledge about their own needs and strengths, local and state governments and agencies must form authentic partnerships with these communities to make the best use of existing resources. State and local governments must also leverage, utilize, and support the resources indigenous to these communities, such as local nonprofits and churches, as well as determine what resources and services are unavailable and must be developed.

To keep youth out of the formal child welfare and juvenile justice systems, or at least out of the deep ends of the systems, states and localities need to make sure that there exists in the community a "full continuum of treatment, supervision, and placement options."

If poor communities lack resources such as drug treatment and alternatives to detention, state and local agencies must work in partnership with them to understand those needs and develop these resources. To keep youth out of the formal child welfare and juvenile justice systems, or at least out of the deep ends of the systems, states and localities need to make sure that there exists in the community a "full continuum of treatment, supervision, and placement options" (Cox, 2000). As Ms. Cox writes, "A lack of post-dispositional options, and particularly culturally sensitive programs, can result in an over-reliance on secure detention by the courts"

(Cox, 2000). To reduce racial and ethnic disparities and disproportionality, we must ensure that children of color have the same access to services and supports at every decision point as White youth. Ensuring this is the case will involve allocating additional resources at the state and local levels—and likely the federal level as well; utilizing existing community resources; and helping communities to build additional capacity. This may be achieved either by creating a more formal continuum through contracted services, using those that already exist within the community such as local churches and nonprofit organizations, or weaving together a combination of both. Establishing community-based alternatives to detention (and removal from the home) and utilizing the least restrictive supervision options are essential components of reducing racial and ethnic disproportionality in both systems. Unfortunately, too often, to be eligible for services, a youth must already have penetrated deeply

into one or both systems. This is not good for children and families, nor is it a cost-effective way to provide supports.

The states also share responsibility for reducing poverty and providing other forms of family supports. Many states already have an EITC, but those that do not could institute one, and those that do could increase the benefit levels. States also have a large role to play in ensuring access to adequate health care for children and families through federal-state health insurance programs such as S-CHIP and Medicaid. States can also strive to improve the opportunities available to citizens by reducing the regressivity of their tax codes. Though much of the work of addressing societal issues such as poverty will occur at the federal level, states can also play a significant role, by strengthening their commitment to partner in federal efforts and by bolstering state programs designed to reduce poverty.

Conclusion

Some believe that racial and ethnic disproportionality in our juvenile justice and child welfare systems is inevitable, the product of societal factors beyond our control, or wrongly, that rates of abuse or neglect and juvenile crime are simply higher among communities of color.¹⁵ Some are concerned that we cannot reduce racial and ethnic disproportionality without first solving the broader societal issues to which they are related, including institutional racism, individual biases, and poverty. However, as the Chapin Hall paper, the panelists at the symposium, and this paper indicate, numerous strategies can and should be undertaken simultaneously at the federal, state, and local levels to work toward achieving racial equity in these systems. In fact, much work is already being done, and some jurisdictions have made great progress addressing these complex issues. While it is true that addressing societal issues such as poverty and all that accompanies it is a significant aspect to eliminating racial and ethnic disparities and disproportionality, attacking those issues without also addressing institutional racism and individual biases is not sufficient to eliminate the problem. Nor is it necessary that these societal problems be completely eradicated before major progress can be made reducing racial and ethnic disproportionality. Societal issues are an important piece of the solution, but they are one part of an intricate puzzle that must be pieced together to get us to our desired ends—racial equity in child welfare and juvenile justice that results in improved outcomes for all children.

In putting this puzzle together, the federal, state, and local governments will have specific roles to play in acting upon each of the five strategies outlined in the Chapin Hall paper. New or revised federal legislation, requirements, and funding, coupled with hard work at the state and local levels to evaluate current practices and implement new policies, procedures, and training, can reduce disparate treatment. Involving in a meaningful way the families and communities as well as nonprofits, churches, and other

local organizations is an essential part of addressing racial and ethnic disproportionality, as is the need for open discussions about the impact of institutional racism and bias in decision making.

That brings us to bringing the two systems together... What can we build on? Juvenile justice has been down this path a lot longer than we have and there are things to learn from them.

In addition, as the Chapin Hall paper suggests, there are numerous similarities between the child welfare and juvenile justice systems and the issues they face pertaining to disparate treatment and overrepresentation of youth of color. Many of the panelists picked up on this theme, arguing for more collaboration between the systems and a greater effort by the systems to learn from one another and build on each other's successes. Issues of leadership, organizational culture and cross-training of staff, joint case planning, funding and management, and family and community engagement all resonated strongly as areas in which the two systems could come together. As Ms. Nelson stated, "That brings us to bringing the two systems together... What can we build on? Juvenile justice has been down this path a lot longer than we have and there are things to learn from them." John Spinks, Vice-President of PACE Juvenile Justice Center in Des Moines, Iowa, explained that his organization was formed through a collaboration involving the Department of Human Services, Juvenile Court Services, the public school system, and law enforcement, and now serves as a vital resource to youth and families engaged in these systems. However, much work remains. The process requires a sustained focus on strengthening political leadership and will, developing a shared mission and values, establishing greater trust and cooperation among diverse agencies, training staff, sharing information, and navigating the complexities of agency funding.

¹⁵ *Although this may be the case under some circumstances, when societal issues such as poverty are controlled for, these disparities are greatly diminished.*

Although the effort to reduce disparate treatment and the resulting racial and ethnic disproportionality is difficult and the underlying issues that must be addressed are complex, it is not an impossible task. We can make progress through a combination of strategies and work on numerous fronts at every level of government. The problem has been well established. It is now time to move beyond research and discussion in addressing it and take immediate and sustained action to create a just and equitable juvenile justice and child welfare system for all children and youth.

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Appendix A: Event Presenters

Keynote Address

David Sanders, Ph.D., Executive Vice President of Systems Improvement, Casey Family Programs

Panel 1: Presentation of “Understanding Racial and Ethnic Disparity in Child Welfare and Juvenile Justice” and Commentaries

Bridgette Lery, Ph.D., Researcher, Chapin Hall Center for Children

Jeffrey Butts, Ph.D., Research Fellow, Chapin Hall Center for Children

Ada Skyles, Ph.D., J.D., Associate Director, Research Fellow, Chapin Hall Center for Children

Fred Wulczyn, Ph.D., Research Fellow, Chapin Hall Center for Children

Dennette Derezotes, Executive Director, Race Matters Consortium at Westat

Raquel Mariscal, Esq., Senior Consultant, Juvenile Detention Alternatives Initiative, Annie E. Casey Foundation

Panel 2: Communities Doing Promising Work in Reducing the Disparate Treatment of Children of Color in Their Juvenile Justice and Child Welfare Systems

Joyce James, Assistant Commissioner for Child Protective Services, Texas Department of Family and Protective Services

Elizabeth Kromrei, Director of Staff Services, Child Protective Services, Texas Department of Family and Protective Services

Jim Stegmiller, Project Consultant, Multnomah County, Juvenile Detention Alternatives Initiative

Michael Ware, Director, Family Services for Self Enhancement, Inc. (SEI)

Panel 3: Cross-Systems Initiatives to Address Disproportionality

Brad Richardson, Ph.D., Iowa DMC Coordinator, University of Iowa School of Social Work, National Resource Center for Family Centered Practice

Mary Nelson, Administrator, Division of Child and Family Services, Iowa Department of Human Services

The Honorable Joe E. Smith, Associate District Court Judge assigned to the Juvenile Court, Polk County, Iowa

John Spinks, Vice-President, PACE Juvenile Justice Center

Panel 4: Policy Implications for Reducing Racial Disparities and Disproportionality in Child Welfare and Juvenile Justice

Kay E. Brown, Acting Director, Education, Workforce, and Income Security, U.S. Government Accountability Office


Zulima Espinel, J.D., Counsel, Senate Judiciary Committee, Patrick Leahy, Chairman

O. Jane Morgan, Director, Capacity Building Division, Children’s Bureau, Administration for Children and Families, U.S. Department of Health and Human Services

Sonja Nesbit, Congressional Staff, House Committee on Ways and Means, Subcommittee on Income Security and Family Support

Mark Soler, J.D., Executive Director, Center for Children’s Law and Policy

Linda Spears, Vice-President, Child Welfare League of America



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