



The New York State Office of Court Administration

Attorney for the Child Contracts

and



**In collaboration with
The Appellate Division, Fourth Department
present**

**ATTORNEY FOR THE CHILD
LEGAL UPDATE**

2011

This program is supported by Federal Court Improvement Grant funding from the U.S. Department of Health and Human Services.

AGENDA
THE OFFICE OF COURT ADMINISTRATION
ATTORNEY FOR THE CHILD CONTRACTS
& CHILD WELFARE COURT IMPROVEMENT PROJECT
IN COLLABORATION WITH
THE APPELLATE DIVISION, FOURTH DEPARTMENT
Present
ATTORNEY FOR THE CHILD UPDATE

JUNE 7TH & 8TH, 2011
EMBASSY SUITES
SYRACUSE, NEW YORK

DAY ONE (CHILD WELFARE)

10:00 A.M. – 10:50 A.M.	REGISTRATION AND BREAKFAST
10:50 A.M. – 11:00 A.M.	WELCOME <i>Rachel Hahn, Esq.</i> Coordinator, OCA Attorney for the Child Contracts
11:00 A.M. – 12:00 noon	AGING OUT OF FOSTER CARE <i>Erika Leveillee, MA</i> Youth in Progress Coordinator Adolescent Services Resource Network University of Albany
12:00 noon – 1:00 P.M.	EDUCATION LAW <i>Judith Gerber, Esq.</i> Staff Attorney Legal Aid Bureau of Buffalo, Inc.
1:00 P.M. – 2:00 P.M.	LUNCH
2:00 P.M. – 3:40 P.M.	DISPROPORTIONATE MINORITY REPRESENTATION <i>Khatib Waheed, MEd</i> Senior Fellow, Center for the Study of Social Policy <i>Toni Lang, PhD</i> Deputy Director Permanent Judicial Commission on Justice for Children
3:40 P.M. – 3:50 P.M.	BREAK
3:50 P.M. – 5:05 P.M.	RECENT DEVELOPMENTS IN CHILD WELFARE <i>Margaret Burt, Esq.</i> Attorney in private practice, specializing in child welfare
5:30 P.M. – 7:15 P.M.	RECEPTION
7:15 P.M. – 9:00 P.M.	DINNER

DAY TWO

8:00 A.M. – 9:00 A.M.	BREAKFAST
9:00 A.M. – 10:00 A.M.	THE DISPOSITION PHASE OF DELINQUENCY CASES <i>Stephen Weisbeck, Esq.</i> Director, Juvenile Justice Division Legal Aid Society of Rochester
10:00 A.M. – 11:00 A.M.	TRAFFICKING & PROSTITUTION <i>Elizabeth Fildes</i> Erie County Sheriff, Deputy
11:00 A.M. – 11:15 A.M.	BREAK
11:15 A.M. – 12:45 P.M.	ETHICS AND CONFLICT ISSUES <i>Gary Solomon, Esq.</i> Director of Legal Support The Legal Aid Society (NYC), Juvenile Rights Practice
12:45 P.M.	BOX LUNCH

The Appellate Division, Fourth Department has been certified by the New York State Continuing Legal Education Board as an Accredited Provider of continuing legal education in the State of New York from March 2, 2011 to March 1, 2014. This program has been approved for a total of nine (9) credit hours, of which three and one-half (3.5) hours can be applied toward the skills requirement, three (3) hours can be applied to the professionalism and ethics requirement, and two and a one-half (2.5) hours can be applied toward professional practice (family law) requirement. This program is suitable for experienced and newly admitted attorneys.

Destination:

Embassy Suites Hotel
6646 Old Collamer Road
East Syracuse, New York 13057
Tel: 1-315-446-3200

Driving Directions: (From the Embassy Suites Hotel Website)

From 81 North or South take I-90 East. From NYS Thruway (I-90), take Exit 35 to Carrier Circle, follow traffic circle to RT 298 East. Take first left off of 298 East onto Old Collamer Road South and continue through stop sign. Hotel is on the right at the end of the street. From Airport take 81 South and follow above directions.

Disproportionate Minority Representation

**Khatib Waheed, MEd
Toni Lang, PhD**

Tuesday, June 7, 2011

Khatib Waheed

Khatib Waheed is a Senior Fellow, at the Center for the Study of Social Policy (CSSP) in Washington, DC. He joined the staff in October 2003 to lead CSSP's involvement with the Alliance for Racial Equity in Child Welfare (formerly Casey-CSSP Alliance for Racial Equity in Child Welfare). The Alliance was established to develop and implement a national, multi-year campaign to address racial disparities and reduce the disproportionate representation of children from certain racial or ethnic communities in the nation's child welfare system.

Prior to his work at CSSP, Khatib was a Senior Associate at the Aspen Institute Roundtable on Comprehensive Community Initiatives where he helped to develop "frameworks" or approaches for analyzing and explaining how the combined effects of structural racism, poverty, inadequate community resources and family behavior work to perpetuate long term disadvantage for African American and other children, families and communities of color. During this same period he also served as the Special Assistant to the Director, Missouri Department of Social Services, where he established and led a multi-agency coalition to reduce youth violence, drug trafficking and teen pregnancy in the St. Louis area.

In 1989, with support and funding from the Danforth Foundation and the Missouri Departments of Mental Health, Social Services, Education and Health, Khatib was able to start the Walbridge Caring Communities Program in a North St. Louis neighborhood called Walnut Park. The program was subsequently expanded to 20 schools in St. Louis and 100 throughout Missouri, receiving state-wide, national and international renown as an innovative approach for delivering multiple family centered services, from a school-based setting, to families whose children were at-risk of failing in school and being placed in foster care or juvenile detention. The Caring Communities Program model has been studied and written about in numerous publications and books and has been replicated both nationally and internationally.

Khatib has received numerous awards for his service to children, families and communities and holds a M. Ed. from the University of Missouri – St. Louis and a B.A. in History and Political Science from Webster University, with a Missouri Secondary Education Teaching Certificate in Social Studies. He has participated in policy briefings at the White House, testified before Congress and attended several National Governor's Association Conferences about the needs of children and families. He is also a past participant in the International Initiative for Children, Youth and Families, which allowed him to visit both the Netherlands and Israel to network with policy makers, field experts and researchers representing fifteen countries about developing policy aimed at strengthening families and neighborhoods.

Toni A. Lang

Toni Lang is the Deputy Director of the New York State Permanent Judicial Commission on Justice for Children. The mission of the Commission, under the leadership of its chair, Former Chief Judge Judith Kaye, is to improve the lives and life chances of children involved in the court system. The Commission is currently focusing on issues relating to older children and youth. Current projects include encouraging the active participation of youth in their family court permanency hearings, minimizing the potential adverse effects of foster care placement on education outcomes for children removed from home and examining the intersection of the child welfare and juvenile justice system.

Prior to coming to the Commission, Dr. Lang served as a policy analyst at the New York State Council on Children and Families and was the project director for the New York State KIDS COUNT initiative and the Kids' Well-being Indicators Clearinghouse (KWIC) Project. Both projects aim to advance the use of children's health and well-being indicators as tools for policy development, planning and accountability as a means to improve outcomes for children and families. While working for Cornell University, she promoted family support efforts, in particular family involvement and the Family Development Credential (FDC). Dr. Lang received her doctorate in sociology from the University at Albany, a Masters in Public Health in epidemiology from the University at Albany and a Bachelor of Science in social work from New York Institute of Technology at Old Westbury.

Bronx County Family Court Focuses on Disproportionate Minority Representation

By Judge Gayle P. Roberts, Eva Doukakis, Esq., and Heather O'Hayre, LCSW

When are the children coming home? This question is now being asked with increasing frequency in Bronx (N.Y.) Family Court where neglect cases have been filed and children have been removed from their families. The impetus behind getting this issue more attention is the Bronx County Family Court Disproportionate Minority Representation Committee, or DMR.

The Committee, chaired by Bronx Family Court Judge Gayle P. Roberts, is a collaboration among various child welfare practitioners and professionals. Created in 2009, the primary goal of the Committee is reducing the disproportionate representation of minority children in the child welfare system through the Courts Catalyzing Change initiative. The Committee has followed the national agenda for court-based reform as outlined in the NCJFCJ publication, *RESOURCES GUIDELINES: Improving Court Practice in Child Abuse & Neglect Cases*.

In addition to Judge Roberts and other New York City child protective judges, the Committee includes representatives from Casey Family Programs and the New York State Child Welfare Court Improvement Project, the local department of social services, attorneys for parents and children, and other court-based and local community service providers.

National statistics clearly indicate that minority children enter into the child welfare system at disproportionate rates to those of Caucasian children. Children of minority race and ethnicity are more likely to be the subject of initial child abuse and neglect reports. After investigations are conducted on these reports, minority children are more likely to be found to have been the subject of abuse or neglect. Minority children also enter and stay in foster care longer than Caucasian children. The statistics for New York City from 2009 are staggering. Caucasian children represent 26.9% of the overall child population but only 7.1% of the children subject to child abuse reports; 5.9% of children in indicated reports; 3.7% of children entering foster care; and 4.1% of children residing in foster care. Black children represent 28.3% of the overall child population but constitute 52.6% of children entering care and 56.2% of children residing in foster care. Disproportionate representation can also be seen for Hispanic children and children of other minority races and ethnicities.

While acknowledging that poverty and related factors contribute to disproportionality rates, the focus of the DMR Committee is on taking concrete steps within the court system to effect change. Using the slogan, "When Are the Children Coming Home (WATCCH)?", the Committee hopes to spread the message that the question of when children in foster care can be returned home needs to be addressed at every court appearance.

In September, the DMR Committee hosted a workshop to introduce WATCCH and educate the child welfare community on the issue of disproportionality. Dr. Toni Lang from the New York State Permanent Judicial Commission on Justice for Children and Khatib Waheed, Senior Fellow at the Center for Study of Social Policy, discussed the overwhelming national statistics and helped attendees navigate the difficult conversation of race and inequity. In response to the positive feedback received after this presentation, a follow-up workshop was held in November. Mr. Waheed returned to facilitate a "Courageous Conversation" seminar which included a screening and discussion of the video *Race: The Power of Illusion*.

In October, three Bronx Family Court judges began utilizing CCC's judicial benchcard, which is a tool for judges that sets forth the essential elements of properly conducted removal hearings. The benchcard focuses on "best practices" in judicial decision making and strives to ensure that an objective inquiry is made into each family's individual situation or circumstances. The benchcard encourages personal reflection around race-neutral decision making before a decision is made about removing a child.

One major initiative currently underway in conjunction with the use of the benchcard is a data collection effort to determine how best to capture the effects of the benchcard on families involved in neglect and abuse cases. One of the ways families will have direct involvement in this initiative is by completing a form where they will self-report their race and ethnicity.

A series of educational presentations is also planned, including a panel discussion on New York's legal standard for the removal of children into foster care. Panelists will include experts from the legal and social work fields who will discuss the complexities of this crucial decision-making point in child welfare cases. Also upcoming is a presentation by Sauti Yetu, an agency that provides culturally and linguistically appropriate services to African women in the Bronx.

The child welfare community has welcomed these initiatives. Attorneys and case workers regularly ask to join and volunteer for the Committee. One social services caseworker reported that she planned to start a blog about disproportionality and the Committee's efforts.

In an environment where there is rarely consensus and everyone involved is overloaded with responsibilities, it is rare to see such positive consensus emerging around a single initiative.

ABOUT THE AUTHORS:

Judge Gayle P. Roberts, presides in Bronx (N.Y.) Family Court; **Eva Doukakis, Esq.**, is Court Attorney to Judge Gayle P. Roberts; and **Heather O'Hayre, LCSW**, is the Child Welfare Court Improvement Project Liaison in Bronx Family Court.

Children of minority race and ethnicity are more likely to be the subject of initial child abuse and neglect reports.

Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care—Transforming Examination into Action

By Sophia I. Gatowski, Ph.D., Candice L. Maze, J.D., and Nancy B. Miller

Research has demonstrated that children and families of color are disproportionately represented in the child welfare system and frequently experience disparate and inequitable service provision. The data are clear and striking. The National Incidence Studies of Child Abuse and Neglect have consistently found that, regardless of the standard of maltreatment used, there are “no statistically significant differences in overall occurrence rate for maltreatment between black and white families.”¹ However, while children of all races are equally as likely to suffer from child abuse and neglect, the percentage of African-American children who enter and remain in out-of-home care is greater than their proportion in the population.² “In states where there is a large population of Native Americans, this group can constitute between 15% to 65% of the children in foster care.”³ Hispanic or Latino children may be significantly over-represented based on the locality (e.g., in Santa Clara County, Calif., Latino children represent 30% of the child population, but 52% of all child welfare cases).⁴ “African Americans are investigated for child abuse and neglect twice as often as Caucasians,”⁵ and African-American children who are determined to be victims of child abuse are 36% more likely than Caucasian children to be removed from their parent(s) and placed into foster care.⁶ The first round of Child and Family Services Review data also show that Caucasian children achieve permanency outcomes at a higher rate than children of color.⁷ In addition to being more likely to be placed in foster care, African-American children are less likely to be reunified with their parents⁸ and receive fewer services than Caucasian children.⁹

Researchers and policy-makers have identified a number of theories about the causes of racial disproportionality and disparate treatment in the child welfare system, linking disproportionality and disparity to a variety of economic and social factors. All of these factors must be addressed in order to ensure that the needs of all children are equitably and fairly served. The complexity and significance of this issue points to the critical need for collaborative efforts to not only further study the

Disproportionality = a particular racial or ethnic group is represented within a social system at a rate or percentage that is not proportionate to their representation in the general population.

Disparity = unfair or unequal treatment of one racial or ethnic group as compared to another racial or ethnic group.



factors that contribute to racial disproportionality and disparities in the child welfare system, but also to design and implement specific actions courts and child welfare system partners can take to reduce these inequities and ultimately improve outcomes for all children and families. It is time to move forward—to transform examination and discussion about racial disproportionality and disparate treatment in the dependency court system into specific *actions*.

The Courts Catalyzing Change Initiative—Purpose and Goals

The Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care Initiative (CCC), funded by Casey Family Programs and supported by the U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP), brings together judicial officers and other systems' experts to set a national agenda for court-based training, research, and reform initiatives to reduce the disproportionate representation of children of color in dependency court systems. The Initiative's **mission** is to **create and disseminate judicial tools, policy and practice guidelines, and associated action plans that child abuse and neglect court systems can use to reduce disproportionality and disparities for children and families of color.** The Initiative, informed by existing research, will re-evaluate federal, state, and local policy and make recommendations for changes or improvements. The Initiative will identify and evaluate *all* decision points in the dependency court system to determine where specific action can be taken, and recommend strategies for court and systems change to reduce racial disproportionality and disparate treatment.

The formation of the CCC Initiative was prompted by the previous work of National Council of Juvenile and Family Court Judges Committees on the Disproportionate Representation of Children of Color, Tribal Courts, and Diversity, the NCJFCJ Permanency Planning for Children Department's (PPCD) Advisory Committee and National Victims Act

Model Court Lead Judges, and Casey Family Programs work in their successful Breakthrough Series Collaborative Initiative.¹⁰ In September 2007, Casey Family Programs (CFP) formalized a partnership with the NCJFCJ to converge the two organizations' past efforts in this arena, by providing funding to bring together judicial officers and other systems' experts in a series of leadership and work group meetings, with the goal of setting a national agenda for court-based training, research, and reform initiatives. The CCC Initiative was then officially launched on Oct. 3, 2007 at the OJJDP-funded National Model Court All-Sites Conference in New Orleans, La. At that All-Sites Conference, the 29 participating dependency court jurisdictions in NCJFCJ's Model Courts Project made a commitment to reduce racial disproportionality and disparities as a national Model Court goal. The OJJDP, through its national Child Victims Act Model Court grant to the NCJFCJ, is providing support for the technical assistance necessary to facilitate Model Court achievement of this national goal.

Courts Catalyzing Change: Organizational Structure

Two main work groups currently make up the CCC Initiative's organizational structure:

1) The *Steering Committee*: The Steering Committee provides leadership for the Initiative, and is comprised of a core group of judicial officers, other systems' experts, and NCJFCJ and CFP staff. The Steering Committee leads the implementation of the national agenda, and identifies ways to engage the broader judicial community in this work.

A Snapshot of What We Know ...

- The average African-American child is not at any greater risk for abuse and neglect than the average Caucasian child (Sedlak & Schultz, 2001; Ards et al., 1999), but African-American children are dramatically overrepresented in the child welfare system.
- African-American, Hispanic, and Asian/Pacific Islander children have a disproportionately higher rate of maltreatment investigations when compared to White children (Fluke et al., 2002).
- Substantiations for abuse and neglect occur at twice the rate for African-American children than for Caucasian children, and African-American children are placed into foster care at four times the rate of Caucasian children (CWLA, 2003).
- American Indian/Alaska Native children are disproportionately represented in the child welfare system, having substantiation rates for abuse and neglect at about twice the rate of Caucasian children, as well as foster care placement rates at least three times higher than that of Caucasian children (CWLA, 2003).

2) The *Call to Action Work Group*: Work Group members were selected because of their leadership role in systems' change efforts, and their expertise and involvement in efforts to reduce racial disproportionality and disparate treatment in the dependency court system. Call to Action Work Group members were tasked with the creation of a national agenda for court-based training, research, and reform initiatives.

Courts Catalyzing Change: The Process of Developing a National Agenda

The CCC Initiative officially began its work to develop a national agenda to reduce racial disproportionality and disparities in the dependency court system with a meeting in February 2008 of the Steering Committee in Washington, D.C., and a meeting in April of the National Call to Action Work Group in Phoenix, Ariz. During both meetings, participants were led through discussions about race—engaging in “courageous conversations.”¹¹ The conversation about race equity in America, an essential foundation of any work toward developing and implementing an agenda for reducing disproportionalities and disparities in the dependency court system, is deeply personal and stirs the emotions and latent feelings of almost all involved. The opening exercise for both Steering Committee and Work Group members was a self-dialogue about how each of the participants views race; they were then asked to share their self-reflections. There was agreement that all must be willing to take risks in a conversation about race, honor those who speak their truth, and attribute good intent to speakers.

The participants also viewed a video entitled “Race—The Power of an Illusion: Episode 3—The House We Live In”¹² which explored the values, assumptions, and historical meanings attached to physical appearance. The video examined the laws and policies that have defined and shaped race, including Jim Crow laws, Federal Housing Administration Laws in the wake of the post-World War II GI Bill, and the Fair Housing Act, among others. Finally, Dr. Carol Wilson Spigner discussed the history of the child welfare system and the disproportionate and disparate treatment of children and families of color. The Work Group also began to focus on formulating the *National Agenda to Reduce Racial Disproportionality and Disparities in the Dependency Court System*.

Courts Catalyzing Change: A National Agenda for Reducing Racial Disproportionality and Disparities in the Dependency Court System

The **Guiding Principles** of the National Agenda developed by the CCC Steering Committee and Call to Action Work Group are:

- Children and families of color must be an integral part of the planning and problem-solving process at all levels and all stages.
- Judges—as the final arbiters of justice—must be leaders in their communities to reduce disproportionality and disparity in the child welfare system.
- Broad-based, multidisciplinary alliances and honest collaboration must be formed to effectively and comprehensively address this issue.
- Reducing racial disproportionality and disparities in the child welfare system must be linked with a broader effort to eliminate institutional and structural racism in the child welfare system.

To achieve the Initiative's mission, NCJFCJ, CFP, Steering Committee members, Call to Action Work Group members, and Model Court Lead Judges will take the lead at the local, state, and national levels in promoting the following **National**

Agenda Key Strategies and Associated Action Steps to reduce disproportionate representation and disparate treatment of children and families of color in the child welfare system.

■ Engage national, state, local, and tribal stakeholders, community partners, and children and families.

NCJFCJ and CFP leadership will ...

- Take the lead to establish partnerships with national organizations in the field and encourage them to pursue reducing disproportionality and disparities in the child welfare system as a top priority.
- Serve as a clearinghouse for judges and courts nationwide regarding the information and activities related to this effort.
- Learn from and build upon the work of other national organizations that have developed successful approaches to reducing racial disproportionality and disparities in the child welfare system.
- Reach out to federal policy-makers and federal entities to educate, garner support, and bring attention to this issue.

NCJFCJ Model Court Lead Judges will ...

- Engage local and state judicial leaders and court administrators to promote the reduction of disproportionality and disparate treatment through action-oriented and solution-driven statewide advisory

4 Tenets of Courageous Conversations:

1. *Speak your truth*
2. *Expect and accept non-closure*
3. *Experience discomfort*
4. *Stay engaged*

committees, task forces, and educational forums.

- Lead their local community in developing a plan to reduce racial disproportionality and disparities in the child welfare system by convening local minority families, community leaders, governmental agencies, schools, faith-based leaders, and community-based providers in community forums, town hall meetings, and collaborative planning sessions.
- Raise awareness about racial disproportionality and disparate treatment by communicating with national, state, and local media about the pervasiveness of the problem as well as efforts and initiatives to reduce disproportionality and disparate treatment.

■ Transform Judicial Practice.

NCJFCJ and Casey Family Programs leadership will ...

- Re-examine the NCJFCJ *RESOURCE GUIDELINES* through a racial equity lens and develop a specific set of judicial decision-making tools directed at reducing racial disproportionality and disparate treatment.
- Develop and promote judicial education, training, and guidance on the issue of disproportionality and disparate treatment in the child welfare system.
- Develop formal feedback processes for children and families who are involved with child welfare proceedings.

NCJFCJ Model Court Lead Judges will ...

- Examine personal biases and prejudices to understand and moderate their impact on judicial decision-making.
- Practice and promote principles of therapeutic jurisprudence through family engagement both in court and in the child welfare case-planning process.
- Conduct thorough hearings examining all decision points and make well-reasoned findings on the record.
- Commit to training and education for themselves and their colleagues in the juvenile court.
- Ensure services are culturally appropriate.

■ Participate in Policy and Law Advocacy.

NCJFCJ and Casey Family Programs leadership will ...

- Identify and examine state and federal laws and policies that drive children into the child welfare system in a racially biased way and identify model laws that combat this problem.
- Seek the active participation of federal lawmakers, administrators, and relevant government agencies and departments to develop a cross-systems and collabora-

tive approach to evaluate and amend laws and policies that perpetuate racial disproportionality and disparities.

- Work to ensure that Child and Family Services Review (CFSR) outcomes and performance measures assess racial disproportionality and disparity in the child welfare system and that program improvement plans (PIPs) require solutions to negative findings in this area.
- Work with the U.S. Department of Health and Human Services to ensure that Court Improvement Projects (CIPs) provide incentives and funding to jurisdictions working to reduce racial disproportionality and disparate treatment.

NCJFCJ Model Court Lead Judges will ...

- Seek the active participation of state and local lawmakers and relevant government agencies and departments to develop a cross-systems and collaborative approach to dismantling state and local laws and policies that perpetuate racial disproportionality and disparities.
- Seek statewide uniform ethical guidelines regarding the judiciary engaging in community advocacy that enable the judiciary to fully participate as active members of systems and community reform and improvement efforts.
- Promote open child welfare hearings and encourage community members to become aware of the decision-making process.
- Work within their state and jurisdiction to promote retaining judges in juvenile court and advocate against policies and

laws that rotate judges through juvenile court rather than allowing judges to develop expertise in this area.

- Promote the full scale (from hotline to permanency), statewide implementation of objective decision-making processes and tools (such as structured decision-making).

■ Examine and Employ Research, Data, and Best Practices.

NCJFCJ and Casey Family Programs Leadership will ...

- Promote a multidisciplinary, multi-level approach to data analysis in the area of racial disproportionality and disparate treatment in the child welfare system to ensure a jurisdiction's ability to effectively analyze barriers, challenges, and opportunities to reducing this problem.
- Develop and define measures of well-being, safety, and permanency in relationship to reducing disproportionality and disparate treatment for children and families of color in the child welfare system.
- Promote uniform use and acceptance of these measures on a local, state, and national level.
- Identify and answer critical data-related questions about racial disproportionality and disparate treatment in the child welfare system.
- Provide forums for ongoing education and technical assistance to local, state, and national leaders and key decision-makers by national research entities that have examined and analyzed data related to racial disproportionality and disparate treatment.

NCJFCJ Model Court Lead Judges will ...

- Improve understanding of local child welfare system and court data around the issue of racial disproportionality and disparate treatment.
- Address and improve local jurisdictions' capacity to collect and analyze data related to racial disproportionality and disparate treatment within each child-serving entity and within the court system.
- Collect and evaluate data at the case level, by judge and by jurisdiction.
- Create opportunities within their own jurisdiction for discussing the meaning of the data and underlying causes of racial disproportionality and disparate treatment.
- Select outcome measures and develop strategies to improve permanency-related outcomes for children of color in the child welfare system.
- Take the lead in educating colleagues and systems partners about using local data to analyze causes for racial disproportionality and disparities in the child welfare

Disproportionality: Theories from Research

- Minority children are more likely to be in poor, single-parent homes—all risk factors for maltreatment.
- Minority families are more likely to come into contact with social service or other workers who notice and report maltreatment.
- Minority families are more likely to be reported for abuse and neglect and less likely to be reunified due to biased decision making.
- Minority children and families have less access to services that prevent placement and hasten permanency.

Disproportionality: Theories from Child Welfare Administrators, Supervisors, Case Workers

Disparate treatment can result from:

- Lack of familiarity with other cultures and with what constitutes abusive behavior;
- Lack of community resources to address a range of issues, such as substance abuse and domestic violence;
- Media pressure to remove children; and
- Poverty and related issues, such as homelessness.

*Congressional Research Services.
Race and Ethnicity in Child Welfare
(August 2005)*

CCC STEERING COMMITTEE

Judge Karen Ashby, Denver, Colo.
Judge Katherine Delgado, Brighton, Colo.
Ms. Rebecca Jones Gaston, CFP
Dr. Sophia Gatowski, NCJFCJ
Judge Ernestine Gray, New Orleans, La.
Judge Anita Josey-Herring, Washington, D.C.
Judge Katherine Lucero, San Jose, Calif.
Judge Patricia Macias, El Paso, Texas
Dr. Shawn Marsh, NCJFCJ
Judge Patricia Martin, Chicago, Ill.
Ms. Candice Maze, Miami, Fla.
Ms. Nancy Miller, NCJFCJ
Mr. Oronde Miller, CFP
Judge Joe Smith, Des Moines, Iowa
Judge Wadie Thomas, Omaha, Neb.
Judge William Thorne, Salt Lake City, Utah
Judge Louis Trosch, Charlotte, N.C.
Mr. Khatib Waheed, Center for the Study of
Social Policy
Ms. Susan Weiss, CFP
Ms. Elizabeth Whitney Barnes, NCJFCJ
Dr. Carol Wilson Spigner, Univ. of Penn.

NATIONAL CALL TO ACTION WORK GROUP

All CCC Steering Committee Members

Judge Abby Abinante, San Francisco, Calif.
Mr. Shay Bilchik, Georgetown University
Judge Doloresa Cadiente, Juneau, Alaska
Judge Susan Carbon, Concord, N.H.
Dr. Sandra Chipungu, Morgan State Univ.
Judge Patricia Clark, Seattle, Wash.
Ms. Rosalyn Frierson, Columbia, S.C.
Judge William Hitchcock, Anchorage, Alaska
Judge Douglas Johnson, Omaha, Neb.
Judge William Johnson, Pendleton, Ore.
Ms. Susan Kelly, Ypsilanti, Mich.
Judge Sharon McCully, Salt Lake City, Utah
Ms. Leola McKenzie, Salem, Ore.
Ms. Mary Mentaberry, NCJFCJ
Judge Michael Nash, Los Angeles, Calif.
Mr. Michael Piraino, National CASA
Ms. Maureen Sheeran, NCJFCJ
Mr. David Simmons, NICWA
Judge Teresa Vincent, Greensboro, N.C.
Judge Nan Waller, Portland, Ore.
Mr. Zeyen Wu, Coalition for Asian American
Children and Families

Steering Committee and Call to Action Work Group Meeting participant comments demonstrate the depth of the issue and the challenges that judges and other professionals face when the conversation turns to racism in our society and its institutions.

- “The challenge is how to maximize this opportunity to do something that will reduce disparity without getting mired down in the feelings and emotions you have when you think about how this affects one personally. The challenge is to stay focused and the question is: How do I communicate this in my jurisdiction in a way that will not create barriers.”
- “This is one of the few issues about which we as judges of color (and those who are not) have to get personal. We have to understand our own experiences, views, and perspectives because this is the binding force that connects us to the children and families we serve—we don’t need to shy away from the personal—that is who we are.”
- “This effort challenges us to move to a different plane of leadership. It challenges us to come off the bench and start partnering with other national organizations and get the message out there that this is multidisciplinary work. It is in the courtroom, yes, but it is beyond that as well.”

system and opportunities to reduce this trend through training, decision-making, and policy advocacy.

■ Impact Service Array and Delivery.

NCJFCJ and Casey Family Programs Leadership will ...

- Collect and disseminate literature and information on promising practices and services that effectively reduce racial disproportionality and disparities in the child welfare system.
- Examine the impact of specific systems on outcomes for children and families of color.

NCJFCJ Model Court Lead Judges will ...

- Promote early intervention and prevention approaches to service delivery in order to reduce removals and support speedy reunification.
- Require culturally competent and linguistically appropriate services for children and families of color involved in the child welfare system.
- Encourage minority communities in their jurisdiction to develop community-based resources and information that are specific to their cultural and community needs.
- Convene community forums of community members, leaders, and service providers to assess and address service goals.
- Ensure that quality and effectiveness of services are addressed.
- Recommend termination of contracts that are not effective or are adding to the problem of racial disproportionality and disparate treatment in the child welfare system.

Courts Catalyzing Change: Next Steps

At an NCJFCJ Model Court Lead Judges and CCC Steering Committee members meeting in Palm Springs, Calif., in May 2008, the National Agenda was refined and work begun to identify tools necessary to implement the Key Strategies. The Steering Committee worked to elaborate on a toolkit for implementation of the National Agenda, to prioritize the development of specific tools in that toolkit and to identify a national dissemination, implementation, and technical assistance approach. In the months ahead, these tools will be developed and vetted through the CCC Steering Committee and Call to Action Work Group. At the September 2008 All-Sites Model Court meeting, the National Agenda will officially be launched with the meeting dedicated primarily to the CCC Initiative.

ABOUT THE AUTHORS:

Sophia I. Gatowski, Ph.D., is Senior Program Manager in NCJFCJ’s Permanency Planning for Children Department.

Candice L. Maze, J.D., is President, Maze Consulting, Inc., Miami, Fla., and consultant to NCJFCJ.

Nancy B. Miller is Director of NCJFCJ’s Permanency Planning for Children Department.

NCJFCJ Victims Act Model Courts (VAMC) and Casey Breakthrough Series Collaborative (BSC) —Leading the Way*

Following are some examples of work to reduce racial disproportionality and disparities in the child welfare system currently underway in VAMC and BSC jurisdictions. (For more information about any of these Model Court efforts, please contact the PPCD at www.caninfo.org; for information about the BSC, please contact Casey Family Programs at www.casey.org).

San Jose, Calif.—Lead Judge Katherine Lucero

A work group from the Children of Color Task Force conducted court file reviews on a random sample of 25 substantiated referrals from April 2006, to determine whether any patterns emerged suggesting bias in decision-making that resulted in substantiation. Data obtained from that review informed the development of the Department of Families and Children Services operating plan to address the issues involved in racial disproportionality and disparate treatment. The plan involves all stakeholders in the child welfare system, including the juvenile court.

Washington, D.C.—Lead Judge Anita Josey-Herring

The Washington, D.C. Family Court convened a Leadership Summit on Disproportionate Representation in October 2007. The D.C. Model Court set forth and is requiring of its stakeholders to commit to the following aims: 1) Collect baseline data on the racial makeup of the individuals each agency comes into contact with. Implement data collection tools to further the D.C. Model Court Collaborative initiative to address the disparate treatment of minorities in the system. 2) Establish training goals for staff and managers focusing on cultural competency. Engage frontline workers in goal setting for the next year. 3) Examine and develop agency policies and set three goals to be accomplished to address the disparate treatment of minorities in the system. Develop an action plan to address the disproportionate representation of minorities within agencies.

Chicago, Illinois—Lead Judge Patricia Martin

The Chicago Model Court held a collaborative meeting to address the disproportionate representation of minorities in the system and invited several other Model Court jurisdictions that were interested in addressing this issue to participate. The findings were memorialized in specific action steps which were created and committed to on that date. Since that meeting, several of those jurisdictions have taken charge of the issue and have implemented procedures based on the foundation they built in Chicago. A “year in review meeting” will be held to follow-up on action plans, and to discuss the challenges, progress, and future work to be done in this area.

Des Moines, Iowa—Model Court Lead Judge Constance Cohen and Breakthrough Series Collaborative Judge Joe Smith

The Polk County Juvenile Court shares data and engages in discussions on an ongoing basis of the factors contributing to the over-representation of children of color in the child welfare system. All discussions and work on this issue include at least one parent and youth who have received child welfare services. Six “Undoing Racism” trainings, which have included department workers, department supervisors, all juvenile court judges, court clerks, county attorneys, providers, and community partners, have been provided. Discussions are beginning with the Des Moines Public Schools, with a goal of determining joint strategies to improve outcomes for children of color in both systems.

*The authors wish to thank NCJFCJ’s VAMC Liaison team for providing this information.

END NOTES

¹ Hill, R. B. (2006). *Synthesis of Research on Disproportionality in Child Welfare: An Update*. Casey Family Programs. See also Government Accounting Office (2007). *African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care*. GAO-07-816.

² Anderson, G. R. (1997). Introduction: Achieving permanency for all children in the child welfare system. In G. R. Anderson, A. Ryan, & B. Leashore (Eds.), *The challenge of permanency planning in a multicultural society* (pp. 1-8). New York: Haworth Press, Inc. See also U.S. Department of Health and Human Services. (2005). *Data Report*.

³ Casey Family Programs. (April 2005). *Framework for Change*.

⁴ Congressional Research Service. (August 2005). *Race, Ethnicity and Child Welfare*.

⁵ Yaun, J., Hedderson, J., and Curtis, P. (2003). Disproportionate representation of race and ethnicity in child maltreatment: Investigation and victimization, *Children and Youth Services Review*, 25, 359-373.

⁶ U.S. Department of Health and Human Services. (2005).

Data Report.

⁷ National Child Welfare Resource Center. (2006). *Data Report*.

⁸ Lu, Y. E., Landsverk, J., Ellis-MacLeod, E., Newton, R., Ganger, W., & Johnson, I. (2004). Race, ethnicity and case outcomes in child protective services. *Children and Youth Services Review*, 26(5), 447-461.

⁹ Courtney, M., Barth, R., Berrick, J., Brooks, D., Needell, B., & Park, L. (1996). Race and child welfare services: Past research and future directions. *Child Welfare*, 75(2), 99-137.

¹⁰ Casey Family Programs *Breakthrough Series Collaborative on Reducing Disproportionality and Disparate Outcomes for Children and Families of Color in the Child Welfare System* brought together court and child welfare teams to identify the key components of the child welfare system that must change to reduce and ultimately eliminate racial disparities. See www.casey.org for more information.

¹¹ Casey Family Programs. (2008). *Knowing Who You Are*.

¹² California Newsreel. (2003). *Race – The Power of an Illusion*.

ADDITIONAL REFERENCES AND RESOURCES

Ards, S., Myers, S., Malkis, A., Sugrue, E., & Zhou, L. (2003). Racial disproportionality in reported and substantiated child abuse and neglect: An examination of systemic bias. *Children and Youth Services Review*, 25(5/6), 375-392.

Child Welfare League of America. (2003). *National Data Analysis System*.

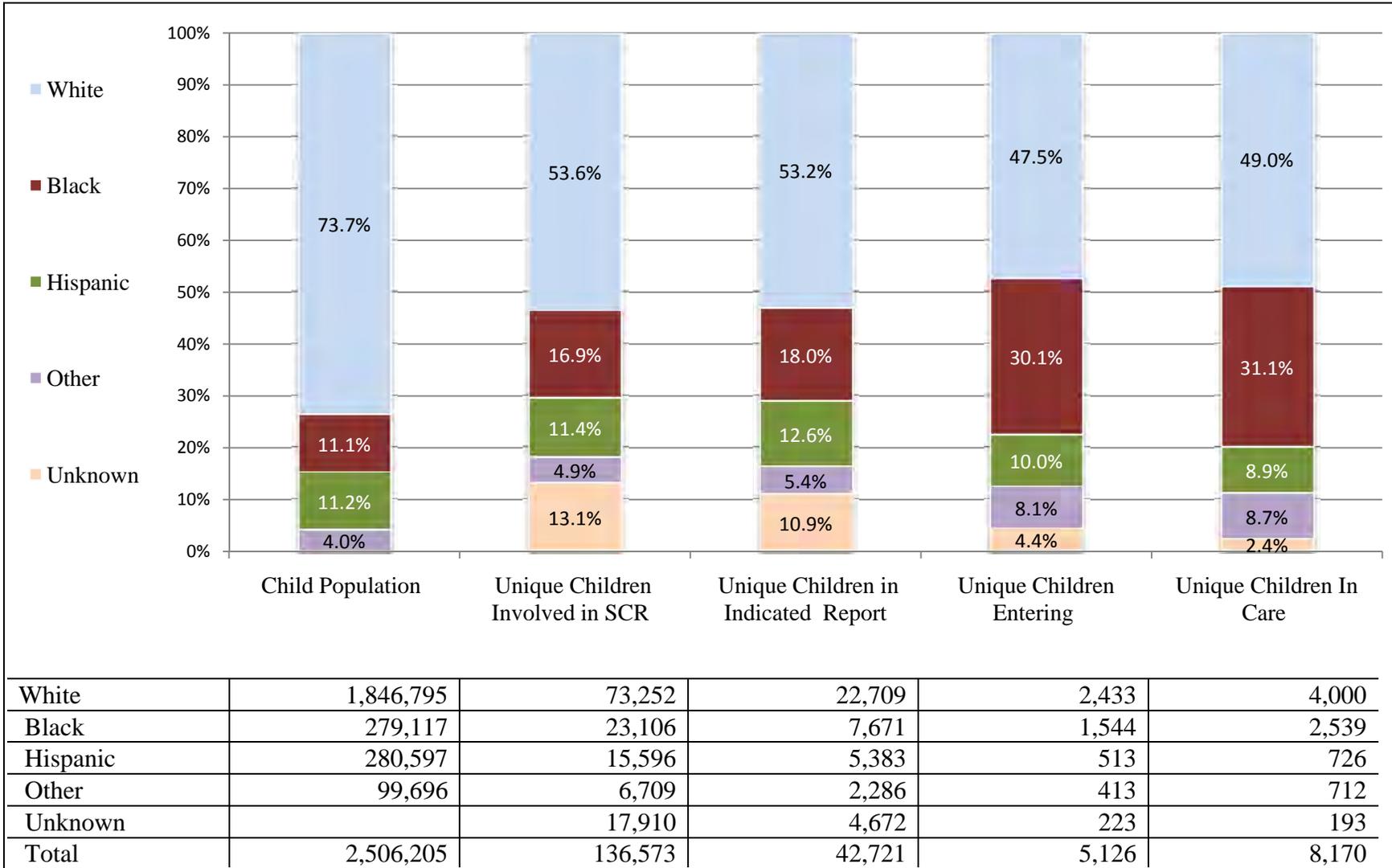
Fluke, J., Yuan, Y., Hedderson, J., & Curtis, P. (2002). Disproportionate representation in child maltreatment. Paper presented at the *Research Roundtable on Children of Color in Child Welfare*. Washington, DC.

Sedlak, A., & Schultz, D. (2001). Race differences in risk of maltreatment in the general child population. Paper presented at the *Race Matters Forum*, Jan. 8-9, 2001, Chevy Chase, MD.

DISPROPORTIONATE MINORITY REPRESENTATION AND DISPARITIES IN THE CHILD WELFARE SYSTEM REST OF STATE, 2009

Table/Graph 1.

Children by Race/Ethnicity in General Population and at Decision Points in the Child Welfare System: ROS, 2009



Prepared for: Attorney for the Child Update, Syracuse, NY, June 7, 2011

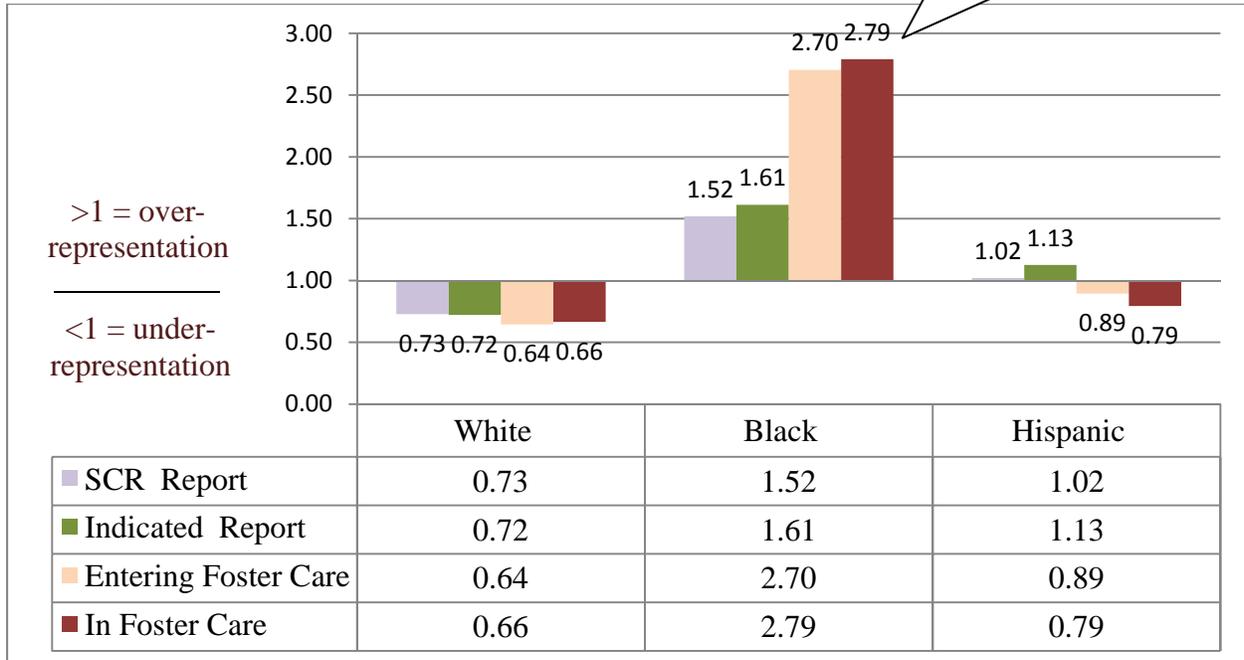
Prepared by: Toni Lang, Ph.D., Deputy Director, NYS Permanent Judicial Commission on Justice for Children

Data source: NYS Office of Children and Family Services. Bureau of Evaluation and Research (accessed 2/7/11)

Rest of State = New York State minus New York City

Example of interpretation: This means Black children were 2.79 times more likely to be in foster care than they were represented in the ROS's child population in 2009.

Table/Graph 2.
Disproportionality Rates at Decision Points: ROS, 2009



Example of interpretation: This means Black children were 4.2 times more likely to be in foster care compared to White children in ROS in 2009.

Table/Graph 3.
Disparity Ratios at Decision Points: ROS, 2009

