

LEARNING INTO DISCOMFORT AND DISRUPTION:



A Call to Action for Children's Attorneys

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No. 6. Titled, "The Moment
is Now," a special edition
call to action across public,
private, philanthropic,
and faith-based sectors
to chart a different
course to strengthen
families through primary
prevention and create a
more just and equitable
system focused on child
and family well-being.

WE WILL ALL REMEMBER THE SPRING OF 2020. Months of pandemic and then protest; a time of isolation, fear, upheaval, and reckoning. It was a season that forced each of us to re-examine almost every facet of our personal and professional lives — from our households to our jobs to our roles in systems and society. The COVID-19 pandemic has exposed child welfare professionals to a small yet potent dose of the disruption, separation, and uncertainty the children and parents we serve experience every day.¹ And the killing of George Floyd and calls for racial justice necessitate that we undertake a systemic analysis of the root causes of inequities and dismantle the pathways to racial disparity and disproportionality. To create a more equitable child welfare system, we must lean into this discomfort, begin to grapple with uncomfortable truths, and make critical choices that disrupt the status quo.

Racial justice work in the child welfare system is not for parents, parent advocates, and parent's lawyers alone; children's lawyers and advocates must be active listeners, learners, and instigators of change. To start, our role in the child welfare system and its outcomes must be candidly appraised. We speak for child well-being, rights, and opportunity, yet our work has perpetuated racial disproportionality and disparity at nearly every decision point in the child welfare system. Black and Native American youth are overrepresented in foster care at a rate twice their representation in the U.S. population.² Black and Latinx families and communities are more likely to be surveilled and Black and Native American youth are more likely to be separated from their families, placed in congregate care, and charged with crimes.³ Due to the arrests of Black youth in foster care, the child welfare system has been identified as a significant source of racial inequity in the juvenile justice system.⁴

Children's lawyers must look inward, reflect on our biases, fallibility, and complicity in compounding racial bias, and acknowledge mistakes in past casework. Children's lawyers must take action to challenge implicit bias in decision-making and systemic racism in the value-laden structures that surround foster care. And as the Children's Bureau has urged all child welfare stakeholders, children's lawyers must engage youth in case planning and systems improvement.⁵

What are some concrete steps to transform calls for action into effective anti-racist work? It starts with each of us taking responsibility at an individual level to question established systems and to elevate the voices of those disproportionately affected:



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- If you are a children's attorney who generally takes at face value the agency report rather than talking to your client or independently investigating the facts before each hearing, it is time to end that practice;
- Regardless of model of practice in your state, if you are an attorney who does not frequently listen to and elevate your client's expressed interest to the court and parties, you must start doing so immediately;
- If you are a children's attorney who does not conduct fulsome independent investigation or client engagement because of lack of time/resources, it's time to rethink your ethical responsibility and challenge caseloads;
- Children's attorneys must insist on court improvement efforts that center the voices of those with lived experience, especially children of color who are disparately impacted, stepping back to create room for authentic inclusion of those voices.

We have a professional and ethical responsibility to not just know better, but to do better. It is incumbent upon the children's legal advocacy community, a predominantly white and upper-middle-class field, to lead with these efforts; to listen, to learn, and to reimagine our role and our advocacy on behalf of children and youth. It will not be easy, but if we lean into the discomfort and disruption together, we can exercise the individual and collective leadership required to meet this moment and dismantle the structural inequities that undergird the modern child welfare system. This much we know is true: There can be no children's justice without racial justice.

We will all remember 2020. But if we are thoughtful and intentional about how we face and address the discomfort, disruptions, and challenges in our profession, we will remember it not as a year that came and went, but as a turning point towards a more just and equitable child welfare system. ■

ENDNOTES

- 1 *From Louisiana: Living through COVID reminds me of foster care: social isolation, constant changes and lack of control*, by Aliyah Zeien, available at the Foster Club website <https://www.fosterclub.com/blog/youth-perspective/louisiana-living-through-covid-reminds-me-foster-care-social-isolation>.
- 2 *Racial Disproportionality and Disparity in Child Welfare*, Child Welfare Information Gateway Issue Brief (2016).
- 3 *Doorways to Delinquency: Multi-System Involvement of Delinquent Youth in King County* (Seattle, WA), by Gregory Halemba and Gene Siegel (National Center for Juvenile Justice, 2011), available at the Models for Change website <http://www.modelsforchange.net/publications/304>.
- 4 *Is There a Link between Child Welfare and Disproportionate Minority Contact in Juvenile Justice?*, Models for Change Knowledge Brief (MacArthur Foundation, 2011), available at the Models for Change website <http://www.modelsforchange.net/publications/317>.
- 5 U.S. Department of Health and Human Services, Administration for Children, Youth, and Families, Informational Memorandum, ACYF-CB-IM-19-03 (2019).