



Children's Defense Fund

**Statement for the Record
Children's Defense Fund**

**Hearing on
Racial Disproportionality in Foster Care
Subcommittee on Income Security and Family Support
of the
Committee on Ways and Means
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The Children's Defense Fund (CDF) thanks you for the opportunity to submit this written statement for the record of the July 31, 2008 Hearing on Racial Disproportionality in Foster Care held by the House Ways and Means Subcommittee on Income Security and Family Support.

The Children's Defense Fund's *Leave No Child Behind*[®] mission is to ensure every child a *Healthy Start*, a *Head Start*, a *Fair Start*, a *Safe Start* and a *Moral Start* in life and successful passage to adulthood with the help of caring families and communities. CDF provides a strong, effective voice for all children of America who cannot vote, lobby, or speak for themselves. CDF pays particular attention to the needs of poor and minority children and those with disabilities. CDF is a private non-profit organization and has never taken government funds.

CDF has a long history of advocating for better outcomes for vulnerable children and their families. We recently launched the Cradle to Prison Pipeline[®] Campaign, a national call to action to stop the funneling of tens of thousands of youth, predominantly minorities, down life paths that often lead to arrest, conviction, incarceration, and, in some cases, death. A Black boy born in 2001 has a 1 in 3 chance of going to prison in his lifetime; a Latino boy a 1 in 6 chance; and a White boy a 1 in 17 chance. Poverty is the largest driving force behind the Pipeline crisis, exacerbated by race. Black children are more than three times as likely as White children to be born into poverty and to be poor, and are almost four times as likely to live in extreme poverty.

The Pipeline dramatizes the racial disparities that pervade our child-serving systems, including child welfare, and put children of color at greater risk of entering the Pipeline and not escaping. To help to dismantle the Pipeline, our Nation needs to eliminate child poverty, ensure every child and pregnant woman access to affordable, seamless, comprehensive health and mental health coverage and services, make quality early childhood programs accessible to every child, ensure every child can read at grade level by fourth grade, guarantee quality education through high school graduation, protect children from abuse and neglect and connect them to caring permanent families, and stop criminalizing children at increasingly younger ages and shift the focus of the juvenile justice system from one of punishment to one of early intervention and rehabilitation. These priorities for children will help keep children safely out of the child welfare system and improve outcomes for those children who are at risk and do need the services that the system has to offer.

CDF's specific advocacy for reforms on behalf of children who are abused or neglected or at risk of maltreatment predates the passage of the Adoption Assistance and Child Welfare Act of 1980. For several decades, CDF staff have worked closely with Members of the Subcommittee to make improvements in many aspects of the child welfare system. An important set of protections for children at risk of placement or in foster care was established in 1980 and strengthened with the Adoption and Safe Families Act in 1997. Important, but far too limited, investments in preventive services have been put in place. Significant expansions occurred in adoption and supports for older youth who exit care at 18 without being returned home or finding other permanent homes. The additional improvements passed by the House of Representatives in June 2008, with the Subcommittee's leadership, when enacted in September, will represent major improvements through promoting permanent families for children through relative guardianship, adoption, and sibling connections, and for children and youth in foster care.

Though cumulatively these measures have led to some reductions in racial disproportionality and disparities in the child welfare system, major problems still exist for children of color. To ensure that all children benefit from improvements, the child welfare system must address continuing disproportionality and disparities faced by children and families of color who interact with the system.

The Problem of Racial Inequities

The U.S. Government Accountability Office (GAO) 2007 report, *African American Children in Foster Care*, requested by Ways and Means Committee Chairman Charles Rangel, documented the disproportionate number of African American children in foster care and the disparate decisions made for them at different points in the system. Not only do a significantly greater proportion of African American children enter and remain in foster care longer than children of other races and ethnicities, but, once placed, the disproportionality of African American children grows at each decision point in the child welfare process. Disparities exist too for American Indian children and for Hispanic children in some states.

- Both African American and American Indian children are in foster care at a rate that is double their representation in the general population.¹
- According to the GAO Report, African American children are overrepresented in foster care in all 50 states and they are represented in foster care at 3, 4, or even 6 times their representation in the general state population in 16 states.²
- American Indian children are overrepresented in about half of the state, and, in a few states they are overrepresented at 6, 7, or 8 times their representation in the general population.³
- Hispanic children are also in foster care at double the rate in the general population in 4 states and are overrepresented in 15 additional states.⁴

The GAO findings confirmed research on racial disproportionality and disparities in child welfare undertaken by Dr. Robert B. Hill for the Casey-CSSP Alliance for Racial Equity in Child Welfare.⁵ Multiple studies have found that while children of all races and ethnicities are equally likely to suffer abuse or neglect, minority children are more likely to be reported as victims of abuse and neglect. Once reported for abuse or neglect, African American families are more likely to be investigated. Even when controlling for other relevant factors, multiple studies have found that substantiation of abuse or neglect is more likely when the family being investigated is African American or Hispanic.⁶ African American infants and toddlers are more likely than other children to be removed from their homes following accusations of abuse or neglect and are only half as likely to receive services.⁷ Studies have also found that once removed, minority children spend more time in foster care. One national study found that white children were approximately four times more likely to return home than were African American children.⁸ Another study conducted by Dr. Hill in King County, Washington (Seattle) of disproportionality at the county-level, found disproportionality rates increased at each decision point for all races and ethnicities examined (African American, American Indian, Asian/Pacific Islander, and Hispanic). Within each ethnicity, the rates of disproportionality increased from investigation to substantiation to placement into foster care.⁹

Exploring the Causes of the Racial Inequities

The General Accountability Office survey of state child welfare agencies and its own review of the research cited “a higher rate of poverty and challenges in accessing support services, as well as racial bias and difficulties in finding appropriate permanent homes,” as the major factors resulting in the disproportionality identified.¹⁰ About half the state child welfare administrators surveyed attributed the disproportionality to lack of family support and preventive services, including parenting skills and counseling, of substance abuse treatment, and of adequate housing. Twenty states cited the difficulties African American parents have in obtaining legal representation in court as contributing problems. Challenges in helping these children return home, often attributed to lack of services and treatment, or move to adoption, coupled with their greater likelihood of being with kin in foster care, were cited by a large number of states as impacting their length of stay and disproportionality.

Using Federal Policy to Address Racial Inequities

The Children’s Defense Fund believes federal policies can help to address racial disproportionality and disparities in child welfare directly. They also can help to eliminate child poverty and ensure comprehensive health and mental health coverage to all 9.4 million uninsured children – key factors underlying racial disparities. Addressing disparities in education, housing and other basic supports to families also will help to address racial disparities in child welfare.

Federal policy can positively impact racial equity in child welfare in four important ways:

- Improving child welfare policies and practices to promote better child and family outcomes and racial equity;
- Improving the child welfare infrastructure (i.e. data, child and family service reviews, etc.) to increase knowledge and awareness about and reduce racial disproportionality and disparities.
- Engaging community stakeholders in child welfare improvements for children; and
- Promoting awareness of racial disparities and biases and the importance of racial equity in child welfare among policymakers, providers, advocates for children and families and the broader public.

In this statement, we will address how Congress can improve child welfare policies and practices to promote better child and family outcomes and racial equity. Improvements are needed in policies that promote prevention and early intervention, specialized treatment, new permanency options and post-permanency services for children, improvements in the child welfare workforce, and enhanced accountability. Here we focus specifically on pending child welfare improvements in some of these areas, but urge the Subcommittee in the next Congress to also make major improvements in child welfare financing to increase opportunities for prevention and early intervention, reunification and specialized treatment also needed to promote racial equity.

Attention to racial disparities and racial disproportionality must be a central part of broader child welfare reform efforts. We thus encourage the Subcommittee to host additional

hearings to explore more consciously and intentionally specific strategies for addressing racial disparities and racial disproportionality. Many of the state initiatives in place have resulted because state legislators have mandated collecting and assessing specific data, the convening of multiple stakeholders, and the crafting of solutions targeted on reducing racial disproportionality and disparities. Several examples follow:

- The Michigan Advisory Committee on the Overrepresentation of Children of Color brought together the Director of the Michigan Department of Human Services with representatives of the Judiciary, Department of Civil Rights, and other agencies, and the community. The Advisory Committee was established in response to a state legislative directive to convene a task force to study the disproportionate representation of children of color at each stage in the state's child welfare and juvenile justice systems. The group reported to the Legislature in March of 2006, and now the Michigan Department of Human Services, working with others, is seeking to reduce disproportionality by developing a long-term strategic plan focused on programs and reforms identified through research and self-review and using a Title IV-E waiver to focus on family strengthening and preservation and on expedited reunification.¹¹
- In Texas, Senate Bill 6, which became law in 2005, required the Texas Department of Family and Protective Services (DFPS) to determine whether disproportionality existed in the state child welfare system and, if so, to submit a plan to remediate it. In January of 2006, after completing an analysis of their child welfare data by race and ethnicity, DFPS submitted a report to the legislature stating that disproportionality was indeed present and is now implementing their extensive plan for improvements.
- More recently, Washington's state legislature passed HB1472, which mandated a statewide focus on disproportionality. The Disproportionality Advisory Committee must identify where and how disproportionality and disparities are found in the child welfare system and present a plan by the end of 2008 to remediate them.

The GAO Report makes clear that the collection and analysis of data by race is a crucial first step in addressing racial disparity. CDF recommends that the Subcommittee explore and develop recommendations to require, collect and analyze data about racial disproportionality/disparities and use the data to inform decisions and practice, assess the movement of children in and out of the system and services provided, promote relevant training among staff and stakeholders, engage the diverse community in planning decision making and governance, examine the impact of existing protections and hold the system accountable.

Taking Steps Now to Address Racial Inequities

The Children's Defense Fund believes that the Subcommittee and the Congress have the opportunity this year, before the end of September, to impact still pervasive racial disproportionality and disparities in the child welfare system. We strongly support passage of the Fostering Connections to Success Act as an important step toward this goal. The Act responds directly to problems that have kept children, often children of color, in the child welfare system too long, denied them the basic support and specialized treatment they needed, and kept

them from moving to permanent families through relative guardianship or adoption. Below are the key provisions of the Act that can help to reduce racial inequities.

Supporting Children Being Raised by Relatives

Research and anecdotes have documented that children of color, particularly African American children, remain in foster care longer than other children because of the fact that they are living with relatives who may not feel adoption is appropriate and believe their only option to care for the children is continued foster care. Currently, relatives who have guardianship and want to care for children outside of foster care do not have the same opportunities for ongoing assistance, as do relatives or others who adopt children from foster care.

Subsidized Guardianship

The Fostering Connections to Success Act, for the first time in federal law, would offer federal support to all states that opt to offer subsidized guardianship as an alternative permanency option to help children exit foster care to live permanently with relative guardians. Currently 37 states and the District of Columbia offer such assistance, but often to only small numbers of children. The availability of federal support will help move more of these children out of care and into permanent families with relative guardians. In fact, the GAO, in its report, specifically called on Congress to amend federal law to offer states federal support to assist relative guardians.

The GAO's study and other research have recognized that guardianship often is a more appropriate response to cultural norms in African American, Hispanic, and American Indian cultures, many of which do not recognize the concept of termination of parental rights – a step required to go forward to adoption. Research has also found that children often do better in placements with relatives. They are as safe, if not safer, than children placed in non-relative foster homes. Children and youth placed with relatives experience fewer placements than those in non-relative homes, giving them greater stability both at home and in school. They also are more likely to be placed with their siblings and more likely to say that they feel they are part of the family. Recent research also has found that children placed with relatives are less likely to exhibit behavior problems.

Kinship Navigator Programs, Family-Group Decisionmaking, and Notice

Several of the kinship provisions in the Fostering Connections to Success Act also will support children of color living with relatives by keeping them with the relatives and out of foster care, and thereby reduce the number of children of color entering foster care. Relative caregivers report that one of their greatest challenges in raising children is getting accurate information about the benefits and services that are available to the children. The Family Connection grants in the Act will support states in establishing Kinship Navigator programs that will help link relatives with support groups, respite care programs, and other services.

Family group decisionmaking, also supported by the Family Connection grants, was recognized by the GAO as a successful strategy in reducing racial disproportionality in the states.

It allows states to ensure that families are engaged in the decision-making process from the beginning. This can help prevent removal when the family identifies alternative family placements, help ensure that children return home more promptly from care, and when that is not possible, help to identify another permanency option for the child or youth. Texas' experience with family group decision making has had a remedial effect on racial disproportionality, in addition to being good policy and practice. All families who participated in family group decisionmaking in Texas were more likely to have their children return home than families who received traditional services, but the benefits were larger for African American and Hispanic families. When families received traditional services, only 14 percent of African-American children and 13 percent of Hispanic children returned home; however, when the families participated in FGDM, 32 percent of African American children and 39 percent of Hispanic children returned home.¹²

The requirement in the Fostering Connections to Success Act that certain relatives be given notice when a child is placed in foster care also will increase the likelihood that children will be placed with relatives and kept out of foster care. Sometimes relatives do not know that a child has been taken into custody and do not get involved until the child has already been living with and bonded with foster parents. Providing notice to relatives immediately allows them to decide early on whether and to what extent they can be involved in caring for the child. Even when relatives cannot provide a home for the child, their involvement may help maintain connections that help ease the child's sense of loss. When the relative is able to care for the child, early notice can help minimize the number of moves a child has to make and, if the child cannot be returned to his birth parents, the early involvement of relatives can help the child find a permanent home more quickly. States have recognized the benefits of these early connections. More than half the states surveyed by GAO for its report had implemented policies calling for the diligent search of relatives who might be willing to provide permanent homes.

Keeping Siblings Together

The requirement in the Family Connections to Success Act that reasonable efforts be made to place siblings together in all placements unless it is contrary to the children's safety or well-being will also help to keep families together, and thus positively impact the children. Research has documented that the sibling bond is one of the most important and long-lasting bonds created in our lives, and it is especially important for children in foster care who often do not have other connections to family members.

Enhancing Adoption Incentives

The GAO report found that states are still struggling to find and recruit families for children of color, and as a result children of color wait in foster care for adoptive families. The majority of children waiting for adoption at the end of FY 2006 were children of color. In fact, race is one factor states may choose to use in determining that children have special needs and would benefit from adoption assistance. The Fostering Connections to Success Act reauthorizes the Adoption Incentive Program and also increases the incentives available to states that increase the numbers of children with special needs and older children being adopted. The additional incentive payments should help states find adoptive families for some of the children of color

awaiting adoptive families, particularly those who are older, and thus reduce the number of children of color who wait.

Improving Outcomes for Children and Youth in Foster Care

When it is necessary to place children of color in foster care, it is important to ensure that once in care they do not fall further behind. For children who may be facing the challenges of poverty and the risks that accompany it and also of separation from their families and familiar surroundings, it is important that steps be taken wherever possible to improve their outcomes while in care. The Fostering Connections to Success Act takes a number of steps to try to improve better outcomes for children and youth in foster care, and at the same time hopefully improving their opportunities for success when they leave care.

Increasing Supports and Protections for American Indian and Alaska Native Children

American Indian children are overrepresented in foster care at nearly twice their representation in the general population. These children make up from one quarter to more than one half of the foster care population in Alaska, Montana, and North Dakota. Minnesota, Nebraska, Oregon, South Dakota, Utah, and Washington also have large overrepresentations of American Indian children in their foster care populations.

Currently these children are eligible for federal support and protections under the Title IV-E Foster Care and Adoption Assistance Programs only if they are in Indian tribes that have tribal agreements with the states in which they are located. Currently, only 86 of the more than 500 federally-recognized tribes have such agreements. This means that many American Indian and Alaskan Native children have never benefited from the additional assistance and protections afforded through the Title IV-E Programs – requirements to make reasonable efforts to keep children out of care, place them in the least restrictive setting appropriate to their needs, and assure that they have case plans and periodic case reviews so they do not get stuck in foster care. They also are not eligible for federally supported foster care or adoption assistance payments or for independent living programs. It is estimated that tribal governments provide foster care to 30 to 40 percent of all American Indian and Alaskan Native children in care. These children being cared for by tribal governments, however, are not counted in the federal data sources because they are not placed by state child welfare agencies. The Fostering Connections to Success Act will help ensure long overdue protections for many of these children, including efforts to promote permanence for children through relative guardianship. This is particularly important as termination of parents' rights, a prerequisite for adoption, is often not consistent with tribal traditions.

Promoting Educational Stability

Research shows that, on average, each change in school placement for a child results in a loss of six months of educational progress. More than one-third of children in foster care have experienced four changes in school placement. The Fostering Connections to Success Act would require state child welfare agencies to improve educational stability for children in foster care, thus improving the experiences for many children of color. It would require them to coordinate

with local education agencies to ensure that children remain in the school they are enrolled in at the time of placement into foster care, unless that would not be in the child's best interests. If it is not, the state must ensure immediate enrollment in a new school with all of the educational records of the child provided to that new school. The Act also would increase federal funding opportunities to assist with education-related transportation costs to help children remain in their school of origin. In addition, it also requires states to provide assurances in their Title IV-E state plans that every child in foster care or who is receiving an adoption assistance or subsidized guardianship payment, who has attained the minimum age for compulsory school attendance under state law, is enrolled in a full-time elementary or secondary school student or has completed secondary school. Research demonstrates that youth in foster care are twice as likely to drop out of high school when compared to the rest of the population. Increasing their likelihood of high school graduation will help to promote better outcomes.

Extending Foster Care Beyond Age 17

Compared to youth in the general population, youth who have been in foster care are more likely to become homeless, unemployed or be incarcerated when they age out of care. They also are more likely to have physical, developmental, and mental health challenges. Unlike youth outside the child welfare system, most youth in foster care lose the only support system they know when they reach 18. Research by the Chapin Hall Center for Children at the University of Chicago has documented increased benefits to young people who stay in care longer. They are more likely to graduate from high school, pursue higher education, graduate from college, have higher incomes, and delay pregnancy. For the approximately 25,000 youth who age out of foster care each year, an option in the Fostering Connections to Success Act allows states to provide care and support to youth in foster care or in supervised independent living settings until the age of 19, 20, or 21. This will help to ensure that those young people who have not been able to find a permanent family will have the support they need for a smoother transition to adulthood.

Thank you for the Subcommittee's attention to racial disproportionality and disparities in foster care. Helping increase awareness of the problems of racial inequities and the steps and solutions that can be taken to address them will help improve outcomes for children of color and other children in the child welfare system. The Fostering Connections to Success Act is an important step in the right direction. We look forward to working with you to ensure it is enacted this year and even more importantly that it is fully implemented so that children and youth, particularly children and youth of color, truly benefit from its improvements. We also look forward to working with you in the 111th Congress to craft reforms that will address racial disproportionality and disparities directly by addressing a number of infrastructure concerns and will also promote long overdue child welfare financing improvements that are needed to enhance outcomes for children and families and increase racial equity in child welfare.¹³

¹ Children's Bureau, Administration for Children and Families, U.S. Department of Health and Human Services, *The AFCARS Report Preliminary FY 2006 Estimates as of January 2008* (Washington, DC: 2008). Available online at www.acf.dhhs.gov/programs/cb/stats_research/afcars/tar/report14.pdf. States were unable to determine the race/ethnicity of 3 percent of children in foster care.

² Government Accountability Office, GAO-07-816, *African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care*. Appendix II.

³ Government Accountability Office. GAO-07-816. African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care. Appendix II.

⁴ Government Accountability Office. GAO-07-816. African American Children in Foster Care: Additional HHS Assistance Needed to Help States Reduce the Proportion in Care. Appendix II.

⁵ Robert B. Hill, Ph.D. *Synthesis of Research on Disproportionality in Child Welfare: An Update*. Casey-CSSP Alliance for Racial Equity in Child Welfare. October 2006.

⁶ Robert B. Hill, Ph.D. *Synthesis of Research on Disproportionality in Child Welfare: An Update*. Casey-CSSP Alliance for Racial Equity in Child Welfare. October 2006.

⁷ Stahmer, A.C. et al. (2005). Developmental and behavioral needs and service use for young children in child welfare. *Pediatrics*, 116(4), 891-900.

⁸ Robert B. Hill, Ph.D. *Synthesis of Research on Disproportionality in Child Welfare: An Update*. Casey-CSSP Alliance for Racial Equity in Child Welfare. October 2006.

⁹ Robert B. Hill, Ph.D. *An Analysis of Racial/Ethnic Disproportionality and Disparity at the national, State, and County Levels*. Casey-CSSP Alliance for Racial Equity in Child Welfare. 2007.

¹⁰ United States Government Accountability Office, *African American Children in Foster Care: Additional HHS Assistance Needed to Help State Reduce the Proportion in Care.* GAO-07-816. Available at www.gao.gov/cgi-bin/getrpt?GAO-07-816.

¹¹ Casey-CSSP Alliance for Racial Equity. *Places to Watch: Promising Practices to Address Racial Disproportionality in Child Welfare Services*. Center for the Study of Social Policy. Washington, D.C. December 2006.

¹² Texas Department of Family and Protective Services. *CFSR Statewide Assessment*. January 2008. Available at: http://www.dfps.state.tx.us/Documents/Child_Protection/pdf/2008-01-24_CFSR_Statewide_Assessment.pdf.