

The Impact of Poverty on African American Children in the Child Welfare and Juvenile Justice Systems

Rudolph Alexander, Jr., Professor, College of Social Work, The Ohio State University

Abstract

Poverty among individuals is an enduring condition in almost all societies. The responses by governments to poverty, however, have varied. In the United States, President Lyndon Johnson sought to address poverty through the creation of the Great Society programs in the 1960s. In effect, he declared a War on Poverty. Later, especially during the Republicans' takeover of the government in the 1980s, another initiative used to address poverty was to use increasingly American social institutions—volunteer organizations and correctional institutions. President Reagan declared a War on Drugs. Simply, prisons, both adult and juvenile, became a primary tool for controlling people in poverty. America went from a War on Poverty to a War on Drugs, ensnaring many African Americans within the criminal justice system with an ensuing impact on African American children. While the child welfare system has long taken poor children out of their homes, the juvenile justice system has done so too. Often, family courts handle both neglected children and delinquent or unruly children, and often poor African American children are disproportionately affected in both the child welfare and juvenile justice systems. Black's theory of law is provided to aid in the understanding of African American children in both systems. In sum, this paper discusses the impact of poverty on African American children in both the child welfare and juvenile justice systems.

Introduction

Being poor and living in poverty have a number of negative outcomes (Howell & McFeeters, 2008; O'Regan & Quigley, 1996). In the early 1900s, penologists noted that prisons were full of individuals who were poor, were from the lower class, and were immigrants (Allen, Latessa, & Ponder, 2010). Also, professionals have noted that poverty was associated with other human needs and exacerbated other problems (Aizer, 2008; Ortiz & Briggs, 2003), such as infant mortality and dropping out of school (Alexander, 2010). People in poverty suffer most from medical illnesses and poor health, such as diabetes and its effects that cause blindness, amputations, and death (Alexander, 2010). Stobbe (2010) reported that HIV has been now linked to poverty. Though poverty is associated with medical problems, there are social consequences for poverty. For instance, two parents on public assistance voluntarily requested a dependency petition because they were unable to financially and emotionally care for their two children. As a consequence, the two children were put in foster care (*In the Matter of the Welfare of M. A., and J. A.*, 1987).

With respect to children living in poverty, they are likely to be minorities and African Americans (Wight, Chau, & Aratani, 2010). Ward 8 within the Nation's capital, Washington DC, has a poverty rate of 40 percent and an employment rate of 28.5 percent (Robinson, 2010). According to 2009 data derived from the U. S. Population Survey, Annual Social and Economic Supplement, 14 million children live in families who have incomes below the poverty level (Wight, Chau, & Aratani, 2010). The poverty level in 2009 was \$22,050 for a family of four (Cauthen & Fass, 2008). Researchers found that of the 88 counties in Ohio, living below

poverty was associated with children living apart from their families (Curtis & Alexander, unpublished manuscript).

In the 1960s President Johnson proposed the Great Society programs with the goal to eliminate poverty. It created the Office of Economic Opportunity and other programs to address poverty. This strategy was called the War on Poverty. Later in the 1980s when the Republicans took control of the legislative branch, they revamped programs such as, Aid to Families with Dependent Children (AFDC) into the Temporary Assistance Needy Families (TANF) to address poverty and to drive parents into low income jobs. Moreover, the Republicans declared a War on Drugs too. The results of these policy changes were increased use of private and voluntary organizations to help poor families, less governmental aid for poor people, and increased use of social control institutions to manage the poor.

African American children have the most poverty, representing 35 percent (Moore, Redd, Burkauer, Mbwana, & Collins, (2009). A study of African Americans living below poverty showed as the more poverty in a census tract, the more likely that children were not living at home (Curtis & Alexander, 2010). These researchers, Curtis and Alexander, speculated that these African American children not living at home were either in the child welfare system and juvenile justice system. African American children make up a very large portion of the children in both the foster care and juvenile justice systems. African Americans make up the largest population in many youth facilities (Arkansas Department of Youth Services, 2009; Georgia Department of Juvenile Justice, 2010; Louisiana Office of Juvenile Justice, 2009; New York Department of Juvenile Justice, 2009; Ohio Department of Youth Services, 2010). Further, poor children and African Americans make up a high proportion of children in the child welfare system and foster care system (McAdoo, 1991). When African American children are placed in the foster care system for significant periods of time, they do not have socially productive lives as adults (Bartholet, 2009). Many of them end up in homeless shelters, unemployed, on drugs, and in prisons (Bartholet, 2009).

The aim of this paper is to elaborate upon the impact of poverty on African American children in the child welfare system and the juvenile justice system. Black's theory of law provides an understanding of African American children in the child welfare and juvenile justice systems. This paper presents a definition of poverty, its perceived historical causes in the preindustrial period, and the contemporary definition of poverty. Then, this paper describes the genesis of African American poverty, impoverished African American children in the child welfare system, impoverished African Americans within the juvenile justice system, and the link between poverty and African American children in the child welfare and juvenile justice systems.

Black's Theory of Law

Social reality, such as families, organizations, cities, revolutions, conversations, friendships, and governments, manifests itself through behavior. These social realities behave or change when social forces impinge upon them. Social reality or social life varies according to stratification, morphology, culture, organization, and social control. Donald Black, who holds a law degree and a doctorate in sociology, explained this phenomenon as the theory of law (Black, 1976). The theory of law involves several variables- - the quantity of law, the amount of social control, the quantity of respectability, the direction of law between differences in respectability, and the magnitude of differences in respectability. Often, the quantity of law is used as the dependent variable and the other variables are independent. According to Black (1976), the quantity of law

is “known by the number and scope of prohibitions, obligations, and other standards to which people are subject, and the rate of legislation, litigation, and adjudication” (p. 3). As such, it can be measured in a variety of ways. For instance, any complaining to a legal authority is more law than no complaining and represents the quantity of law. The legal authority may be a police official, a call or visit to a regulatory agency, or the court to bring a lawsuit. Also, the accepting or investigating of a complaint is more law than rejecting or not investigating (Black, 1976).

In criminal law, an arrest is more law than no arrest, a search of a person on the street is more law than no search, a search of a person’s car is more law than the waiving of a car search, and an interrogation is more law than no interrogation. Racial profiling represents the quantity of law. The setting of bail is more law than no bail. A remand to jail is more law than no remand. A higher bail is more law than a lower bail. A conviction is more law than no conviction. A conviction for a felony is more law than a conviction for a misdemeanor. A prison sentence is more law than probation. A death sentence is more law than a life sentence without the possibility of parole. A juvenile’s detention before a hearing is more law than a release to parents (Black, 1976).

In civil law, a verdict in favor of the plaintiff is more law than a verdict in behalf of the defendant. This is so because of the increase of obligations upon the defendant and no obligation upon the plaintiff. The more money awarded to the plaintiff constitutes the more law for the defendant. An appeal by the plaintiff is more law, and a successful appeal is more law. At the same time, a decision in favor of the defendant is less law (Black, 1976). A successful appeal by the defendant is less law. Hence, hypotheses are developed based on who is more respectable or the distance between respectability, such as a lawsuit brought by a person against Walmart. Also, hypotheses differ depending upon the actors involved. For example, differences exist between when a principal accuses a janitor of sexual harassment or when the janitor accuses the principal of sexual harassment. Differences in respectability determine more or less law.

The amount of social control is a quantitative variable. One setting (i.e., family, community, organization) may have more social control than another, and each setting may have more social control than a similar setting. For instance, a family may have more social control than a neighborhood, and one family may have more social control than another family. Also, a private setting, such as a military or Catholic school, may have more social control than a public setting, such as a public school (Black, 1976).

Alexander and Wilhelmus (1996) operationalized Black’s theory of law within social work and presented the hypotheses that could be tested. In this area, law is represented by whether social workers investigate a family or decide to remove children from their homes. They explained that poor families are more likely to be investigated for neglect or abuse than middle class or upper class families. Further, poor families are more likely to have their children taken away than middle or upper class families. In short, poor families receive more law than middle class families. Also, race is a proxie variable for respectability. Thus, minority families are viewed as less respectable than White families. In a somewhat similar view, Alexander (2002) used Black’s theory of law to study juveniles’ degree of penetration into the juvenile justice system. He found that African American juveniles were more likely than White juveniles to be detained at intake, adjudicated delinquent, and committed to a youth facility.

Poverty, Its Causes, and Contemporary Definition

Poverty is a condition in which a person or family is unable to achieve a minimally adequate standard of living. Individuals in poverty may be without housing or live in dangerous or

dilapidated housing, may not have access to adequate food, may be without adequate clothing, may be unable to secure health care, and may be without sufficient money. Individuals in poverty may not have jobs or hold part time jobs with low pay and no benefits. Thus, individuals may experience poverty with or without employment. By this definition, poverty is elastic because the standard of living changes yearly. Costs for rent, housing, food, clothing, and utilities increase yearly. Individuals in poverty may rely on food pantries and donated clothing from places, such as Goodwill or the Salvation Army (Wight, Chau, & Aratani, 2010).

One of the earliest explanations for poverty was that it was caused by genetics. Commissioned by the Prison Society of New York, Richard Dugdale undertook a study of individuals in prisons and poor houses in New York and wrote a report in 1875 called *The Jukes: A Study in Crime, Pauperism, Disease, and Heredity*. Dugdale examined data from various institutions and studied a family that he called the Jukes that consisted of over 700 descendants. According to Dugdale, pauperism was the social equivalent of a disease which was a form of weakness, and pauperism was an indication of weaknesses, such as disease, old age, injury, and for women illegitimate childbirth. Three Juke sisters, as reported by Dugdale, had illegitimate children, and one sister had “two bastard children” who were lazy and who never married. Citing one case, Dugdale recounted a 18 year old young woman in a poor house who had an illegitimate son and concluded that her maternal functions had produced temporary weakness, which was the essential of pauperism. Dugdale examined sex differences and noted that women were more mired in pauperism than men, but women applied for relief less often than men. In cases where men were receiving relief, their sisters who were not married were more likely to be prostitutes. Despite Dugdale’s analyses of his data, he wrote that illegitimates who were placed in favorable environments may succeed in life better than legitimate children in the same environment (Dugdale, 1875).

Voicing similar sentiments, many of the early industrial titans and religious leaders provided explanations for the poor. As an illustration, Henry Ward Beecher, a fiery reformer Protestant clergyman and the brother of Harriet Beecher Stowe, preached that a dollar a day would not support a man with five children when the man smoked tobacco and drank alcohol. Beecher suggested that a family of seven could live on a dollar a day if the man refrained from alcohol and tobacco. Moreover, Beecher declared that a person who could not live on bread and water was not fit to live. Beecher reportedly conceded that “there may be reasons of poverty which do not involve wrong; but looking comprehensively through city and town and village and country, the general truth will stand, that no man in this land suffers from poverty unless it be more than his fault- -unless it be his sin” (Klein & Kantor, 1976, p. 288). Other prominent persons noted that God intended for the little people to be little and for the great people to be great. Then, some persons blamed the devil by declaring that the devil made some men weak and imbecile and other people lazy and worthless. Even almighty God could not do much for individuals in poverty who would not do anything for themselves (Klein & Kantor, 1976).

Dugdale essentially stated that the social environment of paupers or poor people has a lot to do with the perpetuation of pauperism, and this theme has been maintained with differences in terminology for later theories of poverty. Oscar Lewis studied poor Mexicans and Puerto Ricans and came up with the concept of the culture of poverty, which he theorized would explain African American poverty as well (Schaefer, 2010). Particularly, Lewis (1965) stated that the culture of poverty is characterized by a diminished lack of childhood among children, early sexual experiences, less formal marriages, abandonment of relationships or common law marriages and children, a high number of female-headed households, and a lack of privacy.

Expressions of family solidarity are voiced but in reality family solidarity is not achieved due to sibling rivalry, competition for limited family resources, and a high amount of authoritarianism. Similar patterns have been found among poor people regardless of their race or ethnicity (Farley, 2010). According to Schaefer (2010), the culture of poverty is associated with a functionalist perspective. Poor people create a culture that helps them to function although it deviates from the normative culture. In order for poor people to escape poverty, they must change their culture. Currently, this explanation has been adopted by a number of conservative politicians and conservative social commentators.

As an illustration, in 2010, the Lieutenant Governor of South Carolina, Andre Bauer, gave a speech at a local town hall meeting to appeal to potential voters in his bid to become Governor of South Carolina. He told his audience the following: “My grandmother was not a highly educated woman, but she told me as a small child to quit feeding stray animals. You know why? Because they breed! You’re facilitating the problem if you give an animal or *a person ample food supply* [emphasis by author]. They will reproduce, especially ones that don’t think too much further than that” (Adcox, 2010, p. 1). However, Bauer, as a child, participated in a free lunch program at school because his parents had divorced and his mother’s finances had been extensively stretched (Adcox, 2010). Tellingly, Andre Bauer’s sentiments in 2010 regarding poor people are very similar to the thoughts of Richard Dugdale in 1875.

This explanation of poor people has been criticized because it blamed the victim (Ryan 1976), although a multitude of sociologists have stated that many social problems were structural and thus were caused by the structure of society (Parrillo, 2009; Schaefer, 2010). For instance, in the 1960s, full employment in the United States was defined as a 4 percent unemployment rate. In 1960, the U. S. population was 179,323,175 (CensusScope, 2010) and accordingly 7,172, 927 would be without jobs. This number would be higher because some people would have quit looking for work and thus would not be counted. Presently, six percent unemployment is considered full employment. Essentially, a large group of people will not be able to secure employment and work themselves out of poverty. A change in their culture will have no real effects. There may be indeed less privacy among poor people as Oscar Lewis stated. However, the lack of privacy is caused by a lack of sufficient rooms and beds, which is a function of poverty.

At the behest of the Social Security Administration, Mollie Orshansky devised a measure of poverty that subsequently became the official measure of poverty for the U. S. Government (Alexander, 2010). Originally, the poverty definition established a number for income cutoff or thresholds adjusted by family size, sex of the family head, number of children under 18 years old, and whether the home was in a farm or nonfarm area. Principal of the definition of poverty was the economy food plan or the major food group and the price of each group. The amount of the least cost for each nutritious food group established the poverty level. The model consisted of various amounts needed for a person or family to be in poverty, but the number one measure was a family of four, consisting of man, a woman, and two children. However, today a family could consist of a single mother with children, two men with children, or two women with children (Alexander, 2010).

The Genesis of African Americans’ Poverty

Comparisons have been made of African Americans and immigrants in poverty who came to the United States and how these immigrants prospered subsequently while many African Americans have remained poor and in the inner cities. But these critics forget that African Americans were

in slavery for centuries and faced extremely harsh treatment afterwards. The Europeans, Jews, Swedish, Italians, Irish, Greeks, and Russians were never slaves in the United States, and the discrimination these groups faced was far less severe than what African Americans faced (Alexander, 2005). Another critical factor that has been overlooked is that these groups have identified themselves as White, and sociologists have documented the differential treatment of groups that came to America from various parts of Europe (Farley, 2010; Parrillo, 2009). African Americans have been free less time than they were slaves in this country who were then forbidden to read or write and who left slavery experiencing extreme poverty and facing rampant discrimination economically, socially, and politically. They were promised 40 acres and a mule, but this promise was unfulfilled. However, some African Americans acquired some land and farmed. Many though were sharecroppers on Whites' land, and although African American farmers were doing all the work, their debts to White land owners increased yearly (Royce, 1993).

When African Americans left the South for Northern cities during and after Reconstruction, they found racial segregation and hostilities. White citizens made African Americans second class citizens through violence, economic coercion, social repression, and control of the political and judicial systems. Whites created economic, social, and political restraints on African Americans and barred African Americans from the dominant social institutions. Industrialization offered African Americans little or no economic mobility. Although jobs were created, competition with Whites meant that these jobs would go to Whites. Whites got the best jobs and even less desirable work went to foreign and immigrant Whites. An axiom developed that African Americans got jobs that no one else wanted and were often paid less than White immigrants doing similar work. Despite the racism and poor job prospects, African Americans still continued to move north. Deeply concerned about the increasing numbers of African Americans moving north, urban Whites restricted African Americans to the poorest neighborhoods. As historically recounted by Klein and Kantor (1976), "from this northward migration and the reaction to it emerged the black ghetto which remains a familiar landmark of all northern cities" (p. 199). The Black ghettos in America with its ingrained poverty predated the Jewish ghettos in Europe during World War II.

Impoverished African American Children in the Child Welfare System

Rosner and Markowitz (1997) noted that the *New York Times* and the *Washington Post* have, from time to time, reported sensational stories about the foster care system and the extraordinary longer length of time that African American children languished in the foster care system compared to White children. But Rosner and Markowitz, using New York as an example, attributed the current foster care problem to long standing racism and racial discrimination, which existed in all major cities as revealed above by historians Klein and Kantor (1976) in their recounting of the nascent development of major American cities from 1850 to 1920. According to Rosner and Markowitz (1997),

During the 1950s and 1960s, a new form of segregation emerged with the suburban migration of large number of White working-class families. As White children moved to the suburbs and the economic prosperity and social stability of ethnic White families increased, they were less likely to enter services designed for dependent and neglected children. The vast majority of White children were defined as those in need of mental health services. Some foster care agencies moved from the central city to the outer boroughs and suburbs and transformed

themselves into outpatient mental health clinics with a predominately White clientele. This fed the increased bifurcation of services as Black children migrated to or remained in central cities. The vast majority of dark-skinned African-American children were [sic] defined as delinquent or has having behavior problems and were placed in public institutions. Some children awaiting possible placement in the sectarian agencies languished in prison, as sectarian agencies engaged in long preplacement screening and selection processes. (p. 1847)

Rosner and Markowitz (1997) documented historical racism and discrimination against African Americans in New York City foster and adoption systems, recounting facts from the 19th century until the 1980s. Unlike many cities, the sectarian agencies in New York controlled the care of dependent youth and developed foster homes, founding hospitals, shelters, and orphanages. These sectarian agencies, although funded with public money, did not serve African Americans. In the 1940s, African American children, who were not charged with juvenile offenses and were dependent children, were put in the city jail. For a very long time, a dual system existed with White children receiving supportive mental health care and African American children receiving lesser care in overcrowded institutions (Rosner & Markowitz, 1997). Children were taken out of their homes and placed in foster care for mainly two problems, which were neglect and physical abuse. However, numerous professionals have stated that many poor parents simply have their children taken away because they lived in poverty and the amount that they received then from Aids for Dependent Families was not enough (McAdoo, 1991).

Bullock (2003) stated that about 3 million referrals a year are made to child welfare systems. Most of these referrals involved persons in the lower class, and thus African Americans and Hispanics were more likely to be referred. In some areas, states provided a poverty exception. A poverty exception means that judges would not remove children and sanction parents if the issue was more poverty than anything else. As an example, a child may be going to school with dirty clothes, but the mother does not have a washing machine and cannot afford to go to the laundry. In that case, the judge should not find neglect. But the poverty exception was not total protection for parents, and states have charged impoverished parents with neglecting their children (Bullock, 2003).

Controversy involving African Americans and the child welfare system has involved two interrelated systems--the foster care system and adoptions (Schmidt-Tieszen & McDonald, 1998). But child welfare issues bring African American children into the foster care system. Some researchers have found a positive correlation between poverty and child abuse (Ards, Chung, & Myers, 1999; Barth & Miller, 2001). Also, some parents, forced to work at low paying jobs, do not have child care and may leave their children at home alone, incurring then a charge of neglecting their children. When the Temporary Assistance Needy Families (TANF) was passed and parents were forced to work at low paying jobs far from their homes and forced to leave children alone or with relatives, problems sometimes occurred. For example, one African American woman had to leave her young son with her brother. The child found a gun belonging to the uncle and took it to school, causing legal trouble for his mother and uncle (Alexander, 2005). If placed in foster care for neglect or abuse, these children may have their parental rights terminated by the courts and put up for adoption.

In the 1960s African American social workers from the National Association of Black Social Workers condemned transracial adoption of African American children by Whites as

cultural genocide. This led to a decrease in tranracial adoptions, but policy makers contended that same race adoption caused African American children to stay in the foster care system longer than other children. Professedly concerned about the length of time of African American children in the foster care system and a desire to have color-blind laws and policies, Congress passed the Multiethnic Placement Act, which forbade the consideration of race as the primary factor in foster placement and adoption (Curtis & Alexander, 1996; Nadel, 1998). The Multiethnic Placement Act of 1994 prohibits (1) the delay or denial of a child's foster or adoptive placement *solely* on the basis of race, color, or national origin; and 2) requires that state agencies make diligent efforts to recruit foster and adoptive parents who represent the racial and ethnic backgrounds of children in foster care (Curtis & Alexander, 1996). In 1996, the Multiethnic Placement Act was amended by the Removal of Barriers to Interethnic Adoption Provisions (IEP), which deleted the word "solely" from MEPA's prohibition against delaying or denying an adoptive placement on the basis of race. The revised law prohibits agencies receiving federal funding from considering race in decisions on foster or adoptive placements, except in exceptional circumstances. Agencies that violate the law may be sued under Title VI of the Civil Rights Act and subject to a large fine (Evan B . Donaldson Adoption Institute, 2008). As examples, social workers in Ohio requested a White family to develop a plan for an African American child's cultural needs and to evaluate the racial demographics of their neighborhood. For these requests, the State of Ohio was fined 1.8 million dollars (Nixon, 2008). In a South Carolina, an agency was fined \$107,000 for using a data base to match prospective adoptive parents and children, which the federal government contended was focused too much on race (Nixon, 2008). Later, race was banned as a factor at all. Subsequent reports, however, concluded that a color blind policy as it related to adoptions does not serve well minority children (Evan B. Donaldson Adoption Institute, 2008; Nixon, 2008).

As suggested above, African American children make up a large proportion of children in the foster care system. Some researchers have noted the proportion of African American children in the general population and their percentage in the foster care system (Evan B . Donaldson Adoption Institute, 2008). Other researchers have grouped Hispanics and African Americans as minorities. At the end of September 20, 2006, there were an estimated 510,000 children in the foster care system (Child Welfare Information Gateway, 2009). At this time, 40 percent were White/Non-Hispanic, 32 percent were Black/Non Hispanic, 19 percent were Hispanic, and 9 percent were other races or multiracial (Child Welfare Information Gateway, 2009). Approximately, 289,000 children exited the foster care system in 2006 and of this number 46 percent were White/Non-Hispanic, 27 percent were Black Non-Hispanic, 18 percent were Hispanic, and 9 percent were other races or multiracial (Child Welfare Information Gateway, 2009).

Impoverished African Americans within the Juvenile Justice System

On March 26, 2009, a consortium consisting of the *Georgetown Journal on Poverty Law and Policy*, *American Constitution Society for Law and Policy*, Center for Juvenile Justice Reform, Georgetown University, and Georgetown Law Center Juvenile Justice Clinic held a symposium on the intersection of juvenile justice and poverty. They observed that the conditions of poverty affected many children and was a significant factor in juvenile offending. Basically, the persons attending the symposium concluded that social factors that accompany low socio-economic status affected offending and reoffending. Missing, however, from these discussions and

presentations were how law enforcement and juvenile justice officials were influenced by their interaction with minority children.

Snyder and Sickmund (2006), in a very lengthy report on juvenile crimes, included a section on poverty and noted that it was associated with juvenile offending. They reported that 52 percent of African American children lived in single parent homes with their mothers. Tracy Velázquez, Executive Director of the Justice Policy Institute, observed that individuals in poverty were drawn into the criminal and juvenile justice systems more than their counterparts who were not in poverty. In the justice system, being without money or resources means that poor people cannot afford high quality legal assistance, and this lack of resources means further penetration into penal institutions. Once released with criminal or juvenile records, released persons were further entrenched into poverty because of the barriers to securing employment (Velázquez, 2009). Children of incarcerated parents who had been released were adversely affected when their parents could not find employment.

In 2008, law enforcement made an estimated 2.11 million arrests for persons under the age of 18 (Puzzanchera, 2009). African American youth made up 16 percent of the youth population in 2008, but they constituted 52 percent of the arrests for violent crimes and 33 percent of the arrests for property offenses (Puzzanchera, 2009). Debates have long occurred over the disproportionality of African American juveniles in the justice system (Davis, 2003; Leiber, 2002; Soler & Garry, 2009; Welsh, Jenkins, & Harris, 1999). Some persons have said that this disproportionality reflects racial discrimination, but others have said that this disproportionality reflects that African American youth were involved in high numbers in violent crimes, which explained their high number of arrests, adjudications, and incarceration. However, this latter explanation has long been challenged (Krisberg, Schwartz, Fishman, Eisikovits, Guttman, & Joe, 1987).

Krisberg and his colleagues reviewed national data on incarcerated minority youth that showed increasing numbers of minority youth in secure facilities. Minority youth were incarcerated in public juvenile correctional facilities at rates three to four times that of Whites. An examination of FBI data and self-report data indicated that minority youth are somewhat more likely than White youngsters to be involved in serious crime, *but not to the extent sufficient to explain the differential incarceration rates* [Emphasis by author]. Repeatedly, emphasis is put on African American juveniles' involvement in homicide, but homicide is not the only violent crime.

Alexander (2005) noted that violent crimes, also called index crimes, represent murder and non-negligent manslaughter, forcible rape, robbery, aggravated assault, burglary, larceny-theft, motor vehicle theft, and arson. These are considered the most serious crimes (Alexander, 2000). African American youth, like African American adult males, are more likely to be arrested for homicide and armed robbery (Alexander, 2005). Whites and other minorities are more likely to be arrested for the other index crimes (Alexander, 2005). The point that Krisberg et. al. and Alexander were making is that if White youth are arrested for 65 percent of rapes, they should constitute about 65 percent of the youth who are incarcerated for rape. But White youth are incarcerated at much lower rates than their participation in index crimes - - the most serious crimes. Put in theoretical terms, White youth receive less law and African Americans youth receive more law.

In 2006, nonWhite minority youth made up the majority of youth in custody (Office of Juvenile Justice Delinquency Prevention (2009). In Franklin County, Ohio, African American youth between the ages of 10 to 17 make up 25 percent of the population, but African American

youth constitute 70 percent of the youth in Franklin County Juvenile Detention Center (Price, 2010). According to the census numbers, more than 60,000 minority youth were incarcerated in 2006, which represented 65 percent of all youth incarcerated (Office of Juvenile Justice Delinquency Prevention, 2009). African American youth accounted for 40 percent of the youth incarcerated, and they had the highest incarcerated rate in the United States (Office of Juvenile Justice Delinquency Prevention (2009). Ratewise, African Americans were incarcerated at 767 per 100,000, Native Americans were 540 per 100,00, Latinos 326 per 100,000, and Whites 170 per 100,000 (Office of Juvenile Justice Delinquency Prevention, 2009).

Citing statistics from the Federal Bureau of Investigation (2004), Alexander (2005) reported that White juveniles were arrested for 61 percent of the violent crimes compared to 31 percent of African American juvenile (Federal Bureau of Investigation, 2004). For property offenses, which are considered to be serious crimes, White juveniles were arrested for 67 percent of them compared to 31 percent for African American juveniles (Federal Bureau of Investigation, 2004). Conservative critics point out that African American youth are more likely to carry weapons (Bilchik, 2000), which likely account for their overrepresentation in incarceration. However, White juveniles constituted 61 percent of the juveniles who were arrested for possessing or caring weapons, compared to 38 percent of African American juveniles. In terms of drug arrests, White juveniles constituted 65 percent of the arrests, and African American juveniles constituted 34 percent (Federal Bureau of Investigation, 2004).

Alexander recounted that that 98 percent of the juveniles arrested for drugs in Cuyahoga County, Ohio (Cleveland) were African Americans (Alexander, 2005). White juveniles who were arrested for drugs in the suburban areas of Cuyahoga County were not taken to the juvenile detention center. Instead, these White juveniles were given to community organizations in unofficial diversion programs (Alexander, 2005). Price (2010) reported that Franklin County officials are discussing alternatives for African American youth who are referred to detention for school related problems, hopefully reducing African Americans' detention. Highlighting the result of such an official and unofficial diversion policies, Georgia conducted a one day count of juvenile offenders in juvenile facilities for drugs. There were 100 juveniles incarcerated on this day for drugs and all 100 were African American juveniles (Alexander, 2005).

The numbers from Georgia had not changed after about two decades. In 2008, the Georgia Department of Juvenile Justice reported the number of juveniles in secure facilities in its system. There were 3980 White juveniles, 1124 Hispanic juveniles, and 10,322 African American juveniles (Georgia Department of Juvenile Justice, 2010). The Ohio Department of Youth Services (2010) reported in its annual report that nearly 60 percent of juveniles in the Ohio Department of Youth Services are African Americans. While nearly 35 percent of Ohio juveniles have been committed for person offenses, but 33 percent of the juveniles were in for property offenses. This website once reported the number of incarcerated juveniles that came from single parents' homes, but this statistic is no longer reported on its website.

In 2009, a select group of academicians and professionals conducted an investigation of juveniles incarcerated in New York. More than 80 percent of the juveniles incarcerated were African American or Latino, even though African Americans and Latinos make up less than half the state's total youth population- -a racial disparity that has never been explained, according to an investigative report (Confessore, 2009). For fiscal year 2009, New York City Department of Juvenile Justice reported that African American juveniles made up nearly 60 percent of the admission with Hispanics making up 25 percent and Whites making up 4 percent. The percentages were very similar for female admitted into detention (New York Department

Juvenile Justice, 2009). Another large juvenile justice system, Texas, reported that its commitment of youth consisted of 45 percent Hispanic, 35 percent African American, and 20 percent Anglo (Texas Youth Commission, 2010). It noted too that 77 percent had parents who never married or who were divorced or separated (Texas Youth Commission, 2010). About 57 percent of them came from low income families (Texas Youth Commission, 2010).

The Link Between Poverty and African American Children in the Child Welfare and Juvenile Justice Systems

Conclusively, an obvious link exists between poverty and the child welfare and juvenile justice systems. Researchers have noted that many African American juveniles involved in the justice system come from single parents' homes, and researchers also note that many African American single parents are in poverty. Also, researchers have long noted that poor African American children are more likely to be taken out of the home. In the juvenile justice system, as noted by the Georgetown Symposium, poverty is a significant factor in children's involvement with the justice system.

No studies exist researching empirically the impact of poverty upon both the foster care system and the juvenile justice system in one study. A scientifically proper study would consist of assigning children to experimental and control groups consisting of a poverty group and a non poverty group- -an impossible task. At best, there are a number of studies on a single system. For instance, Bright and Jonson-Reid (2008) conducted a study of children in poverty who had suffered maltreatment and subsequently had referrals for status offenses or juvenile offenses. But placement in the foster care system was not part of their study. Their focus was on gender differences and whether girls and boys had different pathways for offending. But their tables provided insight on race too. In their sample, 67 percent of the children were African Americans (Bright & Jonson-Reid, 2008). Their table showed that both nonWhite females and males were significantly more likely to have delinquency petitions lodged against them (Bright & Jonson-Reid, 2008).

In Ohio, a case arose involving an African American woman, who had several children. She married a Muslim man and converted to Islam. Her family was street vendors and sold items on the street. She had problems with her teenaged child and sought assistance from child welfare. Subsequently, her other children were taken from her and put in foster care for a year over concerns that they were being abused. She contended in a lawsuit that this decision to take her children was based on bias against her because of her race and her religion. Most of her claims were dismissed by the judge, but the judge ruled that her lawsuit may proceed on the issue of separating her from her children unlawfully (*AbdulSalaam et al., v. Franklin County Board of Commissioners*, 2009).

Also, a legal case arose in New York, which has implications for research involving African American children who were placed in the foster care system in New York. The Bontons, an African American couple, sued the New York City Administration of Child Services and specific employees due to state officials' decision to take their twin children and put them in foster care for over a year (*Bonton et al., v. City of New York et. al*, 2004). The lawsuit was based on federal civil rights statutes and *Monell v. Department of Soc. Servs* (1978), a U. S. Supreme Court decision giving plaintiffs the right to sue a municipality when the municipality has a policy and custom that violated citizens' constitutional rights. Parents have a constitutional right to their children, and the children have a constitutional right to their parents (Alexander, 2003).

The Bontons solicited an expert who held a Ph.D. in Economics to analyze data supplied by the Administration of Child Services for the years 2000 to 2001 involving race and foster care placements. In 2000, 90.4 percent of all children remanded into the custody of the Administration of Child Services were African Americans and 79.8 percent of all cases referred to the Administration of Child Services involved African Americans (*Bonton et al., v. City of New York et. al*, 2004). In comparison, 9.6 percent of White children were remanded into the custody of the Administration of Child Services and 20.2 percent of all cases referred to the Administration of Child Services involved White children (*Bonton et al., v. City of New York et. al*, 2004). In 2001, the data revealed similar racial patterns. However, the Bontons' expert conclusions were very tentative, and she admitted that the data given to her were limited. The City of New York countered with its expert, also a person with a Ph.D. in Economics, who strongly criticized the Bonton's expert and criticized the lack of employment of additional variables and the application of multiple regression to analyze the data. In defense of the Bonton's expert, the decision by Bonton's attorney to obtain an expert was made late and the attorney attempted to get more data, but the Federal Magistrate ruled that discovery had ended in the case. The end result was that the Federal Judge ruled that the Bontons' expert could not testify about her research as it would not help the jury decide whether the City of New York had a policy and custom to place African American children in foster care due to their race (*Bonton et al., v. City of New York et. al*, 2004).

The nondiscriminatory variables were identified as family income, parents' education, parents' occupation, parents' employment status, and the number of times the Administration of Child Services had investigated the family over the past several years. Because these variables were not obtained, the analyses were ruled to be scientifically flawed. However, these alleged nondiscriminatory variables should have little to do with child protection workers taking children out of their homes. Whites' incomes are higher than African Americans' income, Whites' education is higher than African American's education, and Whites have higher occupations than African Americans (Chrissy, 2009). These variables should not factor into a decision to remove an African American child from his or her home. Moreover, employment status, however operationalized, should not be a factor in taking a child out of a family. Further, the number of times a family has been investigated is not a nondiscriminatory variable as research has shown that poor people are more likely to be reported and investigated (Hill, 2004; McAdoo, 1991). These are not nondiscriminatory variables but instead are structural conditions that have existed for a very long time. Perhaps, the most significant nondiscriminatory variable was not mentioned at all by the City of New York or its expert, which was the severity of physical abuse. In a statistical model with the alleged nondiscriminatory variables, given the sheer racial disproportionality of 79.8 percent of all New York cases involving African Americans with 90.4 percent of African American children remanded to the Administration of Children Services compared to Whites constituting 20.2 percent of children referred but 9.6 percent remanded, *race would likely have emerged as the strongest predictor in multiple regression* [Emphasis by author], controlling for the alleged nondiscriminatory variables.

In another New York case, a federal judge seemed to accept the statistics provided by African American parents, members of a support group for parents who had their children taken from them by the Administration of Child Services. They contend that the Administration of Child Services failed to investigate completely allegations of child neglect and abuse against parents and legal guardians before removing children from the parents' custody. This failure to investigate allegedly resulted from the Administration Child Services proclaimed policy of

resolving any ambiguity regarding the safety of a child in favor of removing the child from harm's way and returning children to their parents or guardians only when families demonstrate to the satisfaction of caseworkers that their homes were safe and secure. According to the African American parents, the overwhelming majority of the parents and children impacted by the Administration of Child Services' proclaimed policy have been African Americans. Statistically, these African American parents supported their case with various reports. According to the District Report by the New York State Department of Social Services, between 1996 and 1998, African American children comprised over 50 percent of the children in foster care, while White children comprised less than 3 percent (*People United for Children, Inc. et al., v. City of New York, et al., 2003*). Other statistics provided by the African American parents were that 73 percent of the children placed in foster care in New York City were African American, while an estimated 3 percent of the foster care children were White; 1 of every 10 children from Central Harlem was in foster care; and 1 of every 22 African American children citywide was in foster care, compared with 1 of every 59 Latino children but only 1 of every 385 White children were in foster care (*People United for Children, Inc. et al., v. City of New York, et al., 2003*).

In an earlier case involving the same parties, African Americans underscored that the vast majority of children in foster care in New York City were African American, and that the likelihood of remaining in foster care is much greater for an African American child than for a White child. From June 1, 1997, there were 41,987 children in foster care in New York City, of which, an estimated 3 percent were White and less than 24 percent were Latino, while 73 percent were African American; African American children were more than twice as likely as White children to be removed from their parents or guardian following a confirmed report of abuse and neglect (*People United for Children, Inc. et al., v. The City of New York, et al., 2000*).

The disproportionality of African American children in the child welfare and juvenile justice systems has been well documented. Curtis and Alexander (2010; unpublished manuscript) attempted to explain the relationship between poverty and African American children who were not living at home. These researchers did not study placements in the foster care system or commitment to juvenile correctional institutions. Instead, they were interested in African American children who were not staying at home. The U. S. Census collected data on the number of children in a family and also collected data on the number of children living at home. Curtis and Alexander subtracted the second variable from the first variable to obtain the number of children who were not living at home. There were no information where these children were, and Curtis and Alexander did not attempt to explain African American children exact whereabouts or any justification for why these children were not at home. They simply noted that these children were not at home, which indicated a problem. For sure, most of these children were in the foster care system and the juvenile justice system (Curtis & Alexander, 2010).

Particularly, Curtis and Alexander (2010) studied Franklin County (Columbus), Ohio. Data were obtained by tracts which were proxies for neighborhoods. In 2000, Franklin County had a population of 1,068,978 persons residing in 263 tracts (Curtis & Alexander, 2010). Eighteen percent, 191,195, identified themselves as African Americans and there were 62,678 children under the age of 18 in these tracts. In one tract, there were 857 African American females who lived below poverty (Curtis & Alexander, 2010). The median income for African American women was \$26,919.33 and for African American males the median income was \$31,525.26 (Curtis & Alexander, 2010). The number of African American children not living at

home was dichotomized with 1 representing children living with their families and 0 children not living at home. There were a number of negative correlations, which means that these variables were associated with African American children not living at home. As the percentage of African American people living in a tract increased, African American children were not living at home. This research showed that tracts with increasing numbers of African Americans in poverty and little education were likely to have African American children not living at home (Curtis & Alexander, 2010).

In a somewhat similar study theme involving the state of Ohio and its 88 counties, Curtis and Alexander (unpublished manuscript) studied African American children who were not living at home. However, they had to take the square root of the African American children status and the log of African American women with less than a 9th grade education. They found that significant associations between the square root of children not living at home and the percentage of people in poverty and women who had less than a 9th grade education (Curtis & Alexander, unpublished manuscript).

Conclusions and Recommendations

This paper contends that poverty among African American children impact their involvement in both the child welfare and juvenile justice systems. Black's theory of law provides an explanation for African American children in both systems (Alexander & Wilhelmus, 1996). Low income families will have more law applied to them than middle and upper income families by children protection workers (Alexander, 2010). As Bergner (2006) revealed, a caseworker supervisor for the Connecticut Department of Children and Families stated White families were broken up less often than African American families or Hispanic families. Supporting Black (1976) and Alexander and Wilhelmus (1996), this supervisor stated "we may examine the information a little closer if the family is high profile or wealthy, given that we know they will most likely vigorously oppose the department's decision" (Bergner, 2006, p. 53). Clearly, this supervisor was stating that African American and Latino families received more law. Black's theory would explain that punitive law will be less likely to be applied to persons like Brittany Spears and former vice presidential candidate Sarah Palin for improper restraints of their children while driving (MSNBC, 2006; White, 2008).

Numerous professionals have recommended policy changes to lower the numbers of African American children in both the juvenile justice and child welfare systems. Alexander (1996) called for African American juveniles arrested for drugs to be treated as a mental health problem instead of processing by the juvenile justice system. Velázquez (2009), whose organization's mission is to promote effective solutions to social problems and dedicated to ending society's reliance on incarceration, stated the poor are disproportionately affected through all stages of the justice system, and she asked how the situation could be addressed so that poverty and prison aren't intertwined inevitably. Among her recommendations were better schools, more job development, and more programs that can help people, particularly the youth.

As far as the child welfare system, some professionals have recommended some systemic changes to provide more income to poor families, which might reduce their involvement with the child welfare system. Economics worked against many low income families. In 2006, the Brookings Institution, a nonpartisan Think Tank, released a report detailing the hidden taxes on low income families and advocated for changes and policies in the economic market that would assist these families, without increasing taxes or creating new social programs. The Brookings Institute found that by reducing the cost of living by one percent will put more than 6.5 billion

dollars into the pockets of lower income families (Fellowes, 2006). This windfall will come from eliminating the overcharges that lower income families pay.

Generally, lower income families pay more for the exact consumer products that higher income families pay. Surely, many businesses want to make as much profit as they can make, and some are known to gouge the public, low income and middle income families. But lower income families are gouged a lot more than middle income families. Lower income families pay more for basic necessities, including food, insurance, mortgages, and financial and tax services (Fellowes, 2006). Many low income families shop in stores in their neighborhoods where prices are higher, and if they go to a discount store out of their neighborhoods, then there is added cost, such as transportation to those sites. Lower income families pay more for car insurance, and they pay more for check cashing services and tax refund services. Lowering these taxes and strategic investments would help those low income families by providing them more money to spend on themselves and their families' needs (Fellowes, 2006).

Cauthen and Fass (2008) state to assist families and children in poverty the United States must have an economy that works for everyone. This means that parents earn a sufficient income to support a family. In addition, the bargaining power of workers must be strengthened, the Earned Income Tax Credit must be expanded, increases must occur in the minimum wage, and helping individuals to acquire the training and education they need to compete in an ever-changing world must occur. Legislator Sandra Williams represents the 11th District in the Ohio House of Representative, which is Cleveland, Ohio, and this district has some of the highest poverty rates for African Americans in the country. She noted that poverty rates among African Americans are of the utmost priority, which must be addressed by jobs that pay a living wage, a solid education system, the removal of barriers to employment for the formerly incarcerated, solutions to the lack of affordable health care, and effective solutions to the foreclosure problem (Williams, 2010).

Representative Williams was not the only person who has called for a living wage for workers, and other advocates have called for this standard too. In the early 1990s, the custodian staff, many who were minorities and African Americans, went on strike for higher pay at Ohio State University, one of the largest public universities in the United States. Many social justice advocates at the university supported these workers and contributed donations to the custodians who were not working during the strike and thus not getting paid. The negotiator for the custodial staff rejected one offer from Ohio State University. The university stated that it had to offer wages based on what other organizations and agencies were paying their custodial staff in Central Ohio. However, the Central Administration, also one of the largest in the country, does not use Central Ohio's salary benchmarks for its administrators. The Central Administration at Ohio State University is one of the highest paid in the country with several individuals, excluding the President and Provost, making over a million dollars a year. The President is the highest paid in the country and the Provost is too. They also receive bonuses in addition to their salaries. Among professors, wide differentials exist. Some professors make between \$400,000 and \$600,000 a year, but other professors at the same rank make \$70,000 or \$80,000. Social work professors, whose profession originated in poor neighborhoods and who have advocated for persons in poverty, are the lowest paid professors at Ohio State University.

Dixon (2008) proposes a very radical solution to the problems of the disproportionality of African American children in the child welfare and juvenile justice systems. She recommends that Congress create the African American Child Welfare Act, which is patterned after the Indian Child Welfare Act. Dixon believes that if Congress can pass legislation to protect Native

American children, then something similar can be passed for African American children, although she concedes that advocating for such an Act would incite political and legal challenges. The African American Child Welfare Act consists of three parts. The first part will focus on the child protection system. The second section would address the educational system within the juvenile delinquency system. The third part would address the problems of health care and the medical systems that essentially fail African American children. These recommended policy changes, if all taken together, would significantly lessen poverty among African American children and reduce their involvement in the child welfare and juvenile justice systems.

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