
DISPROPORTIONALITY AND EQUITY

Please see the Checklist Section for the Disproportionality checklist.

Background

Disproportionality is the overrepresentation or underrepresentation of a group within a social system at a rate or percentage that is not proportionate to their representation in the general population. Disparity refers to the differences in outcomes and conditions for some groups of people compared to other groups because of unequal treatment or services. African American and Native American children are disproportionately represented and have worse experiences and outcomes than Anglo children in the nation's child welfare system.

Special Issue: The terms used herein to describe populations are the same terms which are currently used to collect race/ethnicity data. In applying an equity lens to the child welfare system, it is important to note that terminology is evolving. African American, Black, Hispanic, Latino/a or Latinx, Anglo, White, Native American, and Indigenous are all terms used to describe race and ethnicity.

This phenomenon has most significantly affected African American children, with national data indicating that African American children represent 23% of children in foster care, although they represent only 14% of children in the general population.^{100,101} This overrepresentation of African American children has been observed in the child welfare system for more than thirty years, yet persists as a national concern.^{102,103}

Disproportionality and disparity can be seen in the experience and outcomes of other populations as well. For example, a 2019 research study by the University of Texas at Austin found that 30.4% of youth in foster care self-identify as Lesbian, Gay, Bisexual, Transgender, and Questioning (LGBTQ) compared to 11.2% of youth who self-identify as LGBTQ in the general population.¹⁰⁴ Compared to heterosexual youth in foster care, LGBTQ youth in foster care report greater disparities in terms of school performance, mental health, and victimization.^{105,106}

A. In Texas

In Texas, the issue of disproportionality and disparities is complex. DFPS data from FY 2020 show:

- African American children are 1.7 times more likely to be reported to CPS than Anglo children;
- African American children are 1.9 times more likely to be investigated;
- African American children are 1.6 times more likely to be removed;
- Hispanic children are slightly less likely than Anglo children to be reported or removed, but are investigated at the same rate as Anglo children;
- Children of other ethnicities are 2.2 times as likely to be reported and slightly less likely to be investigated or removed compared to Anglo children.¹⁰⁷

After removal, African American children are less likely to reunify and, if reunification is ruled out, they wait longer for adoption than other populations. African American children are overrepresented in foster care, Anglo children are proportionately represented, and Hispanic children are underrepresented. However, most Hispanic children wait longer than Anglo children to be adopted.¹⁰⁸

DFPS collects data at critical decision points in the CPS system by race and ethnicity to measure and understand the extent of disproportionality in the child welfare system. DFPS also employs a CPS Disproportionality Manager to help improve the response to disproportionality and disparate outcomes in CPS cases. More information can be found on the DFPS website, [Disproportionality in Child Protective Services System](#) webpage including information on the Texas Model, Texas Community Engagement Model, and other CPS initiatives.¹⁰⁹

B. Addressing Equity

Many Texas judges want to know what they can do to combat disproportionality from the bench. As community leaders, judges are in a key position to lead efforts in their jurisdiction to address these important issues. Advancing equity in the child welfare system requires acknowledgement of the existing disparities and understanding root causes.

The first step is to establish an understanding of race equity and inclusion principles.¹¹⁰ Key concepts to understand include:

1. **Equity** refers to “the effort to provide different levels of support based on an individual’s or group’s needs in order to achieve fairness in outcomes. Working to achieve equity acknowledges unequal starting places and the need to correct the imbalance.”¹¹¹
2. **Structural, institutional, or systemic bias** refers to a “set of processes that produce unfairness in the courtroom . . . [which] lock in past inequalities, reproduce them, and . . . exacerbate them . . . without formally treating persons worse simply because of attitudes and stereotypes about the groups to which they belong.”
3. **Explicit bias** “refers to attitudes and beliefs that are consciously held about a person or group of people.”
4. **Implicit bias** “refers to subconscious feelings, attitudes, and stereotypes that affect our understanding, actions, and decision-making processes in an unconscious manner.”¹¹²

There are many trainings available on equity and implicit bias, in-person and online, that can educate court staff. Judges can utilize a checklist to provide reminders during a case to be aware of and guard against bias. The National Council of Juvenile and Family Court Judges (NCJFCJ) developed the [Courts Catalyzing Change Preliminary Protective Hearing Benchcard](#), a practical and concrete judicial tool for use at the first court hearing. This bench card reflects best practices for one of the most critical stages in a child abuse and neglect case.¹¹³ Additionally, the Children’s Commission has created a bench card for quick reference which is included at the back of this Bench Book.

The second step is to engage diverse populations and stakeholders in meaningful conversations and practice improvement.¹¹⁴ Local equity work leaders might be good partners to inform and further efforts to address these issues in child welfare. Additionally, the Supreme Court of Texas and Texas

Court of Criminal Appeals spearheaded the [Beyond the Bench: Law, Justice, and Communities Summit](#) on December 14, 2016 and a tool kit is available to replicate this event in local jurisdictions.¹¹⁵

Additional Resources:

- Project Implicit, [Implicit Association Test \(IAT\)](#)¹¹⁶
- Kirwan Institute for the Study of Race and Ethnicity, [Making Sense of Your IAT Results](#)¹¹⁷
- NCJFCJ, [Addressing Bias in Delinquency and Child Welfare Systems Bench Card](#)¹¹⁸
- The Annie E. Casey Foundation, [Race Equity and Inclusion Action Guide: Seven Steps to Advance and Embed Race Equity and Inclusion within Your Organization](#)¹¹⁹
- The American Bar Association, [Race and Poverty Bias in the Child Welfare System: Strategies for Child Welfare Practitioners](#)¹²⁰
- Center for the Study of Social Policy (CSSP), [Key Equity Terms and Concepts: A Glossary for Shared Understanding](#)¹²¹
- The American Bar Association, [Implicit Bias Videos and Toolkit](#)¹²²
- National Center for State Courts, [2020 Ensuring Justice in Child Welfare Summit](#)¹²³

