



HEARING
ON
RACIAL DISPROPORTIONALITY IN FOSTER CARE
UNITED STATES HOUSE OF REPRESENTATIVES
SUBCOMMITTEE ON INCOME SECURITY
AND FAMILY SUPPORT
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The Child Welfare League of America represents hundreds of state and local child welfare organizations including both public and private, and faith-based agencies. CWLA members provide a range of child welfare services from prevention to placement services including adoptions, foster care, kinship placements, and services provided in a residential setting. CWLA's vision is that every child will grow up in a safe, loving, and stable family and that we will lead the nation in building public will to realize this vision.

The Overrepresentation of Racial and Ethnic Minorities in Child Welfare

The members of this Subcommittee are well versed on the statistics, 506,000¹ children in foster care placements at the end of the federal fiscal year 2005, and 800,000² children spend at least some time in foster care each year. In addition in 2005 there were 3.3 million reports of abuse and neglect which resulted in 899,000 children substantiated as abused or neglected in that same year. For reasons we will outline it is important to note that approximately 40 percent of those children did not receive follow up services³. In another part of the child welfare system, which is often overlooked, more than 24,000 youth leave foster care simply because they become too "old" or "aged-out" of the system.⁴

Children of color, belonging to various cultural, ethnic, and racial communities (primarily African American, Latino/Hispanic, and Native/Indigenous American) are disproportionately represented in the child welfare system and frequently experience disparate and inequitable service provision. The overrepresentation of children of color in child welfare and other social service systems (e.g., juvenile justice) is linked to social, class and economic factors that must be addressed to ensure that the needs of all children are fairly and appropriately served. Federal, state, and local governments; the child welfare system; and the communities they serve must ensure that all children, regardless of their cultural, ethnic, or racial identity, receive services that address the full spectrum of their needs in a manner that reflects the cultural strengths of their families.

As the GAO and others have determined, while African American children made up less than 15 percent of the overall child population based on 2000 census data, they represented 27 percent of the children who entered foster care in 2004. The GAO also found that in that same year African American children represented 34 percent of the children remaining in care at year's end.⁵

Research Cites Poverty as a Contributing Factor to Disproportionality

The GAO report found that 23% of African Americans lived below poverty levels compared to only 6% of white children.⁶ The rate of single-parent families, an issue also related to poverty, is higher for African American families. The challenge of poverty is important in addressing this issue because families in poverty have difficulty accessing needed services, which support families and prevent incidents of neglect or conditions that can add to the stress of parenting. Lack of access to services hinders the ability of parents to complete required services if a child is removed.

In some instances affordable and adequate housing, substance abuse treatment, mental health services and family services such as parenting classes, home visiting and counseling are critical to family reunification. A service in short supply or not available creates a barrier to both prevention of abuse and reunification when a child has been removed.

Points of Entry

Key to understanding this issue is to not overlook another important finding GAO and others have offered, that African American children not only were more likely to be placed in out of home care but with each decision point in the child welfare process the disproportionality or over representation grows. In some areas of the country depending on the population and community this overrepresentation is found among Native American children and Hispanic populations.

Frequently the first point of access to services can be the Child Protective Services (CPS) system. As we have already referenced annual data indicates that of the approximate 900,000 substantiated as abuse and or neglected, 40 percent do not receive follow up services.⁷ There can be a variety of reasons for this annually consistent number including the way data is collected to refusal to participant in follow up services but the fact that such a high percentage do not receive services indicates that a significant number of families do not have access to supports that could prevent more serious incidents of abuse and neglect.

A recent analysis by the Congressional Research Services (CRS) conducted at the request of the Chairman of this Committee, Representative Charles Rangel, determined that overrepresentation of children of color was found at several points of the child welfare system starting from the investigation or entry point CRS⁸ noted:

“...at least one large five-state study has shown that the race/ethnicity of victims is largely in proportion to the population of children investigated. This suggests that the community of reporters, (e.g., family, friends, and neighbors, and social service, medical and school personnel) tends to over-report Black children but that once the decision to investigate is made, race/ethnicity is not an important factor in the determination of maltreatment. Nonetheless, because Black children are over-represented in the population of children investigated, a proportionate victim determination means Black children will make up a larger share of child maltreatment victims than their share of the general child population.”

In examining other factors such as age and poverty CRS wrote:

“Separate analysis of National Child Abuse and Neglect Data System data that looked at race/ethnicity, area poverty rate, and age in relation to removals, found that the risk of removal was highest for all income groups and race/ethnicities for children under age one. At the same time, Black infants living in counties with

high poverty rates had a removal rate of 50 per 1000 black children in the population. This appears to leave them extraordinarily vulnerable compared to their Hispanic and White counterparts who had removal rates of 13 and 10 per 1000 children of their respective race/ethnic groups.⁹

Reunification

The same barriers and problems at the entry point can exist at the exit point as well. In recent years we have made progress in reducing the number of children in out of home care. Nationally the number of children in care has been reduced from 562,712 in 1999 to 509,483 in 2005.¹⁰ Despite this decline, barriers to permanency remain and can be quite extensive. Reunification is the first permanency option states consider for children entering care. Yet, in many ways, it is the most challenging option to achieve. We know that of the 280,660 children exiting out-of-home care in 2005, sixty-four percent were reunited with their parents or other family members. Research of national data indicates that White children were almost four times more likely to be reunified with their families than Black children.¹¹ For single-parent households, reunification of Black children with their families is less likely than for White and Hispanic children and their families.¹²

An examination of the data on the length of stay while in foster care also reflects on the challenges. On September 30, 2004 there were 509,662 children in out-of-home care. Of these children approximately 34 percent were African American and 40 percent were White. Overall, children were in care for an average of 30 months with a median of 17 months. African American children were in foster care significantly longer than children of other races. Both the mean and the median for time spent in care were higher for ethnic and racial minorities. While White children spent, on average about two years in foster care it was significantly higher for other populations. (Table below)¹³

Length of Time in Out-Of-Home-Care, 2004

Race/Ethnicity of Children in Care	Mean (months)	Median (months)
African American	39.4	22.8
American Indian/Alaskan Native	26.1	15.0
Asian	26.0	15.2
Hispanic	28.7	16.4
Native Hawaiian/Pacific Islander	21.9	14.0
White	23.5	13.6
Two or More Races	23.4	14.6

Adoption

One area that has received special focus in regard to overrepresentation is the field of adoptions from the foster care system. Since the 1970s, the number of White infants available for adoption has sharply declined in the U.S. Although U.S. agencies continue to provide adoption services for infants generally, this group now constitutes a small part of the population of children in need of adoption planning and services.

By contrast, the number of children in the nation's out-of-home care placements who need adoption has grown significantly. As a result of a range of social conditions and policy changes, an increasing proportion of children in care have the goal of adoption. In 2005 122,195 children in care were waiting to be adopted, meaning parental rights had been terminated or other steps were taken, following state policy or law, to move the child toward adoption.¹⁴ These children may have a range of challenging needs, including prenatal exposure to alcohol and other drugs, medical fragility, a history of physical or sexual abuse, or membership in a sibling group. Thousands of older children, for whom agencies traditionally have had difficulty finding placements, also await adoptive families. Although Black children exited care via adoption in higher numbers than other ethnic groups, adoption finalizations for children still take longer than for white children¹⁵

A recent report from the Evan B. Donaldson Adoption Institute evaluated the impact of legislation aimed at addressing the over-representation of minority children in the population of children awaiting adoption. The Multi-Ethnic Placement Act (MEPA) of 1994 was enacted to ensure that race was not a barrier to the timely adoption of children whose parental rights had been terminated. The conclusion drawn was that MEPA "has not removed barriers to permanency for African American children". The Donaldson report noted that between FY 1998 and FY 2005, there was only a slight decline in the amount of time minority children awaited adoption from 45 months to 42 months.¹⁶ The 2007 GAO report similarly found that minorities continue to be in foster care longer than Caucasian children by 9 months.¹⁷

Permanency Through Kinship Care

Research demonstrates the importance of children being nurtured in a stable family environment, confirming the need to move those who must enter foster care into permanent living situations as quickly as possible. Recent studies suggest that, when children must leave their families, well-supported kinship placements have the potential to provide more stable and normalizing environments than unrelated family care.¹⁸

Kinship care is a situation in which an adult family member, such as a grandparent, aunt, uncle, or other relative, provides a caring home for a child who is not able to live with his or her parents. The practice is not new, but it is growing partly because repeated studies and CWLA Best Practice Guidelines have revealed the value of placing children with a relative when appropriate. The financial difficulties many relatives experience potentially threaten the use and merit of this practice, however.

Subsidized guardianship is another important permanency option for relatives who care for children. In 2005, the U.S. Department of Health and Human Services (HHS) released findings and evaluations of the seven state waiver demonstration programs that allow federal Title IV-E Foster Care and Adoption Assistance funding to support guardianship programs. These findings reflect that non-relative guardianship is a viable and effective option for child welfare workers to consider. The major findings include: the availability of assisted guardianship as a permanency option may

decrease the length of out-of-home placements; combined data from two states reveals that less than 5% of the children in guardianship placements return to foster care; children in guardianship placements fare as well as those in other permanency settings on several measures of well-being, including school performance, engagement in risky behaviors, and access to community resources; and the use of guardianship placements shows statistically significant signs of positive outcomes, with more exits from foster care resulting in reunification or adoption.

The GAO report we have cited here also recognizes the important and significant role that the use of kinship care can have in moving children in to a permanent family arrangement.

Recent new research presented here in Washington this past June examined children from three groups, those who remained in foster care, those who entered kinship care at the outset of a placement and those that went from foster care to kinship care at a later period. The study, "Impact of Kinship Care on Behavioral Well-being for Children in Out-of-Home Care," showed that children in kinship care had fewer behavioral problems 3 years after placement than those children in foster care after an equal time frame.¹⁹

Youth Leaving Foster Care

In 2005 over 24,000²⁰ young people exited the foster care system due to age, a number that appears to be increasing. Young people transitioning out of foster care are significantly impacted by the instability that accompanies long periods of out of home placement. Youth in the foster care system are often confronted with emotional, behavioral, developmental, and health challenges. The life events of these young people place them at an increased risk for experiencing adversity. In the midst of elevated rates of homelessness, poor educational outcomes, low wages, unemployment, long-term dependency on public assistance, incarceration and health issues, young people "aging out" of the foster care system are also experiencing pregnancies and early parenthood. Confronting and overcoming these challenges is more difficult without support networks or familial connections and impedes their transition into adulthood.

The nation's child welfare system is starting the implementation stages of collecting more accurate information on the fate of young people who leave the foster care system as a result of becoming too old. We do know that a disproportionate percentage of children waiting to be adopted are ethnic and racial minorities. We also know that over 21 percent of foster children are sixteen or older and that a disproportionate percentage are ethnic and racial minorities. So we can draw broad conclusions in regard to young people aging out and the overrepresentation of racial and ethnic minorities in this part of the child welfare population.

Tribal Populations

In 1978, Congress passed the Indian Child Welfare Act (ICWA, P.L. 95-608) to preserve cultural and family ties among Native American children and families and to ensure

respect for tribal authority in decisions concerning the placement of Indian children in out-of-home care. ICWA requires that states identify Indian children and notify the child's parents and tribe of their rights to intervene in a custody proceeding. ICWA also requires certain procedures regarding the use of tribal courts, child custody proceedings, tribal intervention standards, and placement preferences. The act establishes requirements for states before they remove an Indian child, which involves efforts to prevent the breakup of the Indian family, and standards for court findings.

Studies preceding the passage of ICWA showed that between 1969 and 1974, 25% to 35% of all Native American children in some states were removed from their homes and placed in foster care or adoptive homes. In certain states, Native American children were 13 times more likely to be removed from their families than were non-Indian children.²¹

In 2005, Congress directed the GAO to study the impact of ICWA to determine if the ICWA requirements were causing delays in the placement of Native American children. The GAO concluded that it did not result in poorer outcomes for children. Those states that could provide data showed that there was no clear link or evidence ICWA was harmful in its impact. Interviews with tribes and states that participated in the study indicated that the law facilitated the availability of greater resources and cooperation between tribes and states in providing services to and protection of Indian children.²²

The GAO proposed that HHS review information made available by states through their Child and Family Service Reviews (CFSRs). This review found that 10 of 51 state reports did not mention ICWA implementation. GAO also proposed that states be required to include in their annual progress and services reports any significant ICWA issues not addressed in the Program Improvement Plans (PIPs) that resulted from the CFSRs. One of the key findings of the GAO study was the problem of measuring ICWA compliance and assisting improved compliance when there was no explicitly named oversight agency.

In addition to these overall challenges is the reality that most federal funds that could address the needs of children from tribes that come into contact with the child welfare system are not provided directly to tribal governments. This is especially significant in regard to Title IV-E foster care and adoption assistance, the two biggest sources of funding.

Legislative Recommendations

CWLA is especially pleased that this Subcommittee has taken the initiative and provided the leadership in taking a first but significant step in addressing some of these challenges with its drafting and passage of the Fostering Connection to Success Act (H.R. 6307.) In particular we appreciate the efforts of Chairman McDermott and Ranking Member Weller. This bipartisan legislation takes some critical steps by extending Title IV-E funds to kinship placements and to tribal governments. In addition the legislation would provide extended services to foster youth who are forced out of the system at an age before they are fully prepared to live independently. The bill also takes the important step

of extending the adoption incentives program with an added focus on those older children who remain in the system waiting to be adopted. There are also several other provision which can help address some of the challenges that contribute to the overrepresentation in child welfare. We should not overlook the impact that adequate training for caseworkers, and access to important basic needs for children in care including education and health care can have on these challenges.

Once again CWLA commends the leadership of this Subcommittee and the House for crafting and passing a bill that is significant, bipartisan, and is paid for. We are encouraged by the scheduled action by the Senate Finance Committee to address their version of this legislation in the next few days. We hope that in the remaining weeks of this Congress agreement can be reached on this legislation.

In the next Congress we hope members will examine other areas of need. We need to look at ways that the entry points of the system can be improved upon. There are some innovations in the way some child welfare agencies are redesigning their protective services systems including the use of differential response. We also need to look at family group decision making and other approaches that seek to involve families and communities in some of these child welfare cases.

There is a great need to expand prevention, although it is challenging to define. One promising approach is home visitation programs. Congress must also look to ways to build and improve on the child welfare workforce. Again, Representative Weller and other members of the Subcommittee have assisted in this area by advancing H.R. 6307, which expands access to caseworker training, and it appears that Congress is about to allow loan forgiveness for some social workers—both needed improvements.

CWLA also hopes that members will examine ways we can increase adoptions in the foster care system, not just to address the increasing number of older children now waiting to be adopted but also to examine ways to increase the recruitment of minority adoptive parents, and to strengthen training in this area and to re-examine the Multi-Ethnic Placement Act (MEPA) and its impact in this area.

Conclusion

We hope Congress will complete the action that members of this Subcommittee and the House have initiated. In addition to legislation there are other avenues that must be pursued. The following major areas require further review, analysis, and action by public and private child welfare and social service administrators, staff, researchers, advocates, youth, families, and their communities. Specifically all parties need to:

- Examine the rates at which children of various ethnic groups are reported and/or substantiated as abused or neglected, and the types of maltreatment that are reported and/or substantiated for these groups;
- Examine the relationship between poverty, culture, individual racism, and institutional racism (within the system and in society as a whole);

- Address the lack of resources, protective factors, and community-based supports as contributing factors;
- Review the decision making process, beginning with case referral and intake, and its effects on children of color and their families;
- Examine the path through the service system children of color follow;
- Take action to assure the availability and equitable provision of family preservation and support services;
- Examine the rate of placement of children of all cultural, racial, and ethnic communities in foster and formal kinship arrangements;
- Address the manner in and rate at which children of color exit the system; and
- Provide special focus on the overrepresentation of children and families of color at all stages of the child welfare process.

FOOTNOTES:

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