



# Disproportionate Representation of Children of Color

in the Child Welfare and  
Juvenile Justice Systems  
in Michigan

## Thoughts for Practitioners

*By Margaret Olesnavage*

### fast facts

- Youth of color are overrepresented at nearly every point of contact with the juvenile justice system.
- The fact that nearly 60 percent of our nation's children who live in foster care are children of color goes largely unnoticed by most Americans.
- There is hard evidence that parents of color are no more likely than white parents to abuse or neglect their children.

### Introduction

“It reads like a bad math problem: If white youth and youth of color commit the same offenses and have the same history of delinquency, they should have the same likelihood of being detained. If research concludes there are no differences in the incidence of child abuse and neglect according to racial group, minorities should not show up on child welfare rolls in greater numbers than in the general population.”<sup>1</sup> Yet all too often, attorneys in Michigan appearing on behalf of clients in a juvenile justice or a child welfare case can survey those waiting in courtroom hallways and see disproportionate representation of children of color. Nationwide, questions are being raised: Is disproportionate representation of children of color a systemic issue? And if so, what information about this topic would help practicing attorneys ensure appropriate legal representation of their clients?

This article offers an overview of the disproportionate representation of children of color in child welfare and juvenile justice systems, summarizes current efforts initiated by national and local judicial leadership, outlines initiatives implemented by social welfare agencies, and suggests available advocacy opportunities and educational resources for judges and attorneys.

## Definition

Disproportionality means being out of proportion. Racial and ethnic disproportionality means the percentage of children of color in the child welfare and juvenile justice system does not equal their share of the total population. “[R]acial and ethnic disproportionality refers to how the composition of the population of children or youth considered in the system compares with the general population of children or youth.”<sup>2</sup> National statistics demonstrate that “children of some racial and ethnic groups are overrepresented in America’s child welfare and juvenile justice systems relative to their presence in the general population.”<sup>3</sup> The racial and ethnic groups that experience disproportionate contact include children of African American, American Indian/Alaskan Native, Asian, and Hispanic descents.

## Disproportionate Representation of Children of Color in Juvenile Justice

The Office of Juvenile Justice and Delinquency Prevention issued a report in 2006 identifying that African-American youth account for 16 percent of the youth in the United States. However, African-American youth represent 28 percent of juveniles arrested, 30 percent of juveniles brought to trial, and 37 percent of all juveniles placed in secure detention.<sup>4</sup> James Bell, director of the Youth Law Center in San Francisco, relates the following example of disparate treatment that leads to disproportionate representation of children of color for youth:

Let’s say you go joyriding and are busted for attempted car theft. If you’re arrested and taken to detention, that’s a decision. If you’re white and live in the suburbs, you may be taken home; if you’re not white and live in the city, you’re probably going to be taken to a detention center.<sup>5</sup>

Since the 1990s, the federal government has addressed the overrepresentation of children of color through the Juvenile Justice and Delinquency Prevention Act.<sup>6</sup> The act requires states to address disproportionate minority contact to receive federal dollars for juvenile prevention programs. Judicial leaders partnered with Casey Family Programs, the National Council of Juvenile and Family Court Judges, and the Victim’s Act Model Courts to develop protocols to assist family court judges to reduce racial disproportionate representation of children of color.<sup>7</sup> Child welfare and juvenile justice advocacy organizations (e.g., CASA, Jim Casey Youth Opportunities, and the Race Matters Consortium) embraced this issue and have prepared reports, briefs, and surveys on the topic.<sup>8</sup> Unequivocally, studies underscore that racial disproportionality is present in the child welfare and juvenile justice systems nationwide.

## Disproportionate Representation of Children of Color in Child Welfare

In child welfare, a 2003 United States Department of Health and Human Services report stated that African-American children are 15 percent of America’s child population but account for 25 percent of substantiated child welfare cases and 45 percent of children in foster care.<sup>9</sup> Michigan data mirrors national information. In the Michigan child welfare system in 2003, African-American children represented 17.5 percent of all children residing in Michigan; however, African-American children represented over 53 percent of the children in foster care.

## Identification

The first step in addressing the disproportionate representation of children of color in the systems is to gather the data. Data answers the who, what, where, and why questions. Studies reveal that causes of disproportionate representation of children of color include poverty (individual and community),<sup>10</sup> density of alcohol outlets, female-headed households, unemployment,<sup>11</sup> agency culture, caseworker and case characteristics, ineffective interventions, lack of cultural sensitivity, and interviewer bias.<sup>12</sup>

In the requirements of the Child Abuse Prevention and Treatment Act, the federal government requires collection of data about youth involved in both juvenile justice and child welfare. Social service agency leaders accept that disproportionate representation of children of color exists, and now are beginning to examine the causes. In 2004, the Michigan Department of Human Services (DHS) established an advisory committee to address the issue of overrepresentation of children of color in the state child welfare system. Michigan Public Act 147 of 2005 required the Michigan Department of Human Services to establish a task force to study the disproportionate representation of children of color in the child welfare and juvenile justice systems. After three years of work, the committee issued a report in 2007 and conducted a race equity review of DHS policies and protocols with a team of professionals from Praxis International, Casey Family Programs, the Annie E. Casey Foundation, the Skillman Foundation, Public Policy Associates, Center for the Study of Social Policy, and DHS leadership to assess the institutional features of Michigan’s child welfare system.<sup>13</sup>

**The first step in addressing the disproportionate representation of children of color in the systems is to gather the data. Studies reveal there are many causes, including ineffective interventions and interviewer bias.**





## Solutions

Remedies for disproportionate representation of children of color are in their infant stage and include changes in both policy and practice. Federally, the Multi-Ethnic Placement Act of 1994 requires states to actively recruit minority foster and adoptive homes.<sup>14</sup> The People's Institute (a national agency offering a public program with the theme "Un-Do Racism") starts with the premise that racism has been consciously and systematically erected in American society and offers three-day community organizing training sessions to educate child welfare agency staff on the institutional forms of racism.<sup>15</sup>

To address disproportionate representation of children of color in Michigan, DHS implemented the Family to Family Initiative and Family Group Decision Making practices to involve extended family in planning for the child.<sup>16</sup> The goal is to involve family members in the resolutions to ensure safety for the children. Attorneys will hear of these interventions in both child welfare and juvenile justice court hearings.

In addition, the following disproportionality initiatives in Michigan reflect the beginning of system reform in juvenile justice for Michigan:

- Statewide data collection project for the Governor's Michigan Committee on Juvenile Justice to identify the extent of disproportionate representation of children of color, assess the causes, develop and implement intervention strategies, evaluate the interventions, observe changes in disproportionate representation of children of color, and adjust intervention strategies as needed.
- Collection of data in the 16th Circuit Court in Macomb County to monitor, address, and reduce disproportionate minority contact. Macomb County leaders will use the data on racial and ethnic proportionality to develop plans for eliminating any disproportion resulting from bias in arrests and petitions.
- Expansion of the Wayne County Department of Children and Family Services "Correct Course," a diversion program for minority youth appearing on the in-custody and not-in-custody court dockets.
- Reduction of the number of minorities that come into formal contact with the court, and collection and analysis of juvenile arrest data and disposition outcomes in the 17th Circuit Court in Kent County. The Kent County Juvenile Success Center targets youth who commit low-level misdemeanors (e.g., trespassing, curfew, and creating disturbance violations) by diverting police-referred youth to the Juvenile Success Center as an early intervention strategy.
- Establishment of a prevention system to decrease further penetration of youth into the juvenile justice system in the 7th Circuit Court in Genesee County through mentors, youth programming, and parental support. Genesee County intends to reduce disproportionate minority contact in the juvenile justice system by 20 percent.

## Next Steps

At the conclusion of the 2008 Georgetown University symposium, Shay Bilchik, director of Georgetown University's Center for Juvenile Justice Reform, expressed the continuing challenge to resolve disproportionate representation of children of color in child welfare and juvenile justice:

[T]here is much learning and collaborative effort that now needs to be undertaken with great intentionality as we seek to more closely align these two bodies of work [*the Georgetown University Symposium and the Chapin Hall paper on racial and ethnic disparity*] and enrich the efforts of so many practitioners, policymakers, and family and community members who are at the forefront of this issue.<sup>17</sup>

Progress is possible if judicial leadership, in partnership with attorneys and human service providers, continues to address racial and ethnic disparities. When leaders employ strategies with a record of success, researchers will be able to examine how various regulatory agencies operate. Policymakers can then structure models and best practices to enable agencies and courts to work together effectively and provide better outcomes for youth and families.

## Areas for Attorney Participation

For Michigan judges and attorneys, there are areas for leadership in this arena. Attorneys can review with a critical advocacy eye the collected data and analyses and determine whether access to service, access to prevention programs, social problems, poverty, or decision-making climates account for the disproportionality of children of color in child welfare and juvenile justice systems. Attorneys can join local partnerships to answer the question of whether an inequitable social service system in their counties affects the quality of services that youth and families receive. Members of the State Bar of Michigan can ensure effective advocacy by requesting that human services systems be transparent and all children receive appropriate service.

In juvenile justice cases, the Annie E. Casey Juvenile Detention Alternatives Initiative<sup>18</sup> encourages judges and attorneys to accelerate court processing, encourage community-based alternatives to reduce detention stays, and request screening and risk assessments for juvenile offenders. These same services can be requested in any Michigan family court.

A self-examination by attorneys that addresses an awareness of racial bias may be warranted periodically to ensure appropriate representation. Advocacy efforts in the political arena are critical to sustain "large-scale change efforts that require the participation and support of, and partnership with, multiple organizations and service sectors, including the judiciary, prosecutors, defense bar, social services, mental health and substance abuse treatment providers, as well as community organizations."<sup>19</sup> Changes in resource allocation, such as providing for more adequate indigent defense and quality representation for all defendants, may help minimize disproportionate representation of children of color. As

**If the research concludes that there are no differences in the incidence of child abuse and neglect because of race, minorities should not show up on child welfare rolls in greater numbers than in the general population.**

residents of local communities, judges and attorneys can join local groups that challenge poverty, family violence, poor housing, poor health care, educational failures, crime, and drug abuse. These partnerships generate approaches that can effectuate change for what matters most: improving outcomes for children.

## Conclusion

Disproportionate representation of children of color in both the juvenile justice and child welfare systems remains prevalent in Michigan. It does read like a bad math problem. White youth and youth of color with the same offenses and the same history of delinquency should have the same likelihood of being detained. If the research concludes that there are no differences in the incidence of child abuse and neglect because of race, minorities should not show up on child welfare rolls in greater numbers than in the general population.<sup>20</sup> Collaboration and partnerships currently underway in Michigan offer hope that the problem of disproportionate representation of children of color can be successfully investigated and resolved. ■

---

*Margaret Olesnavage, JD, MSW, is employed as an administrative assistant at the Michigan Department of Human Services (DHS) and an attorney referee at the 34th Circuit Court. Margaret is a longstanding advocate for juvenile justice and child welfare youth in Michigan. She thanks her colleagues at DHS and the Hon. Shana A. Lambourn, Ogemaw County probate judge, for assistance with this article.*

## FOOTNOTES

1. Green, *Minorities as Majority: Disproportionality in Child Welfare and Juvenile Justice*, Children's Voice Magazine (November/December 2002), p 1, available at <<http://www.cwla.org/articles/cv0211minorities.htm>>. All websites cited in this article were accessed December 6, 2009.
2. Chapin Hall Center for Children, *Racial and Ethnic Disparity and Disproportionality in Child Welfare and Juvenile Justice: A Compendium* (January 2009), p 15 (Chicago: Chapin Hall Center for Children at the University of Chicago), available at <[http://cjjr.georgetown.edu/pdfs/cjjr\\_ch\\_final.pdf](http://cjjr.georgetown.edu/pdfs/cjjr_ch_final.pdf)>.
3. *Id.* at 13.
4. *Id.*
5. Green, n 1 *supra* at 2.
6. Chapin Hall, n 2 *supra* at 25.
7. *Id.* at 23.
8. *Id.* at 24.
9. *Id.* at 13.
10. *Id.* at 19.
11. *Id.*
12. *Id.* at 20.
13. Report from the Michigan Advisory Committee on the Overrepresentation of Children of Color in Child Welfare, *EQUITY: Moving Toward Better Outcomes for All of Michigan's Children* (Lansing, MI: Michigan Department of Human Services, 2006), available at <[http://www.michigan.gov/documents/DHS-Child-Equity-Report\\_153952\\_7.pdf](http://www.michigan.gov/documents/DHS-Child-Equity-Report_153952_7.pdf)>.
14. Chapin Hall, n 2 *supra* at 20.
15. *Id.* at 23.
16. *Id.* at 22.
17. *Id.* at 55.
18. *Id.* at 28.
19. *Id.* at 34.
20. Green, n 1 *supra* at 1.