

The newsletter of *The Judges' Page* website – July 2009

*The Judges' Page* newsletter is a publication of **The National CASA Association** in partnership with **The National Council of Juvenile and Family Court Judges**. Find *The Judges' Page* newsletter at [casaforchildren.org/JudgesPage](http://casaforchildren.org/JudgesPage)

Both the National CASA Association and the National Council of Juvenile and Family Court Judges have initiated projects to make their constituents aware of the disproportionate representation issue and to develop appropriate solutions. This issue of *The Judges' Page* is dedicated to sharing those projects and to assisting you and your community in determining how to respond appropriately and effectively.  
~ Judge J. Dean Lewis, Editor

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*J. Dean Lewis, Judge (retired),  
Former Member, National CASA Association Board of Directors  
Past President, National Council of Juvenile and Family Court Judges*

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**Editor's note:** Thank you to our readers who endorsed the value and effectiveness of this publication with their responses to the *Judges' Page* survey. Ratings and comments were not only highly complimentary, they also provided valuable direction for future publications. Recent legislation, independent living/aging out and ICWA tribal courts are three topics that readers expressed interest in reading more about. All will be covered in future issues of *The Judges' Page*.

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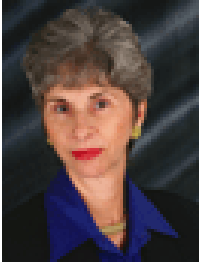
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The National Council of Juvenile and Family Court Judges is dedicated to serving the nation's children and families by improving the courts of juvenile and family jurisdictions. Visit the NCJFCJ website: [ncjfcj.org](http://ncjfcj.org)

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## Editor's Page—The Disproportionate Representation of Children of Color in Dependency Court Proceedings



*J. Dean Lewis, Judge (retired)  
Former Member, National CASA Association Board of Directors  
Past President, National Council of Juvenile and Family Court Judges*

### Summary

Courts and child welfare professionals are becoming increasingly aware of issues surrounding overrepresentation of children of color in the court system. Judges, as community leaders, can and should play a significant role in convening the community to address this disparity and respond effectively.

Do you know the population of your jurisdiction? Probably, but do you know the population of each racial/ethnic group within your jurisdiction? Do you know the ratio of that racial/ethnic population to the general population? This may not be information that you have been trained to request from your state or local government. Courts and child welfare professionals are becoming more conscious of the need to have access to this data. They are becoming aware that when they know the number of children and youth of each racial/ethnic population within their jurisdiction and their ratio to the general child population, then match this to the number of children and youth involved in the dependency court, it is likely to reflect a disproportionately high number of some racial/ethnic groups involved in the system.

Courts and communities need to come together to share this information, evaluate why any disproportionate overrepresentation exists, assess its implications, and strategize a responsive plan. Judges, as community leaders, can and should play a significant role in convening the community to engage in this process. Courts and communities may need to develop additional data to completely analyze the depth of the problem, and should begin by asking these questions:

- Are children/youth of color removed from their families for abuse or neglect allegations at proportionate rates to the general population?
- Are children/youth of color, and their families, receiving equal access to reasonable efforts services and treatment?
- Do children/youth of color achieve reunification and permanency at similar rates as the general foster care population?

Both the National CASA Association and the National Council of Juvenile and Family Court Judges have initiated projects to make their constituents aware of the issue of disproportionate representation and to develop appropriate solutions. This issue of *The Judges' Page* is dedicated to sharing those projects and to assisting you and your community in determining how to respond appropriately and effectively.

### Articles:

- [Judge Ernestine S. Gray, president of the National CASA Association, and Judge Patricia A. Macias, president of the National Council of Juvenile and Family Court Judges](#), address the policy and practice of each organization in responding to overrepresentation.
- [The National Council of Juvenile and Family Court Judges](#) is engaged in a national initiative, Courts Catalyzing Change, to counteract disproportionate overrepresentation of minorities in the foster care system.
- [NCJFCJ model courts](#) institute best practices to identify and reduce disproportionality and disparate treatment in the dependency courts.
- [Judge Katherine Lucero](#) of the Santa Clara County Dependency Court serves as an NCJFCJ model court lead judge. She shares her efforts to work collaboratively with child-serving agencies and governing bodies to achieve a reduction in over- representation of children of color in the courts.
- [The National CASA Association](#), in partnership with state and local CASA/GAL programs, has implemented two national programs to better serve children of color for whom a CASA/GAL has been appointed by the court: a [Volunteer Diversity Strategy](#) and the [Knowing Who You Are cultural identity training](#). National CASA has also

educated volunteers by publishing a document *Seven Important Facts CASA/GAL Volunteers Need to Know When Advocating for Children of Color* ([nationalcasa.org/download/Judges\\_Page/notes-0709/0907-JP7.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-JP7.pdf)).

- NCJFCJ Tribal Committee co-chairs, [Donna Goldsmith and Judge Korey Wahwassuck](#), explain how disproportionality and disparity affect Native American children and families in the dependency court.
- [Judge Katherine Delgado](#) sits in the Adams County Best Practice Court in Brighton, CO. She describes how the court, agencies and community have educated themselves and developed partnerships to reduce disproportionality.
- [Robert Hill](#) offers “An Analysis of Racial/Ethnic Disproportionality and Disparity at the National, State and County Levels”
- [Shay Bilchik and M. Stagner](#) share outcomes from The Overrepresentation of Children of Color in America’s Juvenile Justice and Child Welfare Systems symposium, including participants’ barriers and successes in reducing disproportionality and disparity.
- [Michael Roosevelt](#), of the California Office of the Courts, reminds us that youth involved in the juvenile justice system also face disparities in treatment based on their race and ethnicity, and he challenges us to identify and implement best practices proven to actively combat the problem.
- [Paula Campbell](#) offers additional research and resources on the topic of this issue.
- At its 28th Annual Conference in Denver, CO, the National CASA Association named [Master William Hitchcock](#) as the 2009 National CASA Judge of the Year.

Thank you to our readers who endorsed the value and effectiveness of this publication with their responses to the *Judges’ Page* survey. Ratings and comments were not only highly complimentary, they also provided valuable direction for future publications. Recent legislation, independent living/aging out and ICWA tribal courts are three topics that readers expressed interest in reading more about. All will be covered in future issues of *The Judges’ Page*.

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## **National Council of Juvenile and Family Court Judges and National CASA Are Working to Address Issue of Disproportionality**

*Hon. Patricia A. Macias, President, National Council of Juvenile and Family Court*  
*Hon. Ernestine S. Gray, President, National CASA Association*

### **Summary**

Working together, all who are involved in the justice and related systems are obliged to be informed, educated, and proactive in reducing the disproportionate representation of children and parents of color. It is not only a professional obligation, it is our moral imperative.

### ***Judge Macias: Judges and Other Child Welfare Stakeholders Must Seek Solutions to Causes and Effects of Disproportionality***

Judges, as gatekeepers of children entering and leaving foster care, are critical leaders in ensuring children of color are not overrepresented in the child welfare system. The factors that contribute to racial disproportionality and disparities are complex. The National Council of Juvenile and Family Court Judges (NCJFCJ), through its Courts Catalyzing Change project, is committed to examining these complexities across all justice systems that serve children and families and has designed a national agenda for court-based training, research and reform initiatives.

Disproportionality not only touches the lives of children and families in the dependency area, but is present and growing in the juvenile justice system, the area of domestic violence, and the adult criminal system. Youth of color comprise two-thirds of youth in juvenile facilities. Differential treatment of the court's most punitive sanctions, waiver to the adult system and out-of-home placement, affect youth of color in a way that clearly suggests that race matters. Disproportionality also encompasses victims of domestic violence. Women of color experience higher rates of intimate partner violence than white women. Evidence also suggests a great disproportionality in the arrest, prosecution and lengths of sentence for domestic violence crimes.

While research indicates that there is no higher incidence of abuse and neglect in any racial or ethnic group, African-American and other minority children are disproportionately represented in child welfare referrals accepted for investigation, are more likely to be removed from their homes and placed in foster care, stay in care longer, are less likely to be reunified with their families, and are less likely to be adopted. The questions gaining more and more attention in the field are what is the explanation for this disproportionality and what should be done about it. Every child welfare stakeholder should be searching for the answers to these two troubling questions.

NCJFCJ recognizes that judges, through their decisions, affect the daily lives of the hundreds of thousands of children and families that walk into the nation's courtrooms. Leadership from the bench must be bold and courageous in bringing the issues of disproportionality to the forefront. Judges must examine personal beliefs and biases and engage broad-based partners in developing specific action plans designed to reduce disproportionality, with the goal of transforming practice at every level and point in the dependency, juvenile justice, domestic violence and adult criminal court systems.

Working together, all who are involved in the justice and related systems are obliged to be informed, educated and proactive in reducing the disproportionate representation of children and parents of color. It is not only a professional obligation, it is our moral imperative.

### ***Judge Gray: Addressing Issue of Disproportionality is a Priority for National CASA***

As president of the National CASA Association, I am pleased that addressing the issue of disproportionality has been a part of our work for the last couple of years. Our board has determined that it warrants our attention, for we believe that effectively addressing this issue will change outcomes for all children who must experience the foster care system during their lifetime. As we develop a new strategic plan, the National CASA Association recognizes we are at an important point on the issue of disproportionate representation and disparate outcomes for children of color in child welfare systems. This is the time to move from recognition of the problem to practical, on-the-ground actions to end this long standing problem. High quality advocacy for children of color can bring that day closer, and National CASA's leadership is committed to helping bring about this change now.

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## Courts Catalyzing Change Initiative: Transforming Examination into Action

*Sophia I. Gatowski, PhD, NCJFCJ Consultant, Permanency Planning for Children Department, NCJFCJ*

*Candice L. Maze, JD, Principal, Maze Consulting, Inc.*

*Nancy B. Miller, MA, Director, Permanency Planning for Children Department, NCJFCJ*

### Summary

This excerpt from “Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care,” published in the Summer 2008 issue of *Juvenile and Family Justice Today*, provides an overview of the initiative’s goals, structure and agenda.

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 Study of Child Abuse and Neglect reports 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.”

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 factors that contribute to racial disproportionality and disparity 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 US Department of Justice, Office of Juvenile Justice and Delinquency Prevention, 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 the 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 Advisory Committee and National Victims Act Model Court lead judges; and Casey Family Programs’ work in their successful Breakthrough Series Collaborative Initiative. In September 2007, Casey formalized a partnership with NCJFCJ to combine the two organizations’ past efforts in this arena, 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.

### Courts Catalyzing Change: Organizational Structure

Two main work groups currently comprise the CCC initiative’s organizational structure:

- 1) The Steering Committee: The committee—comprising a core group of judicial officers, other systems experts, and staff from NCJFCJ and Casey Family Programs—provides leadership for the initiative. The committee leads the implementation of the national agenda and identifies ways to engage the broader judicial community in this work.
- 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. Work group members were tasked with the creation of a national agenda for court-based training, research and reform initiatives.

## Courts Catalyzing Change: A National Agenda for Reducing Racial Disproportionality and Disparity 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 collaborations 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, Casey Family Programs, 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 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.

Download a PDF of the full article on the CCC national agenda ([nationalcasa.org/download/Judges\\_Page/notes-0709/0907-JP2-CCCNATIONALAGENDA9-08.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-JP2-CCCNATIONALAGENDA9-08.pdf)). See the CCC web page ([ncjfcj.org/content/blogcategory/447/580/](http://ncjfcj.org/content/blogcategory/447/580/)) to gain access to the quarterly newsletter and see current information on the initiative, including the development of the racial equity bench card.

Also on the NCJFCJ website, see the sample worksheet addressing local implementation of the national agenda: "Identifying Opportunities and Challenges: Local Implementation of the National Agenda to Reduce Racial Disproportionality and Disparities,"

([ncjfcj.org/images/stories/dept/ppcd/CCC/cc%20worksheet%20opps%20and%20challenges.pdf](http://ncjfcj.org/images/stories/dept/ppcd/CCC/cc%20worksheet%20opps%20and%20challenges.pdf)) and the sample action plan worksheet: "Action Planning to Implement the National Agenda to Reduce Racial Disproportionality and Disparities at the Local Level." ([ncjfcj.org/images/stories/dept/ppcd/CCC/cc%20worksheet%20action%20planning.pdf](http://ncjfcj.org/images/stories/dept/ppcd/CCC/cc%20worksheet%20action%20planning.pdf))

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## Model Courts Respond to Disproportionate Overrepresentation of Youth of Color in Dependency Courts

*Kelly Beck, JD, Model Courts Program Manager, NCJFCJ*

*Joshua B. Padilla, MA, Research Assistant, Permanency Planning for Children Department, NCJFCJ*

*Paula Campbell, MA, Information Specialist, Permanency Planning for Children Department, NCJFCJ*

### Summary

This article provides an overview of the work of the Child Victims Act Model Courts Project in reducing disproportionate representation of children of color in the courts, as well as updates on specific activities of some of the model courts in regards to this issue.

The Permanency Planning for Children Department (PPCD) of the National Council of Juvenile and Family Court Judges (NCJFCJ) provides training and technical assistance to 36 model courts located in 27 states and the District of Columbia.<sup>1</sup> The Child Victims Act Model Courts Project provides judges, attorneys and other judicial stakeholders with practical, concrete and effective tools for improving court performance in the handling of child abuse and neglect cases. With technical assistance and training from PPCD, impediments to the timeliness of court events and delivery of services for children in care are identified; then court and agency-based changes are individually designed to address the barriers in each model court. The Model Courts Project has been nationally recognized for its commitment to improving outcomes for children and families.

The model courts meet annually at the All-Sites Conference to facilitate discussions and workshops on how to achieve the next level of implementation of best practices. The All-Sites Conference affords the model courts an opportunity to come together and share system reform efforts in their jurisdictions and provide expertise to lead the way in statewide and national reform efforts.

At the 2007 All-Sites Conference, Casey Family Programs and the NCJFCJ hosted a special presentation to launch a joint initiative to examine disproportionate representation of children of color in the dependency court system. This joint initiative was later named Courts Catalyzing Change. As a result of the presentation, all the model court teams committed to adopting as a national goal the reduction of the overrepresentation of children of color in the foster care system.

PPCD provided the model courts with research regarding how disproportionality affects each model court. (See "Victims Model Court Act All Sites Conference Data Report, 2005 State Level Disproportionality Analysis," ([nationalcasa.org/download/Judges\\_Page/notes-0709/0907-JP3-2005-AllSitesStateDispoReport.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-JP3-2005-AllSitesStateDispoReport.pdf)) authored by Joshua Padilla.) The report delineated that minority overrepresentation was an issue prevalent in each of the states in which PPCD has a model court. Many courts had very little information regarding the proportion of children of color who come before the court, and had even less information regarding how the ethnic composition of the children they serve relates to the general child population. Therefore, the initial step in addressing the issue of disproportionality was to provide the courts with this missing information.

Each model court analyzed its data regarding disproportionate overrepresentation of minorities and developed implementation steps to address the problem. Listed below is an update on some of the model courts' Courts Catalyzing Change activities.

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**Austin, TX:** The model court has been conducting disproportionality trainings, which include brown bag presentations on disproportionality, poverty, permanency, family dynamics and family group decision making.

*Lead judge: Honorable Darlene Byrne*





**Charlotte, NC:** Holds ongoing statewide disproportionality meetings in continual development of a statewide strategic plan to reduce disproportionality and disparities.

*Lead judge: Honorable Lisa Bell*

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**Concord, NH:** In their efforts to transform judicial practice, the court is actively seeking to improve culturally sensitive and appropriate services as well as placement opportunities.

*Lead judge: Honorable Susan B. Carbon*



**Des Moines, IA:** The model court continues to examine current drug-testing practices and protocols and develop additional protocols to reduce disproportionality.

*Lead judge: Honorable Constance Cohen*

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**Howell, MI:** Continues to organize statewide trainings on minority overrepresentation to include a focus on individual/institutional racism, implicit bias, engaging families and collaboration.

*Lead judge: Honorable Carol Hackett Garagiola*

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**Indianapolis, IN:** In furtherance of their efforts of engaging stakeholders, community partners and children and families, the Indianapolis model court has coordinated a collaborative group to develop an action plan to further disseminate their commission recommendations. They also continue to implement ongoing data collection and analysis.

*Lead judge: Honorable Marilyn Ann Moores*

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**Los Angeles, CA:** In an effort to reduce removals and increase frequency and timeliness of reunifications and permanent placements, the model court utilizes family finding and engagement processes, family group decision making, adequate alternative response services and parent mentors.

*Lead judge: Honorable Michael Nash*



**Nashville, TN:** The model court continues to coordinate stakeholder trainings in cultural competence and cultural sensitivity.

*Lead judge: Honorable Sheila Calloway*

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**New Orleans, LA:** The model court continues to educate legislators on the CCC initiative; provide opportunities for trainings on Race: The Power of an Illusion video, including discussions with minority youth; disseminate CCC data; and work with their public law center to study resolution and encourage university research. (To view a clip or the series, go to the California Newsreel website - [newsreel.org/nav/title.asp?tc=cn0149](http://newsreel.org/nav/title.asp?tc=cn0149))

*Lead judge: Honorable Ernestine Gray*



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**Newark, NJ:** In their efforts to transform judicial practice, they will be holding a statewide disproportionality conference in October 2009.

*Lead judge: Honorable Sallyanne Floria*



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**Omaha, NE:** In their efforts to better understand tribal child welfare court practice and Native American culture, they provided training to statewide stakeholders. Included was a panel discussion between representatives from Nebraska tribes and training participants.

*Lead judge: Honorable Christopher Kelly and Wadie Thomas, Jr. (pictured), (co-lead judges)*



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**Portland, OR:** In their efforts to transform judicial practice, they have created respectful courtrooms where judicial officers receive relevant information to make culturally responsive and appropriate decisions about the safety and well-being of children. They further allow parents and children an opportunity to personally address the court.

*Lead judge: Honorable Paula J. Kurshner*

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**Salt Lake City, UT:** The model court is furthering their development and capabilities to collect and evaluate data on ethnicity at all decision points by region and court jurisdiction.

*Lead judge: Honorable Sharon McCully*

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**San Jose, CA:** (See corresponding article by [Judge Katherine Lucero](#))

*Lead judge: Honorable Katherine Lucero*



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**Tucson, AZ:** The model court continues their statewide collaboration with Child Protective Services on their Family-to-Family initiatives. They provide viewing of the video, *Race: The Power of an Illusion* at their statewide judicial conference, and they continue to review and analyze data, including AFCARS.

*Lead judge: Honorable Patricia Escher and Stephen Rubin (pictured), (co-lead judges)*



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**Washington, DC:** In furtherance of the efforts to transform judicial practice, they hold trainings for judges and court staff to examine biases and conduct disproportionality conferences and trainings.

*Lead judge: Honorable William Jackson*

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**Weld County, CO:** The model court ensures that appropriate and effective quality services are objectively assessed. They identify services that are offered to clients and require reports on those services.

*Lead judge: Honorable Julie Hoskins*

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The Courts Catalyzing Change: Achieving Equity and Fairness in the Foster Care System Initiative is funded by Casey Family Programs and supported by OJJDP. The CCC initiative was officially launched at the National Model Courts All-Sites Conference in October 2007. (To read more about the initiative, see the article by Sophia I. Gatowski, Candice L. Maze and Nancy B. Miller in the Summer 2008 issue of NCJFCJ's TODAY [ncjfcj.org/images/stories/dept/publications/summer%20today%202008%20final.pdf](http://ncjfcj.org/images/stories/dept/publications/summer%20today%202008%20final.pdf).)

Please visit the NCJFCJ website ([ncjfcj.org/content/blogcategory/117/156/](http://ncjfcj.org/content/blogcategory/117/156/)) for more up-to-date information about participating model courts and their work.

**Footnote:**

1. PPCD oversees the Child Victim's Act Model Courts Project. The US Department of Justice, Office of Juvenile Justice and Delinquency Prevention (OJJDP) funds the Child Victims Act Model Courts Project.

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## NCJFCJ Call to Action



*Hon. Katherine Lucero, Superior Court Judge, Santa Clara Superior Court*

### Summary

We know that child welfare laws disproportionately impact children of color not only because we see it, but because the data confirms it. Justice requires us to make every possible effort to recognize and address this disparity.

The Santa Clara County Dependency Court has been an NCJFCJ model court for more than a decade. The essence of the model court commitment is to challenge and stretch ourselves in a methodical way to better meet the needs of the families and children that we see in court each day.

What most of us see in court each day are children and families of African-American, Native American and Latino heritage in disproportionate numbers. We also see that our families are here in large part because of addiction to drugs and/or alcohol. They are the poorest among the poor, and have little or no access to the resources—education, health care, drug treatment and even housing—that could keep them from coming into court systems. Remarkably, research confirms that these minority populations do not abuse or neglect their children at a higher rate than any other population, nor do they use drugs and alcohol at a higher rate.

When the National Council chose to take on the issue of disproportionality, I knew that this was the task for our organization. If anyone can turn around this issue—one that goes to the very heart of justice—it is us. The judges of this nation take an oath to administer justice in this great land. Justice requires us to make every possible effort that we can think of, as a collective, to reduce these disparities.

These families do need intervention. No doubt. However, we need to ask ourselves if we are using a sledgehammer to place a nail when a smaller tool would suffice: Or even worse, is the sledgehammer only brought out for certain types of families?

NCJFCJ asks that judges be the light that leads the call to action for a paradigm shift. We know that child welfare laws disproportionately impact children of color not only because we see it, but because the data confirms it.

We now have NCJFCJ to help us create the best practices to reduce disproportionality. We have already created amazing things as model courts: Family drug courts, adoption day, mediation, the *RESOURCE GUIDELINES*, and much more. We can do this. The time is now and the voice is ours.

In Santa Clara County the court has already done a few things to make a difference in this area. Our court has joined with our child welfare agency in their efforts to reduce disproportionality. I have met with local community organizations like the NAACP and the La Raza Round Table to reach out and ask for assistance in tackling this issue. I have also met with local, state and national legislators to remind them about the disparate impact and the necessity to identify resources to keep families together instead of separating them, whenever possible.

We as judges have to begin the courageous conversations about race in our jurisdictions. No one is surprised by these discussions. Everyone in my community knows the data shows the overrepresentation of African-American and Latino children in the child welfare system, the juvenile delinquency system and the adult jail population. Sometimes people will ask me why this is the case, and I have had to develop a couple of well thought theories. However, what I really try to focus on is the fact that it is not one agency or one person's "fault," but it is everybody's problem.

A place to begin for all of us is the promotion of therapeutic jurisprudence. Every dependency court should be a problem solving court. These are high-end, complex cases, which need an individual plan. Once the family arrives, unless we end up dismissing the case, we will now work with them for a period of time to reunify their family. Give them what they need to succeed. Determine the barriers to success. Is it transportation? Is it drug treatment? Not only do we need to find the resources, we need to expect them. In Santa Clara County we have also begun watershed collaboration with the

departments of drug and alcohol, child welfare and mental health; the board of supervisors; faith-based groups; and other community-based organizations.

It is very important that we not only organize for the reduction of African-American, Latino and Native American children in the child welfare system, it is also very important that we believe that we can achieve this reduction. We are likely the only national body that can make this happen, and we must hold this belief.

In his book, *Power vs. Force*, David Hawkins describes the possibility of a paradigm shift this way:

*When Roger Bannister broke the four minute mile, he created a new consciousness. Prior to that people believed that man could not run a mile in less than four minutes. Once the new consciousness was created because of Bannister, suddenly runners began to run a sub four-minute mile. This happens every time mankind breaks into a new paradigm, whether it is the capacity to fly (a consciousness created by the Wright Brothers), or the capacity to recover from alcoholism (a consciousness created by Bill W. and AA). Once that consciousness is created, everyone who repeats the accomplishment reinforces the power of that reality.*

It starts with us.

Read more about the Courts Catalyzing Change Initiative ([ncjfcj.org/content/blogcategory/447/580/](http://ncjfcj.org/content/blogcategory/447/580/)) and juvenile drug court ([ncjfcj.org/content/blogcategory/88/117/](http://ncjfcj.org/content/blogcategory/88/117/)) at the NCJFCJ website.

More information on data regarding the overrepresentation of children of color can be found at UC Berkeley's Center for Social Services Research website ([googlesyndicatedsearch.com/u/cssrberkeley?q=data+overrepresentation&q=](http://googlesyndicatedsearch.com/u/cssrberkeley?q=data+overrepresentation&q=))

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## The National CASA Association's Journey to Better Outcomes for Children of Color



*Sally Wilson Erny, Chief Program Officer, National CASA Association*

### Summary

By providing training and information, and increasing our volunteers, staff and board members of color, National CASA hopes to reduce disproportionality and disparity throughout our court and child welfare systems so that all children not only benefit from culturally appropriate volunteer advocacy but achieve the best outcomes possible.

Over the past four years, the National Court Appointed Special Advocate (CASA) Association, in partnership with state and local CASA and volunteer guardian ad litem (GAL) programs, has been on a journey to better serve children of color who have been abused or neglected. The challenges for children of color involved in the child welfare system and courts are well documented, including that race has been identified as a primary determinant for decision making in five out of six stages in child protective services.

National CASA joins judges and child welfare personnel from around the country in our quest for solutions and remedies to correct the inequities that occur within our systems and result in disproportional representation and disparate outcomes for many of the children we serve.

In 2005, National CASA adopted, as part of our strategic plan, a very intentional Volunteer Diversity Strategy to support our goal of providing the best possible volunteer advocacy for children through increased inclusion and cultural competence within our network. A key component of the strategy was providing funding to help five CASA/volunteer GAL programs recruit and retain African-American volunteers at levels proportionate to the children involved in court actions as a result of abuse or neglect. In addition, for the next three years, National CASA provided a high level of support and financial and human resources to help these programs reach a greater level of engagement with communities of color and increase the number of volunteers of color serving children in need.

As one component of the Volunteer Diversity Strategy, National CASA provided each of the five programs with the opportunity to participate in the Casey Family Programs' *Knowing Who You Are (KWYA)*, a training that helps individuals to develop a healthy sense of racial and ethnic identity and enhance their psychological well-being and social competence. CASA/GAL program staff and volunteers who are more self-aware and equipped with these skills possess a greater ability to identify and advocate for the best outcomes for all children. (For additional information about *Knowing Who You Are*, see the article, "[Partnership Between National CASA and Casey Family Programs Strengthens Children's Racial and Cultural Identities](#)" from the Summer 2009 Connection magazine.)

Providing financial support and increased program assistance to five programs was only the beginning. The logical next step was to expand the reach of our diversity efforts by sharing critical information about inclusiveness and diversity with others in our network. To address the lack of awareness of the high disproportionality rates for children in the court and child welfare systems, we established a goal of developing a network-wide understanding of the issues among staff and volunteers. We began this education process by creating and distributing the document "Seven Important Facts CASA/GAL Volunteers Need to Know When Advocating for Children of Color."

([nationalcasa.org/download/Judges\\_Page/notes-0709/0907-JP7.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-JP7.pdf))

Seven Important Facts was disseminated to all state and local CASA/GAL organizations nationwide and to our 1,500 National CASA conference participants in 2008. Also in 2008 we were able to offer the *Knowing Who You Are* training to several additional local CASA/GAL programs.

Recent surveys of the five Volunteer Diversity Strategy sites and of *Knowing Who You Are* participants have demonstrated that our diversity efforts are achieving the desired results. When asked about the results of their participation in the diversity strategy and KWYA trainings, program staff members and volunteers shared comments including the following:

- “Staff members are thinking of recruitment differently now since *KWYA* training.... There has been a change in our [demographic] numbers since *KWYA*. We have all learned that you need board, staff and volunteers that look like our community. It is not just about grabbing people off the street but recruiting for strengths.”
- One program reported that their board “now has three African-American members and diversity continues to be a key criteria for new members. All staff, a few board members and a number of volunteers attended *KWYA*. Work to follow up that effort is underway and other training has been undertaken for staff and volunteers to continue to build cultural competency.”
- Another program noted that “about 20% of new volunteers have been persons of color.” As one past board member and CASA volunteer who is African-American stated, “When I became a part of CASA five years ago, the organization was lily white. Now I see others on the board and staff who look like me!”
- Another program reported that through the volunteer diversity initiative, new volunteers to the program in FY08 “were 52% African-American compared to 32% the previous year.”

National CASA and Casey Family Programs have reaffirmed our commitment to dissemination of *KWYA*. We recently supported the training of 18 state CASA/GAL organization directors and will offer *KWYA* to the other 28 state directors this July. In addition, the training will be made available to volunteers and staff in Florida, North Carolina and Texas. We believe that our partnership with state CASA/GAL directors will provide additional opportunities for the training in states throughout the country.

Making significant changes in disproportionality and disparate outcomes will take much more than raising awareness. But by providing training and information, and increasing our volunteers, staff and board members of color, we will continue to work toward reducing disproportionality and disparity throughout our court and child welfare systems so that all children not only benefit from culturally appropriate volunteer advocacy but achieve the best outcomes possible.

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## Partnership Between National CASA and Casey Family Programs Strengthens Children's Racial and Cultural Identities

*Excerpt from Summer 2009 National CASA Connection magazine.*

### Summary

*Knowing Who You Are* is a training that develops multicultural competence for advocates and social workers in order to strengthen the racial, ethnic and cultural identity of children with whom they work.

The lives of foster children are filled with uncertainty: *How long will I live here? Will I ever see my sister again? Why can't my mother care for me?* For youth in foster care, racial, ethnic and cultural heritage can be one more unknown. Ask a child in care about her background and she may equivocate: "Most of my life, I thought I was primarily Native American. Just last year I learned that I'm mostly white," one youth panelist stated at the recent National CASA Annual Conference.

To strengthen the racial, ethnic and cultural identity of children in foster care, develop multicultural competence, and provide youth with a foundation to navigate racism and discrimination, the National CASA Association is collaborating with Casey Family Programs to deliver *Knowing Who You Are (KWYA)* to CASA program staff and volunteers of selected programs throughout the country. A comprehensive curriculum developed by Casey, *KWYA* encourages participants to first question their own assumptions and biases and explore their own racial and ethnic identity, as preparation to then work with youth in foster care to strengthen their sense of themselves.

*Knowing Who You Are*—a three-part curriculum consisting of a video, electronic learning module and two-day in-person learning experience—was originally designed for social workers, but Casey quickly realized the curriculum's potential for training other individuals who have a strong role in the lives of foster children. Partnering with National CASA and local CASA programs was a way for Casey to expand the reach of the new curriculum and impact more children.

"Casey has a long-established history of working with National CASA and CASA programs. We share common ground and a common goal of improving outcomes for children in foster care," says Elena Lamont, manager for community and constituent engagement with Casey Family Programs. "Because CASA volunteers are often the most constant presence in a young person's life, they are in a position to help youth explore and develop ties to their racial, ethnic and cultural identities."

In partnership with Casey, National CASA has facilitated approximately 15 workshops over the past two years. To achieve the greatest results with limited resources, National CASA is focusing *KWYA* trainings on programs that have already begun to incorporate cultural competence and diversity work into their operations and planning. To expand the reach of the curriculum, National CASA and Casey are certifying selected CASA program staff as *KWYA* facilitators who can then train their peers and volunteers.

Follow-up surveys of more than 100 *KWYA* workshop participants have indicated that the trainings are having a positive effect on both the individuals and their organizations. When asked whether they have applied lessons learned during the training, 60% of participants at a Miami training and 70% from St. Louis County CASA indicated that they put their new skills to work on at least a monthly basis.

"I would say that *Knowing Who You Are* helped me to think about each child individually. For me it was not only about the race of the child, but also about the culture and traditions the child may have grown up with," says Sarah Paton, emancipation coordinator with Orange County CASA. "Now, when talking to advocates, I encourage them to find out what traditions the child had in their family and help to recreate those. I have had advocates work with foster parents to understand and incorporate some traditions of the children into their lives."

In 2009, National CASA is building on the successes of the first two years of the *KWYA* partnership, with plans in place to train at least 30 state CASA organization directors and certify 10 additional facilitators. Individuals who are interested in gaining some exposure to *KWYA* are encouraged to view the 24-minute video and go through the e-learning curriculum. Both can be found by going to Casey Family Program's website, [casey.org](http://casey.org) and searching for "*Knowing Who You Are*."

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# Overrepresentation of Indian Children in State Child Protection Systems Is Not in Their Best Interest

Donna J. Goldsmith, General Counsel, Alaska Federation of Natives

Hon. Korey Wahwassuck, Chief Judge, Leech Lake Band of Chippewa Tribal Court

## Summary

It is, ultimately, the responsibility of judges to ensure that state agencies follow ICWA. The standards, procedures and requirements of this very important law are, without a doubt, in the best interests of Indian children.

In 1978, Congress enacted the Indian Child Welfare Act<sup>1</sup> in an effort to end more than a century of federal and state policies aimed at acculturating and assimilating Indian<sup>2</sup> children by removing them from their families, communities and cultures.<sup>3</sup> All served one purpose with devastating results: Indian children were taken from their families and communities at staggering rates—for no reason other than that they were Indian.

These devastating practices and policies included mandatory, forced attendance at federal boarding schools, where the government paid school officials a bonus for kidnapping Indian children. They also included efforts by members of religious groups who tricked non-English speaking Indian parents into relinquishing their children, believing that they were saving the children from themselves.<sup>4</sup> The act also signaled the end of the Child Welfare League of America's collaboration with the Bureau of Indian Affairs (BIA) resulting in the Indian Adoption Project,<sup>5</sup> through which the BIA paid states to remove Indian children from their homes through allegations of "neglect. As a result of these actions, countless children suffered the loss of their siblings, their extended families, their communities, their cultures and their very identities. They grew up knowing nothing of the cultural traditions and skills that life with their families would have imbued in them.

In 1969, a survey of 16 states with substantial Indian populations found that 25–35% of all Indian children had been separated from their families and placed in non-Indian foster or adoptive homes after the CWLA project.<sup>6</sup> South Dakota placed Indian children in foster care 16 times the rate for all other children—in Washington, it was 19 times the rate. In Minnesota, one in eight Indian children under the age of eighteen were in an adoptive home—90% of which were non-Indian—and one in every four Indian children under the age of one was placed for adoption.

These stunning disparities in out of home placement rates resulted from ethnocentric, paternalistic, and racist attitudes of moral superiority. Non-Indian caseworkers contemptuous of tribal cultural norms could not abide the concept of the extended family. As these statistics came to light in the 1970s, the disparity between Indian and non-Indian removal rates shocked Congress into action.

Congress sought to remedy this deplorable situation with enactment of ICWA. The law imposes on state courts and child protection agencies substantive and procedural mechanisms that place the child's tribe front and center for all decision making regarding the child's well-being. As the US Supreme Court noted in *Mississippi Band of Choctaw Indians v. Holyfield*,<sup>7</sup> "[i]t is clear from the very text of the ICWA, not to mention its legislative history and the hearings that led to its enactment, that Congress was concerned with the rights of Indian families and Indian communities vis-a-vis state authorities...it's purpose was, in part, to make clear that, in certain situations, the state courts did *not* have jurisdiction over child custody proceedings...the...congressional findings demonstrate that Congress perceived the states and their courts as partly responsible for the problem it intended to correct."<sup>8</sup>

The jurisdictional delineation in ICWA reflects more than 100 years of federal case law that acknowledges tribal authority over child protection matters affecting tribal children.<sup>9</sup> It establishes *presumptive* tribal jurisdiction over member children regardless of where the children reside.<sup>10</sup> ICWA imposes on state courts standards and procedures intended to ensure that when the tribal court cannot exert jurisdiction over a child protection proceeding, the child's tribe has an unfettered right to participate as a party to the proceedings. ICWA also requires testimony of an expert witness (other than the state case worker) who is familiar with the child's tribal culture and child-rearing practices, and who can inform the judicial process and advise the court how best to protect and ensure the child's emotional well-being.

Thirty-one years after passage of ICWA, Indian children are still vastly overrepresented in the child protection system. According to a 2007 GAO report, Indian children make up 1% of the national population in the US, but comprise 2% of the *state* foster care population.<sup>11</sup> To put this in perspective, Caucasian children, who make up 61% of the US population, are underrepresented—only 40% of the foster care population. In Alaska, Native children now represent 62% of the children in state custody, while Alaska Natives represent only 20% of the total state population.<sup>12</sup>

There is no research that indicates that child abuse and neglect occur in higher numbers in Indian communities. The high number of Indian children in state custody is part of the multi-faceted legacy of the boarding schools. Indian children forcibly raised in federal boarding schools were separated from their families and communities at a crucial time in their lives. They did not learn how to parent as most of us do—by modeling the behavior of our own parents. Instead, to they learned how to parent from life in BIA boarding schools.

The legacy of this intergenerational disruption continues to this day. It is exacerbated by reactions of non-Indian caseworkers and judges to different cultural norms regarding childrearing practices. The concept of what constitutes neglect is especially prone to gradations of cultural bias and/or misunderstanding about how “good enough” a home really is for a child.

What can we do to change how we respond to Indian children whose distressed families need our assistance, and ensure that we provide the most appropriate and culturally relevant services to those children who need judicial intervention? While state practices regarding Indian children have improved over the last three decades, much can be done to better serve Indian children and families. If judges follow both the letter and spirit of ICWA, state courts can and will reduce the number of children who must be placed outside of their families and communities. All too often, however, states fail to meet even the minimum requirements of ICWA.

Key provisions within ICWA will, if followed, provide the best outcomes for Indian children who need our assistance. These include:

- Early notice to the child’s tribe of the proceedings<sup>13</sup>
- Timely disclosure to the tribe of all information and documentation about the family<sup>14</sup>
- Transfer of jurisdiction to the child’s tribe absent the most compelling of circumstances<sup>15</sup>
- Removal of Indian children only after the state case worker has demonstrated that *relevant, active efforts have been made* to provide rehabilitative services to the family, and that those efforts have failed<sup>16</sup>
- Identification of a family member, or other culturally relevant placement, for those children who cannot remain safely at home,<sup>17</sup> and development a case plan for the family that is culturally relevant and which will enhance the likelihood of successful return of the child
- Reliance on an expert witness who is familiar with the child rearing practices of the tribe, and who will understand, appreciate and respect the totality of the child’s well-being<sup>18</sup>
- Placement in foster care only if the evidence is clear and convincing<sup>19</sup>
- Avoidance of other than very short term, emergency placements with non-Indian foster parents, who, despite the best intentions and bonding, cannot provide for the child’s cultural and overall well-being
- Termination of parental rights only if the evidence is beyond a reasonable doubt<sup>20</sup>
- Refusal to allow bonding to a foster parent to trump the placement preferences of ICWA<sup>21</sup> except under the most extreme and compelling of circumstances

It is, ultimately, the responsibility of judges to ensure that state agencies follow ICWA. We do not advocate that you follow the letter and spirit of ICWA to be politically correct. To the contrary, we are absolutely certain, after more than 25 years of working with Indian children and their families in both state and tribal courts across the country, that Congress was absolutely correct: The standards, procedures and requirements of this very important law are, without a doubt, in the best interests of Indian children.

#### Footnotes:

<sup>1</sup>. 25 U.S.C.A. §§ 1901 et. seq.

<sup>2</sup>. For purposes of this article, we will refer to Alaska Native and American Indian children as Indian children, as a legal term of art under the ICWA.

<sup>3</sup>. See Donna J. Goldsmith, “In the Best Interests of an Indian Child: The Indian Child Welfare Act,” *Juvenile and Family Court Journal*, Fall 2002, for a more complete discussion of this history.

<sup>4</sup>. Rex Wyler, *Blood of the Land, the Government and Corporate War Against the American Indian Movement*, 149 (1982).

<sup>5</sup>. In April 2001, in Anchorage, Alaska the CWLA issued a formal apology to Indian and Alaska Native people for its past child welfare policies and practices.

<sup>6</sup>. H.R. Report No. 1386, 95th Cong., 2d Sess. 23 (1978), reprinted in *US Code Cong. & Admin. News* 7534, 7531.

<sup>7</sup>. *Mississippi Band of Choctaw Indians v. Holyfield*, 490 U.S. 30 (1989).

<sup>8</sup>. *Id.* at 44-45.

<sup>9</sup>. *Id.* at 42.

<sup>10</sup>. *Id.* at 36.

- [11.](#) U.S. GAO Report to the Chairman, Committee on Ways and Means, House of Representatives, on African American Children in Foster Care, July 2007, Appendix II.
- [12.](#) See current data offered on the website for the State of Alaska Office of Children’s Services. Data drawn from the Adoption and Foster Care Analysis Reporting System in 2007 indicates that in other states with large Indian populations, Indian children are vastly over-represented in the state system, ranging from 3-4 times their population figures. See press release posted on the website for the Pew Commission on Children. ([pewtrusts.org/news\\_room\\_detail.aspx?id=31250](http://pewtrusts.org/news_room_detail.aspx?id=31250))
- [13.](#) 25 U.S.C. § 1912(a).
- [14.](#) 25 U.S.C. § 1911(d).
- [15.](#) 25 U.S.C. § 1911(b)
- [16.](#) 25 U.S.C. § 1912(d).
- [17.](#) 25 U.S.C. § 1915.
- [18.](#) 25 U.S.C. § 1912(e).
- [19.](#) Id.
- [20.](#) 25 U.S.C. § 1912(f).
- [21.](#) 25 U.S.C. § 1915.

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## Collaborative Action to Reduce Disproportionality in Dependency Court

*Hon. Katherine R. Delgado, District Court Judge, 17th Judicial District, Brighton, CO*

### Summary

The Adams County Best Practices Court has engaged community members in targeted efforts to reduce disproportionality in their dependency court.

The mission of the Adams County Best Practice Court is to ensure safety, well-being and permanency for children while incorporating best practices which are mindful of ethnic and cultural differences, and ultimately achieve the optimal outcome for families and children.

To accomplish this mission, the court and all stakeholders shall:

- Meet on a regular basis to discuss how to accomplish the systems change necessary to ensure safety, well-being and permanency, as well as the timely provision of services for children, while respecting the constitutional and legal rights of families, children and other stakeholders
- Develop protocols through interagency cooperation that are intended to preserve resources, while simultaneously providing an appropriate level of services to children and families
- Reduce racial and ethnic disproportionality and disparity in dependency court

To assist with fulfilling the mission, a multidisciplinary Racial Overrepresentation Committee meets regularly to continuously identify challenges, develop goals and take action to reduce disproportionality in Adams County. Initially, the committee focused on obtaining data. I found that it was critical for us to have access to accurate local data in order to gain buy-in from some of our key stakeholders. The data is also an essential component for gaining a richer understanding of how to address the issue. In our jurisdiction, the data showed us that we needed to focus on strengthening our partnerships with mandatory reporters.

Our goal for 2008 was to increase awareness and begin to develop new partnerships with mandatory reporters such as law enforcement, schools and health care providers. Disproportionality is not a problem that can be affected without community partnerships. Through my role as a judicial officer, I am able to play a key role in spearheading community outreach efforts. Through financial support of the Adams County Youth Initiative ([acyi.org](http://acyi.org)), we were able to host a forum on racial disparity and juvenile justice, targeting participation from mandatory reporters. The day was filled with energetic and powerful presentations from nationally recognized experts in the area of disproportionality.

Following the forum, representatives from one of the communities in Adams County requested assistance in furthering the effort within their community. This request led to the 2009 goal of targeting Commerce City for community engagement and training. This has helped us to narrow our focus to an achievable and measurable goal in a community that already has some motivated champions for this issue. The Commerce City chief of police, Phil Baca, agreed to serve with me as the co-chairperson for the Racial Overrepresentation Committee. Through his leadership we have been able to bring additional community members to this partnership and access more resources that we hadn't known were available. We will be hosting several events for Commerce City this year leading up to a summit in October. My hope is that members of the community will step forward to take leadership roles in strategic planning and keep this work moving forward. If it is successful, I would like to replicate this community engagement model in other jurisdictions in Adams County.

It has been very exciting to be a part of this work at the national, state and local levels over the past several years. This problem can seem overwhelming and it is sometimes difficult to know where to begin. The important thing is to maintain a focus on what each of us can do in our various roles and how we can work together to take action and move forward. With consistent, achievable goals over time, we can all make a difference.

**Editor's Note:** Brighton, CO, served as a National Council of Juvenile and Family Court Judges Victims Act Model Court from 2005–2007. The state of Colorado has initiated a project called Best Practice Courts, replicating the model court concepts.

Judge Delgado was named the Colorado CASA Judge of the Year in 2008.

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# An Analysis of Racial/Ethnic Disproportionality and Disparity at the National, State and County Levels

Robert B. Hill, PhD, Senior Researcher, Race Matters Consortium Westat

## Summary

This abstract from a publication of Casey Family Programs-CSSP Alliance for Racial Equity in Child Welfare examines issues of racial and ethnic disproportionality and disparities for children within five racial and ethnic groups.

Disproportionality and the disparate treatment of children of color in the child welfare system is a phenomenon that is gaining a great deal of attention today. Previous analyses have shown that black children are overrepresented in the child welfare system in every state. Native American/American Indian and Alaska Native children are all overrepresented in the jurisdictions in which they reside. Hispanic children are overrepresented in more than 10 states, and their representation in the child welfare system is on the rise. At the same time, Asian/Native Hawaiian and Pacific Islander children tend to be underrepresented in the child welfare system. While a significant body of research has been executed to better understand this phenomenon for black children in the child welfare system, many questions remain. Additionally, much less work has been done to understand what is going on for children of other racial and ethnic groups in this country.

The study, *An Analysis of Racial/Ethnic Disproportionality and Disparity at the National, State and County Levels*, expands the knowledge of this phenomenon in the field of child welfare through further examination of racial and ethnic disproportionality and disparities for children within five racial and ethnic groups at the national, state and county levels:

- American Indians/Native Americans/Alaska Natives
- Asian Americans/Native Hawaiians and Pacific Islanders
- Blacks
- Hispanics
- Whites

Through an analysis of child welfare system participation using two national data sets, the National Child Abuse and Neglect Data System (NCANDS), and the Adoption and Foster Care Analysis and Reporting System (AFCARS), the participation of children by race and ethnicity is examined at the following three child protection decision-making stages: child protection investigations (investigation), substantiated investigations (substantiation), and placement into foster care (placement).

Two measures were used for the analysis: the disproportionality rate and the disparity ratio. The former compares children within a race or ethnic group, and the latter compares the information across racial and ethnic groups to better understand how the representation of one group compares to another.

The study confirms that both black children and Native American children are overrepresented disproportionately within the foster care system at the national level. This disproportionality is seen at each of the three decision-making stages outlined above. Both groups have been observed at twice their representation in the general population at both investigation and substantiation, and two to three times their proportion in the general population while they are in care. The treatment of both black and Native American children also shows increasing disparities compared to the treatment of white children as they progress through gateways into the child welfare system, with the disparity ratios of Native American children increasing to a much higher rate than black children. This can be compared to Asian/Native Hawaiian and Pacific Islander, Hispanic and white children who are each disproportionately represented at lower rates at each of the decision stages than they are in the general population. Interestingly, children of all racial and ethnic groups, except white children, have increasing percentages of representation at progressive stages, whereas the proportion of white children decreases as they advance farther into the decision-making stages of the child welfare system.

County-level data were analyzed for five counties in which promising practices to reduce racial disproportionality and promote racial equity were identified in a national scan commissioned by the Casey-CSSP Alliance for Racial Equity in Child Welfare:

1. Bexar County, TX
2. Guilford County, NC
3. King County, WA
4. Ramsey County, MN
5. Wake County, NC

State-level data were gathered for these four states, providing a vehicle for observing similarities and differences in racial disproportionality at each of the levels of data collection.

The primary objective of the study is to describe disproportional representation and disparate treatment across racial/ethnic groups for children who make contact with the child welfare system at various child protection decision-making stages.

**Editor's Note:** This report was written by Senior Researcher Robert B. Hill, Race Matters Consortium, Westat. It was published in December 2007 by the Casey-CSSP Alliance for Racial Equity in Child Welfare. Download the report from Casey's website ([casey.org/Resources/Publications/AnalysisOfDisproportionality.htm](http://casey.org/Resources/Publications/AnalysisOfDisproportionality.htm)).

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

Shay Bilchik, Director, Center for Juvenile Justice Reform  
Matthew Stagner, Executive Director, Chapin Hall Center for Children

## Summary

This overview introduces a compendium on the role of race and ethnicity in the child welfare and juvenile justice systems published by Chapin Hall Center for Children at the University of Chicago.

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 (CAPTA), 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 20 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 governments might support both systems in achieving better outcomes for children and youth and promote policies to better integrate their efforts.

This compendium 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 in the compendium are 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.

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.

View a PDF of the compendium  
([nationalcasa.org/download/Judges\\_Page/notes-0709/0907-JP11-ChapinCompendiumReport2009.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-JP11-ChapinCompendiumReport2009.pdf)).

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# **Review of the Report, *Adoration of the Question: Reflections on the Failure to Reduce Racial and Ethnic Disparities in the Juvenile Justice System***

Michael Roosevelt, Senior Court Services Analyst, California Administrative Office of the Courts

## **Summary**

The W. Haywood Burns Institute report offers a call to action to redress racial imbalance in our juvenile justice system.

Many years ago, I read Greek mythology and learned the story of Narcissus, a young man cursed with falling in love with his own reflection. I was reminded of that story while reading *Adoration of the Question: Reflections on the Failure to Reduce Racial and Ethnic Disparities in the Juvenile Justice System*, a critique of the research on and absence of progress made to reduce racial and ethnic disparities in the juvenile justice system, co-authored by James Bell and Laura John Ridolfi.

According to the authors, there has been and continues to be an almost pathological preoccupation with studying the problem of racial disparity and disproportionality in the juvenile justice system. Like Narcissus's adoration of his reflection, there has been too much preoccupation with the question. For all of the attention paid to the problem over the last two decades, all we have to show for our efforts are glossy conference brochures and millions of dollars expended.

Bell and Ridolfi argue that there is enough blame to go around for the lack of progress made in reducing the disproportionate number of children of color in our juvenile detention centers in this country. The explanations put forward for the lack of progress include an absence of political will and the belief by some prosecutors and judges that families of these children are too dysfunctional and that children are better served if they remain incarcerated. In short, public safety—a particular view of it—trumps commonsense and best practice.

The juvenile justice system today is not unlike a Greek tragedy; one in which we know the tragic end (not a very good one) at the beginning of the story. If children of color are incarcerated at rates in excess of their representation in the population, disproportionately and unnecessarily removed from their homes and placed into the care of the state, provided unequal access to services and pushed out of school, we know where they will end up.

To move forward with practical solutions, I recommend a careful reading of *Adoration of the Question* and honesty in our evaluation of past and present efforts to redress racial imbalance in our juvenile justice system. According to Bell, we can no longer afford to study the problem; we must enact changes in the system. As he states:

*Beginning today, we must stop lingering on the question, "What should we do about disparities?" and instead identify best practices that are proven to actively combat the issue—effectively reducing racial and ethnic disparities state by state, jurisdiction by jurisdiction.*

To download a PDF of the report, go to the W. Haywood Burns Institute website ([burnsinstitute.org/downloads/BI%20Adoration%20of%20the%20Question\\_1.pdf](https://burnsinstitute.org/downloads/BI%20Adoration%20of%20the%20Question_1.pdf)).

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## Web Resources: Overrepresentation of Children of Color in the Foster Care System



*Paula Campbell, MA, Assistant Information Specialist, Permanency Planning for Children Department, NCJFCJ*

### Summary

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. These downloadable PDFs and websites offer educational information, and resources for reducing disproportionality in the child welfare system.

### NCJFCJ Courts Catalyzing Change (CCC) Initiative National Agenda

The CCC initiative will create and disseminate judicial tools, policy and practice guidelines, and associated action plans that dependency court systems can use to reduce disproportionality and disparities for minority children and families.

[ncjfcj.org/content/blogcategory/447/580/](http://ncjfcj.org/content/blogcategory/447/580/)

“Courts Catalyzing Change National Agenda”

[nationalcasa.org/download/Judges\\_Page/notes-0709/0907-JP2-CCCNATIONALAGENDA9-08.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-JP2-CCCNATIONALAGENDA9-08.pdf)

### Racial Disproportionality and Disparity Research and Data

*Courts Catalyzing Change: Achieving Fairness and Equity in Foster Care—Key Indicators/Key Measures Research Report.* [nationalcasa.org/download/Judges\\_Page/notes-0709/0907-WebResources2-CCCProjectResearchResults.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-WebResources2-CCCProjectResearchResults.pdf)

*Examining Court Performance and Outcomes Through a Racial Equity Lens—Using the National Dependency Court Performance Measures.*

[nationalcasa.org/download/Judges\\_Page/notes-0709/0907-WebResources3-OutcomeMeasuresandRace.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-WebResources3-OutcomeMeasuresandRace.pdf)

*Outcomes and Lessons Learned: Casey’s Breakthrough Series Collaborative on Reducing Disproportionality and Disparities for Children and Families of Color in the Child Welfare System.*

[casey.org/Resources/Publications/DisproportionalityBSCReport.htm](http://casey.org/Resources/Publications/DisproportionalityBSCReport.htm)

*Disproportionality in Child Protective Services: Statewide Reform Effort Begins with Examination of the Problem, Texas Health and Human Services Commission report.*

[nationalcasa.org/download/Judges\\_Page/notes-0709/0907-WebResources5-Texas.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-WebResources5-Texas.pdf)

*“Racial/Ethnic Disparity in the California Child Welfare System: Data Update,” Sixth Annual Symposium on Fairness and Equity Issues in Child Welfare Training and Education.*

[nationalcasa.org/download/Judges\\_Page/notes-0709/0907-WebResources6-Needell.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-WebResources6-Needell.pdf)

Indian child welfare information, Casey Family Programs website.

[casey.org/OurWork/IndianChildWelfare/](http://casey.org/OurWork/IndianChildWelfare/)

“The Color of Foster Care,” statistics, Black Administrators in Child Welfare website.

[blackadministrators.org/statistics\\_main.cfm](http://blackadministrators.org/statistics_main.cfm)

*African American Children in Foster Care: HHS and Congressional Actions Could Help Reduce Proportion in Care, GAO Report.*

[nationalcasa.org/download/Judges\\_Page/notes-0709/0907-WebResources7-GAOsmallreport.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-WebResources7-GAOsmallreport.pdf)

Disproportionality data, Child Information Gateway website

[childwelfare.gov/systemwide/cultural/disporp/data.cfm](http://childwelfare.gov/systemwide/cultural/disporp/data.cfm)

“Child Protection and Adult Crime: Using Investigator Assignment to Estimate Causal Effects of Foster Care.” Study finds that children on the margin of placement—a group more likely to include African-American youth—are more likely to enter the criminal justice system as adults.

[www.mit.edu/~jdoyle/doyle\\_jpe\\_aug08.pdf](http://www.mit.edu/~jdoyle/doyle_jpe_aug08.pdf)

## Understanding Implicit Bias

Many questions arise when examining racial equity in child welfare. Topics such as the impact of personal biases and institutional and systemic racism have a profound effect on decision-making outcomes. This section offers a compilation of articles on some of these topics.

“Framing the Topic,” Race Matters Consortium

[racemattersconsortium.org/articles.asp](http://racemattersconsortium.org/articles.asp)

*Race—The Power of an Illusion* video series, California Newsreel website

[newsreel.org/nav/title.asp?tc=cn0149](http://newsreel.org/nav/title.asp?tc=cn0149)

*Race—The Power of an Illusion* online companion piece with resources and suggested readings, PBS website

[pbs.org/race/000\\_General/000\\_00-Home.htm](http://pbs.org/race/000_General/000_00-Home.htm)

“Ten Things Everyone Should Know About Race,” California Newsreel website

[newsreel.org/guides/race/10things.htm](http://newsreel.org/guides/race/10things.htm)

“American Anthropological Association Statement on Race,” Understanding Race website

[understandingrace.org/about/statement.html](http://understandingrace.org/about/statement.html)

“Institutional Racism and Disproportionality,” Casey Family Programs website

[casey.org/OurWork/Disproportionality/InstitutionalRacism.htm](http://casey.org/OurWork/Disproportionality/InstitutionalRacism.htm)

“Eyes Wide Shut: Fighting Racism in CWS One Social Worker at a Time,” opening exercise from F&E Symposium 2005, California Social Work Education Center, University of California, Berkeley, School of Social Welfare.

[nationalcasa.org/download/Judges\\_Page/notes-0709/0907-WebResources8.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-WebResources8.pdf)

*Why Are All the Black Kids Sitting Together in the Cafeteria?* Excerpt from book on racism and identity development.

[books.google.com/books?id=iRof9vDCIvQC&dq=beverly+tatum+why+are+all+the+black+kids&printsec=frontcover&source=bn&hl=en&ei=uqENSv-BBKIGtqOz\\_dCFAw&sa=X&oi=book\\_result&ct=result&resnum=4#PPP1,M1](http://books.google.com/books?id=iRof9vDCIvQC&dq=beverly+tatum+why+are+all+the+black+kids&printsec=frontcover&source=bn&hl=en&ei=uqENSv-BBKIGtqOz_dCFAw&sa=X&oi=book_result&ct=result&resnum=4#PPP1,M1)

## Resources and Tools

*Knowing Who You Are*, Casey Family Programs, a curriculum to aid child welfare professionals explore race and ethnicity, preparing them to support the healthy development of their constituent’s racial and ethnic identity.

[casey.org/Resources/Projects/REI/](http://casey.org/Resources/Projects/REI/) (Also see related article in this issue.)

Project Implicit website presents the Implicit Association Test (IAT) method to measure *implicit* attitudes and beliefs that people are either unwilling or unable to report.

[implicit.harvard.edu/implicit/demo/background/index.jsp](http://implicit.harvard.edu/implicit/demo/background/index.jsp)

“Regional Panel Presentation—Community Representatives and Cultural Brokers in the Child Welfare System: Impact on Decision-Making for African American Children,” Central California Child Welfare Training Academy

[nationalcasa.org/download/Judges\\_Page/notes-0709/0907-WebResources9-2008Culturalbrokers.pdf](http://nationalcasa.org/download/Judges_Page/notes-0709/0907-WebResources9-2008Culturalbrokers.pdf)

*Courageous Conversations About Race*, examining the achievement gap through the prism of race

[http://books.google.com/books?id=re05eFdrKTcC&dq=courageous+conversations&printsec=frontcover&source=bl&ots=mfPM-QdqGf&sig=YK7ngx6ek0Gpkhab7\\_pxoEPrAAU&hl=en&ei=GQwTSobMD4WytgOc4tDeDQ&sa=X&oi=book\\_result&ct=results&resnum=6#PPP1,M1](http://books.google.com/books?id=re05eFdrKTcC&dq=courageous+conversations&printsec=frontcover&source=bl&ots=mfPM-QdqGf&sig=YK7ngx6ek0Gpkhab7_pxoEPrAAU&hl=en&ei=GQwTSobMD4WytgOc4tDeDQ&sa=X&oi=book_result&ct=results&resnum=6#PPP1,M1)

[http://books.google.com/books?id=re05eFdrKTcC&dq=courageous+conversations&printsec=frontcover&source=bl&ots=mfPM-QdqGf&sig=YK7ngx6ek0Gpkhab7\\_pxoEPrAAU&hl=en&ei=GQwTSobMD4WytgOc4tDeDQ&sa=X&oi=book\\_result&ct=results&resnum=6#PPP1,M1](http://books.google.com/books?id=re05eFdrKTcC&dq=courageous+conversations&printsec=frontcover&source=bl&ots=mfPM-QdqGf&sig=YK7ngx6ek0Gpkhab7_pxoEPrAAU&hl=en&ei=GQwTSobMD4WytgOc4tDeDQ&sa=X&oi=book_result&ct=results&resnum=6#PPP1,M1)

## Websites

Courts Catalyzing Change, Permanency Planning for Children Department, National Council of Juvenile and Family Court Judges

[ncjfcj.org/content/blogcategory/447/580/](http://ncjfcj.org/content/blogcategory/447/580/)

Race Matters Consortium, Casey Family Programs

[racemattersconsortium.org/](http://racemattersconsortium.org/)

*Race—Are We so Different?*, American Anthropological Association

[understandingrace.org/home.html](http://understandingrace.org/home.html)

People's Institute for Survival and Beyond, provides training and workshops

[pisab.org/](http://pisab.org/)

Center for the Study of Social Policy, Alliance for Racial Equity in Child Welfare

[cssp.org/major\\_initiatives/racialEquity.html](http://cssp.org/major_initiatives/racialEquity.html)

Black Administrators in Child Welfare

[blackadministrators.org/index.cfm](http://blackadministrators.org/index.cfm)

Child Welfare League of America, Disproportionate Representation of Children of Color

[cwla.org/programs/culture/disproportionate.htm](http://cwla.org/programs/culture/disproportionate.htm)

Minority Data Resource Center

[icpsr.umich.edu/MDRC/](http://icpsr.umich.edu/MDRC/)

Child Welfare Information Gateway, disproportionality web page

[childwelfare.gov/systemwide/cultural/disporp/](http://childwelfare.gov/systemwide/cultural/disporp/)

National Resource Center for Family Centered Practice, University of Iowa, Minority Youth and Families Initiative

[www.uiowa.edu/%7Enrcfcp/dmcr/myfi.shtml](http://www.uiowa.edu/%7Enrcfcp/dmcr/myfi.shtml)

Fairness and Equity Issues in Child Welfare Training resources, California Social Work Education Center

[calswec.berkeley.edu/CalSWEC/FESymposium\\_a.html](http://calswec.berkeley.edu/CalSWEC/FESymposium_a.html)

National Resource Center for Family-Centered Practice and Permanency Planning, Hunter College School of Social Work

[hunter.cuny.edu/socwork/nrcfcp/info\\_services/children-of-color.html](http://hunter.cuny.edu/socwork/nrcfcp/info_services/children-of-color.html)

Center for Juvenile Justice Reform, Georgetown University

[cjjr.georgetown.edu/](http://cjjr.georgetown.edu/)

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**Hon. William Hitchcock**  
**2009 National CASA Association Judge of the Year**  
*Children's Court of Anchorage Alaska CASA, Anchorage, AK*

When he started promoting the CASA model more than two decades ago, Master William Hitchcock, now the presiding judicial officer for children's court in the Anchorage Superior Court, heard a piece of criticism that became, for him, the model's strongest selling point. The critic complained that volunteer advocates do not have any expertise—"all they have is common sense."

Common sense is a quality Hitchcock values highly, and it is one he continuously strives to bring to court cases involving children and families in Alaska—even when it means bucking conventional wisdom.

"If it's innovative and will improve the court system for children and youth, [Hitchcock] is involved—often leading the way," says Marion Hallum, director of the Alaska CASA Program.

Since he started the first CASA program in Alaska in 1987, Hitchcock has been its tireless advocate, supporting expansion efforts throughout the state and helping to train advocates. He has also been an innovator, working to recruit and train more Alaska Native CASA volunteers and leading efforts to get youth involved in their court cases.

"Master Hitchcock goes beyond his duties of sitting behind the bench," says Amanda Metivier, a former foster youth and president of Facing Foster Care in Alaska. "He is a true champion of children and youth in foster care."

This article appears in the Summer 2009 issue of National CASA's *Connection* magazine.

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