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Bringing Racial Justice to the Courtroom and Community: Race Matters for Juvenile Justice and the Charlotte Model

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Abstract

This article describes regional institutional organizing efforts to bring racial justice to the Charlotte courts and community through a collaborative called Race Matters for Juvenile Justice (RMJJ). The authors explain community and institutional organizing in-depth using the example of minority overrepresentation in the juvenile justice system, but recognize the pervasiveness of racial and ethnic disparities. Moreover, as the Race Matters for Juvenile Justice-Charlotte Model has gained national prominence, many jurisdictions seek to replicate the collaborative and the authors, therefore, provide RMJJ's history as well as strategies for changing the narrative through communication and education, workforce development, data and

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research, community collaboration, practice change, and legislation reform.

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“My ‘thing,’ if I want to organize, is solid communication with the people in the community. Lacking communication I am in reality silent; throughout history silence has been regarded as assent—in this case assent to the system.”—Saul Alinsky¹

I. Community and Institutional Organizing and the Problem

A. Community and Institutional Organizing

Community organizing is often employed when individuals want to influence institutions towards social reform or action.² Stall and Stoecker define community organizing as “building an enduring network of people, who identify with common ideals and who can engage in social action on the basis of those ideals.”³ Whereas Beckwith and Lopez state,

Community organizing is the process of building power through involving a constituency in identifying problems they share and the solutions to those problems that they desire; identifying the people and structures that can make those solutions possible; enlisting those targets in the effort through negotiation and using confrontation and pressure when needed; and building an institution that is democratically controlled by that constituency that can develop the capacity to take on further problems and that embodies the will and the power of that constituency.⁴

In sum, community organizing refers to work in local communities to empower individuals, build relationships, and effect social change.⁵

1. SAUL D. ALINSKY, *RULES FOR RADICALS: A PRAGMATIC PRIMER FOR REALISTIC RADICALS* 11 (1971).

2. See Susan Stall & Randy Stoecker, *Community Organizing or Organizing Community? Gender and the Crafts of Empowerment*, 12 *GENDER & SOC'Y* (SPECIAL ISSUE) 729, 730 (1998) (“Community organizing is localized, often ‘prepolitical’ action that provides the foundation for multilocal and explicitly political social movements.”).

3. *Id.*

4. Dave Beckwith & Cristina Lopez, *Community Organizing: People Power from the Grassroots*, COMM-ORG: THE COMMUNITY ORGANIZING WEBSITE (1997), <https://comm-org.wisc.edu/papers97/beckwith.htm> (last visited Mar. 8, 2017) (on file with the Washington and Lee Law Review).

5. See K. BOBO, J. KENDALL & S. MAX, *ORGANIZING FOR SOCIAL CHANGE: A MANUAL FOR ACTIVISTS IN THE 1990S* (1991) (providing instruction and guidance

What if the institutions themselves, and the individuals working within those institutions, desire social reform or action? In that case, communities may employ institutional organizing. Institutional organizing is characterized by “leaders act[ing] as ‘inside change agents’ and organiz[ing] their power to address oppressions internally, [such that] the institution is able to move beyond short-term transactional change to long-term transformation.”⁶ Kraus suggests that organizational collaboration or institutional organizing is “a cooperative venture based on shared power and authority.”⁷ Additionally, scholars suggest that this type of inter-professional collaboration and institutional organizing is necessary to meet the needs of youth and their families who face complex problems.⁸ So, what if the courts, recognizing the disparate outcomes for individuals of color within their hallowed halls, decide to organize and change these outcomes? And could the courts then encourage and facilitate other institutions to organize as well? The answer to both questions is most certainly, “Yes.” This article details exactly how that came to happen through *Race Matters for Juvenile Justice—The Charlotte Model*.

B. Statement of the Problem

The following is a true story relayed by the presiding judge in this case. He often credits this experience as the poignant

on organizing and activism in areas such as labor, health care, anti-racism, immigration, and other social issues). The work is also known as the Midwest Academy Manual for Activists. *See also generally* SI KAHN, ORGANIZING: A GUIDE FOR GRASSROOTS LEADERS (1991) (providing step-by-step instructions for grassroots organization and mobilization, heavily focused on community involvement and addressing status quo power structures).

6. *Organizing for Change*, CROSSROADS ANTIRACISM ORGANIZING & TRAINING, www.crossroadsantiracism.org/organizing/ (last visited Mar. 8, 2017) (on file with the Washington and Lee Law Review).

7. WILLIAM A. KRAUS, COLLABORATION IN ORGANIZATIONS: ALTERNATIVES TO HIERARCHY 19 (1980).

8. *See* Susan McCarter, Tina Maschi & Keith Morgen, *Inter-Professional Collaboration: Perceptions and Practices with Youth with Complex Problems*, 4 J. FORENSIC SOC. WORK 63, 73 (2014) (“As the problems faced by children and their families become even more complex, the interdependence of service providers becomes more important . . .”).

catalyst to the pursuit of his work with *Race Matters for Juvenile Justice* and it illustrates RMJJ's statement of the problem.

The story begins with two fifteen-year-old friends. After spending the night together and watching a cool heist movie, they held up a fast-food store using pellet guns while wearing identical Halloween masks. The employee quickly handed the boys the cash from the register. Next, the two ran out the side door without being stopped—only to be apprehended within blocks of the crime.

Hearing the first appearances consecutively on that particular Monday, the presiding judge called the first case. The first boy entered the courtroom through the back door escorted by the bailiff, shackled and wearing an orange, county-issued jumpsuit. He saw his parents, siblings, extended family, friends and mentors—including his coach and his youth pastor—as soon as he entered the courtroom. He sat at the defendant's table with his attorney. When asked, each of the support figures stated how out of character the robbery was for this young man and that he was, in fact, a good kid. The proceeding went on without incident, and consistent with the severity of the offense and the recommendations from the state's attorney, defense attorney, and court counselor, the judge ordered the boy be detained for three days while an investigation as to whether he was an appropriate candidate for release with an electronic monitor and increased supervisions took place. Following that investigation, another hearing would be scheduled to revisit the juvenile's detention.

The judge then called the next case for the co-defendant. Again, the courtroom filled with the boy's parents, siblings, extended family, friends, and mentors, including his coach and his youth pastor. The judge waited and finally had to ask the bailiff to bring in the next defendant. But there was no one else in the holding cell. The defense attorney announced that his client was already in the courtroom and asked him to be seated at the defendant's table. He wore khaki pants and a buttoned-down shirt. When asked for recommendations, the state's attorney, defense attorney, and court counselor all suggested a series of release conditions for this juvenile.

Having the cases back-to-back brought several thoughts to the forefront of the judge's mind, and before completing the second hearing, he asked several questions: (1) Whose idea was

the robbery? The response was that they both had the idea. (2) Did either of the boys have a juvenile record? No, this was their first offense. (3) Which one held the gun? They both held guns. (4) Which one asked for the money from the cashier? They stood on either side of the cash register and both demanded money.

These two best friends committed the same crime, on the same day, at the same time, together. But, once they were escorted downtown in separate squad cars, they were questioned separately, and processed separately—but not equally. After examining their roles in the escapade, family structures, socioeconomic status, academic performance, and neighborhoods, the only apparent difference between these two young men was the color of their skin.

C. Justice, Minority Overrepresentation, Disproportionality, and Disparity

Justice has been conceptualized to be blind to your circumstances, weigh the evidence of your behavior, and levy a swift and just punishment commensurate with your crime.⁹ And yet, for all states reviewed in a national study, minority youth were overrepresented in every state and at all juvenile justice contact points.¹⁰ The term disproportionality simply means that categories are out of proportion by size or number,¹¹ for example, when the percentages of a certain phenomenon do not match their corresponding population statistics. So, overrepresentation requires context, as does disproportionality. The term disparity, however, assumes the value or goal of parity—and is often used

9. See Pierre de Vos, *Why Justice is Not Always Blind*, CONSTITUTIONALLY SPEAKING (Feb. 25, 2013), <http://constitutionallyspeaking.co.za/why-justice-is-not-always-blind/> (last visited Mar. 8, 2017) (“Lady Justice, the Roman goddess of Justice, is . . . depicted as blindfolded, encapsulating the ideal that justice is or should be meted out objectively, without fear or favour, regardless of the identity, wealth, power, or weakness of the person who is being judged.”) (on file with the Washington and Lee Law Review).

10. See Michael J. Leiber, *Disproportionate Minority Confinement (DMC) of Youth: An Analysis of State and Federal Efforts to Address the Issue*, 48 CRIME & DELINQ. 3, 10 (2002) (“[M]inority youth overrepresentation was evident in every state reviewed . . .”).

11. *Disproportionality*, OXFORD ENGLISH DICTIONARY (3d ed. 2010).

to indicate an inequality in such things as pay, status, or privilege.¹²

So, RMJJ asks, “Why?” Why are infant mortality rates,¹³ diabetes deaths,¹⁴ foster care placements,¹⁵ school suspensions,¹⁶ unemployment,¹⁷ and incarcerations¹⁸ all disproportionate with disparate outcomes for youth of color? Effects of independent variables such as gender, race and ethnicity, age, income, and education can be tested statistically through multivariate statistical analyses.¹⁹ Scholars have evaluated several theories,

12. *Disparity*, OXFORD ENGLISH DICTIONARY (3d ed. 2010).

13. See *QuickStats: Infant Mortality Rates, by Race and Hispanic Ethnicity of Mother—United States, 2000, 2005, and 2010*, CTRS. DISEASE CONTROL & PREVENTION (Jan. 10, 2014), <http://www.cdc.gov/mmwr/preview/mmwrhtml/mm6301a9.htm> (last visited Mar. 8, 2017) (providing infant mortality statistics) (on file with the Washington and Lee Law Review).

14. See *Number of Diabetes Deaths per 100,000 Population by Race/Ethnicity*, HENRY J. KAISER FAMILY FOUND. (2013), <http://kff.org/other/state-indicator/diabetes-death-rate-by-raceethnicity/> (last visited Mar. 8, 2017) (reporting diabetes related death statistics) (on file with the Washington and Lee Law Review).

15. See *Number of Children in Foster Care, by Race/Ethnicity*, LUCILE PACKARD FOUND. CHILDREN’S HEALTH (2013), <http://www.kidsdata.org/topic/22/fostercarerace/table#fmt=19&loc=1&tf=73&ch=7,11,8,10,9,44&sortColumnId=0&sortType=asc> (last visited Mar. 8, 2017) (providing data related to foster care placement disaggregated by race and ethnicity) (on file with the Washington and Lee Law Review).

16. For the most recent data sets relating to suspensions and other types of school discipline across the United States, disaggregated by race, see the data tables available for download at *2011-12 State and National Estimations*, CIVIL RIGHTS DATA COLLECTION, U.S. DEPT OF EDUC., http://ocrdata.ed.gov/StateNationalEstimations/Estimations_2011_12 (last visited Mar. 7, 2017) [hereinafter, U.S. DEPT. OF ED., *Out-of-School Suspensions*] (on file with the Washington and Lee Law Review).

17. See *Labor Force Statistics from the Current Population Survey*, BUREAU OF LABOR STATISTICS, U.S. DEPT OF LABOR, http://www.bls.gov/web/empsit/cpsee_e16.htm (last updated Jan. 6, 2017) (last visited Mar. 8, 2017) (listing employment statistics disaggregated by race) (on file with the Washington and Lee Law Review).

18. See E. ANN CARSON, PRISONERS IN 2013, at 8 (2014), <http://www.bjs.gov/content/pub/pdf/p13.pdf> (“Black men had higher imprisonment rates across all age groups than all other races and Hispanic men.”).

19. Statistical modeling such as linear regression, ordinary least squares regression, and hierarchical linear modeling allow researchers to hold independent variables constant while testing for differences.

taking into account dependent and independent variables, including differential involvement, family income, poverty, family structure, education, geographic location/zip code, and many others, and national research consistently suggests that neither self-reported criminal behavior,²⁰ nor mandatorily reported offense rates,²¹ nor a myriad of other independent variables²² can explain the current levels of racial and ethnic disproportionality. Although this disparity has existed for decades, it is now widening.²³ And this disparity is evident across many systems

20. See Laura Kann et al., *Youth Risk Behavior Surveillance—United States, 2013*, CTRS. FOR DISEASE CONTROL & PREVENTION, <https://www.cdc.gov/mmwr/preview/mmwrhtml/ss6304a1.htm> (last updated June 13, 2014) (last visited Mar. 8, 2017) (providing various statistics related to health among younger people, including criminal behavior) (on file with the Washington and Lee Law Review); see also Anthony A. Peguero & Zahra Shekarkhar, *Latino/a Student Misbehavior and School Punishment*, 33 HISP. J. BEHAV. SCIS. 54, 65 (2011) (“The results suggest that Latino/a students are being disproportionately punished for misbehaving at the same, or even lower, levels as White male students.”); *Youth Violence: A Report of the Surgeon General*, OFFICE SURGEON GEN. (2001), <http://www.surgeongeneral.gov/library/youthviolence/chapter2/sec12.html#differences> (last visited Mar. 8, 2017) (noting the disproportionality between self-reported crime statistics and arrest statistics) (on file with the Washington and Lee Law Review).

21. See TONY FABELO ET AL., *BREAKING SCHOOLS’ RULES: A STATEWIDE STUDY OF HOW SCHOOL DISCIPLINE RELATES TO STUDENTS’ SUCCESS AND JUVENILE JUSTICE INVOLVEMENT* 40–43 (2011), http://csgjusticecenter.org/wp-content/uploads/2012/08/Breaking_Schools_Rules_Report_Final.pdf (studying the disparity among minority students); see also Tamela M. Eitle & David J. Eitle, *Inequality, Segregation, and the Overrepresentation of African Americans in School Suspensions*, 47 SOC. PERSPS. 269, 280 (2004) (examining disparate treatment of minority students in segregated schools).

22. See FABELO ET AL., *supra* note 21, at 85 (noting multiple factors which could potentially be related to disparate treatment of minority students); see also Susan A. McCarter, *Legal and Extralegal Factors Affecting Minority Overrepresentation in Virginia’s Juvenile Justice System: A Mixed-Method Study*, 26 CHILD & ADOLESC. SOC. WORK J. 539, 533–34 (2009) (examining two legal independent variables—crime severity and prior record—and five extralegal independent variables—race, education, income, geotype, and family structure— and their effects on the two dependent variables of diversion and incarceration, and finding that race and education (extralegal variables) were stronger predictors of incarceration than were legal variables). The study also found that regardless of offense severity and prior record, “being African American increased the likelihood of incarceration.” *Id.*

23. See DANIEL J. LOSEN & TIA ELENA MARTINEZ, *OUT OF SCHOOL & OFF TRACK: THE OVERUSE OF SUSPENSIONS IN AMERICAN MIDDLE AND HIGH SCHOOLS* 1 (2013), <https://civilrightsproject.ucla.edu/resources/projects/center-for-civil->

including, but not limited to, education, healthcare, child welfare, employment, the courts, housing, banking, and corrections.²⁴

II. History of the Race Matters for Juvenile Justice–Charlotte Model

A. Background

The seeds of the *Race Matters for Juvenile Justice–Charlotte Model* were planted when Mecklenburg County court officials partnered with Community Building Initiative (CBI) in 2000 to examine the factors of race, ethnicity, power, and privilege, and their impact on the overall justice system.²⁵ This effort appropriately came to be called Judicial Leadership in a Diverse Community (JLDC), and it encouraged, focused, and facilitated discussions that impacted the participating judges profoundly.²⁶ However, there were few resulting systemic changes to the Mecklenburg County Court. Fast forward to 2006, when the Juvenile Justice Partnership, a collaborative involving juvenile judges and local leaders, began discussing the impact that race and ethnicity have upon the outcomes for children across systems. Several judges who had participated in the JLDC project

rights-remedies/school-to-prison-folder/federal-reports/out-of-school-and-off-track-the-overuse-of-suspensions-in-american-middle-and-high-schools/OutofSchool-OffTrack_UCLA_4-8.pdf (Although “the racial discipline gap has always been largest in middle schools and high schools, it has grown dramatically at the secondary level since the early 1970’s.”).

24. Perhaps the most salient disparity is that which is related to incarcerations in the United States. “[B]lacks/African-Americans make up approximately 12.9 percent of the general population, but about 39 percent of those in prisons and jails in the U.S in 2008.” *Racial Disparities*, JUST. POLY INST., <http://www.justicepolicy.org/research/category/36> (last visited Mar. 8, 2017) (on file with the Washington and Lee Law Review).

25. See *About Us*, CBI CHARLOTTE, <http://cbicharlotte.org/who-we-are/about-us-menu> (last visited Mar. 8, 2017) (stating that the organization’s mission is “[t]o intensify the commitment and increase the capacity of individuals and organizations to build a more inclusive and equitable community”) (on file with the Washington and Lee Law Review).

26. See Hon. Shirley L. Fulton, *Judicial Leadership in a Diverse Community*, MECKLENBURG BAR NEWS, Jan. 2003, at 4–5, http://www.meckbar.org/newsevents/mcb_news_1_03.pdf (offering the personal account of Judge Fulton and her experiences on the bench).

suggested a similar approach for the Juvenile Justice Partnership. Again, CBI agreed to initiate a series of examinations of race to explore personal views and experiences, strategies to strengthen racial and ethnic inclusion and equity in the juvenile justice system, and the status of minority overrepresentation in the Charlotte-Mecklenburg juvenile court system. This time the discussions led to a nine-point strategic plan for the Juvenile Justice Partnership, who began to examine racial and ethnic bias within child-serving systems. Around the same time in 2008, the Mecklenburg County Model Court adopted the Courts Catalyzing Change agenda for implementation in the county. Partially funded by Casey Family Programs and the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care initiative was introduced by the National Council of Juvenile and Family Court Judges (NCJFCJ).²⁷ Its purpose was to bring “together judicial officers and other systems’ experts to set a national agenda” to reduce both the disproportionate representation of and disparate outcomes for children of color in “dependency court systems.”²⁸ The key components of this initiative include: (1) engaging national, state, local, and tribal stakeholders, community partners, children, and families; (2) transforming judicial practice from the bench; (3) participating in policy and law advocacy; (4) examining and employing research, data, and promising practices; and (5) impacting service array and delivery.²⁹

Implementing the Juvenile Justice Partnership and the Courts Catalyzing Change strategies, the court’s Juvenile Justice Advisory Committee hosted a public forum called “Race Matters” on September 11, 2009, at Johnson C. Smith University with almost 100 community attendees.³⁰ The goal was to examine

27. See *Courts Catalyzing Change*, NAT’L COUNCIL JUV. & FAM. CT. JUDGES, <http://www.ncjfcj.org/our-work/courts-catalyzing-change> (last visited Mar. 8, 2017) (describing the origin and purpose of Courts Catalyzing Change) (on file with the Washington and Lee Law Review).

28. *Id.*

29. *Id.*

30. *History*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/who-we-are/history/> (last visited Mar. 8, 2017) [hereinafter *History*, RMJJ] (on file with the Washington and Lee Law Review).

the racial composition and outcomes for Charlotte-Mecklenburg youth engaged in the juvenile court system.³¹ Two months later, on November 20th, the Model Court Advisory Committee hosted a juvenile conference titled “Courts Catalyzing Change: Achieving Equity and Fairness in Foster Care.”³² Courageous conversations were emphasized as attendees explored critical questions relating to the impact of race and ethnicity on families interfacing with the child welfare system.³³ During that same year, beginning on February 6, 2009, at the urging of Mecklenburg County court officials, North Carolina Supreme Court Chief Justice Sarah Parker convened a series of meetings to examine the rate of racial disproportionality in the juvenile court populations in North Carolina and develop a statewide strategic plan to address it.³⁴ With the expertise and support of the NCJFCJ and Casey Family Programs, Chief Justice Parker appointed a working committee of state judges and administrators whom she charged with implementing strategies to transform judicial practice.³⁵

B. History, Mission, and Vision of RMJJ

On January 16, 2010, Superior Court Judge Hugh Lewis coordinated a retreat to bring together key stakeholders interested in working with the court to reduce overrepresentation and disparate outcomes for families and children of color. At the retreat, participants agreed to expand the Courts Catalyzing Change focus to include disparities in both dependency and delinquency courts. The name, “Race Matters for Juvenile

31. *See id.* (providing that the goal of the conference was to “reduce the disproportionate representation of and disparate outcomes for children of color in dependency court system”).

32. Russell Hendrix, *Family Court Holds 2nd Annual Abuse, Neglect, and Dependency Conference*, 13 ON THE RECORD 3, 3 (2010), <http://www.nccourts.org/county/mecklenburg/documents/vol13iss1.pdf>.

33. *See id.* (noting that much of the conference focused on the overrepresentation of minority youth in the juvenile justice and foster care systems).

34. *Id.*

35. STATE OF NORTH CAROLINA, 2009 CHILDREN’S JUSTICE ACT 3-YEAR STUDY 2 (2009), <https://ncdps.s3.amazonaws.com/s3fs-public/documents/files/CJTaskForce09.pdf> (detailing the current juvenile justice system “so as to provide context and ground for the system improvements Recommendations” in the report).

Justice,” was chosen, and the mission and vision statements were crafted. The RMJJ vision is “a Charlotte-Mecklenburg Community where the composition and outcomes of juvenile courts cannot be predicted by race and or ethnicity.”³⁶ The RMJJ mission is “to build a collaboration of community stakeholders who will bring their constituencies to the table and partner in the Court’s effort to reduce disproportionality and disparities.”³⁷ RMJJ stakeholders later crafted an organizing blueprint, adopting the Alliance for Racial Equity in Child Welfare’s six dimensions of change, which include: (1) Youth, Parent, and Community Partnership and Development; (2) Public Will and Communication; (3) Workforce Development; (4) Research, Evaluation, and Data-Based Decision-Making; (5) Practice Change; and (6) Legislation, Policy Change, and Finance Reform.³⁸

The participants present throughout this mission and visioning process became the original members of the *Race Matters for Juvenile Justice* Leadership Team.³⁹ And the Leadership Team sought to engage stakeholders, community partners, and children and families and thus, decided to host its first public symposium with that focus.

To that end, on January 28, 2011, RMJJ and its community partners hosted a historic, groundbreaking symposium at the Westin Hotel, to publicly examine and bring awareness to the disproportionality and disparities in the child welfare and

36. *Vision & Mission*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/who-we-are/vision-mission/> (last visited Mar. 8, 2017) (on file with the Washington and Lee Law Review).

37. *Id.*

38. ALL. FOR RACIAL EQUITY IN CHILD WELFARE, POLICY ACTIONS TO REDUCE RACIAL DISPROPORTIONALITY AND DISPARITIES IN CHILD WELFARE: A SCAN OF ELEVEN STATES 3–6 (2009) [hereinafter POLICY ACTIONS], <http://www.antiracistalliance.com/PolicyActionstoReduceRacialDisproportionalityandDisparitiesinChildWelfare.pdf>.

39. Participants in the initial RMJJ race analysis training included representatives from: the 26th Judiciary, the Family Court Administrator’s Office, Area Mental Health, Guardian ad Litem, Charlotte-Mecklenburg Police Department, Charlotte-Mecklenburg Schools, Charlotte-Mecklenburg Department of Social Services, the Council for Children’s Rights, the District Attorney’s Office, the Court Counselor’s Office, the University of North Carolina at Charlotte, Charlotte-Mecklenburg Community Relations, and ForeSight Leadership Institute.

juvenile justice systems.⁴⁰ Over 300 judges and elected officials, court administrators, attorneys, child welfare experts, social workers, law enforcement officers, juvenile court counselors, child advocates, faith-based leaders, small business owners, and non-profit representatives attended. This symposium further coalesced the group of stakeholders who initially began these courageous conversations and strengthened the institutional commitment from the community, putting *RMJJ's* “Charlotte Model” on the map.⁴¹

Meanwhile, to address the “Workforce Development” goal, RMJJ continued searching for the best training to undergird its work in the community. RMJJ hoped to bring together institutional leaders from across regional systems to participate in a process that would foster a common language, build a deeper understanding of the issues, and establish the framework for addressing both individual biases and structural racism.⁴² RMJJ leaders participated in a host of workshops and learned many lessons from these trainings, but it was not until 2012 that RMJJ found the best fit for the work in Charlotte-Mecklenburg.

On January 30, 2012, RMJJ’s founding members—leaders from the courts, law enforcement, social services, mental health, juvenile defense, K-12 schools and higher education, Guardian ad Litem (GAL), District Attorney’s (DA’s) office, and non-profits—travelled to Greensboro to participate in the Racial Equity Institute’s “Dismantling Racism” training and race analysis. In retrospect, the voluntary participation of leaders of this caliber for a two-day, out-of-town training was profound. The intensive workshop provided participants with a comprehensive race analysis (affording a common understanding and dispelling misinformation) and fostered cross-agency rapport, trust, and a

40. See *History*, RMJJ, *supra* note 30 (providing a synopsis of the “Inaugural Race Matters for Juvenile Justice Symposium”).

41. *Id.*

42. See *Workforce Development/Race Analysis*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/current-initiatives/workforce-development-race-analysis/> (last visited Mar. 8, 2017) (describing the goal of Workforce Development as to “oversee the Dismantling Racism workshop logistics and participation, support and promote workforce development for RMJJ partners, [and] develop local training resources”) (on file with the Washington and Lee Law Review).

unified purpose.⁴³ Currently, the RMJJ Leadership Team includes a majority of those original members and their agencies plus a member from the Community Building Initiative, the faith community, the Department of Criminal Justice Services, and the Possibility Project–Charlotte.⁴⁴

On May 29, 2013, the Leadership Team convened regional stakeholders to examine data across systems and work toward *RMJJ–Charlotte Model’s* value of using empirical evidence to inform decision-making and the goal of “Research, Evaluation, and Data-Based Decision-Making.” Leaders present included chiefs of local police departments, sheriffs, judges, the Superintendent of Schools, the Director of Social Services, the Chief Court Counselor, the Director of GAL, county officials, and other community leaders. National data were first presented to provide an objective context and then the local data were presented across systems (with permission) to provide a first-time collective examination of the racial disproportionality evident in each institution within the community.⁴⁵ The impact and reactions were powerful. Those present credit the previous months of work collecting data, the shared race analysis, and the rapport and trust built among stakeholders as the reasons that, for the first time, many community leaders and agency directors recognized the problem, defined it collectively (versus believing it was only evident in their agency), and committed to collaborative action.⁴⁶

43. See *Dismantling Racism Training*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/events-2/dismantling-racism-training/> (last visited Mar. 8, 2017) (outlining the purpose and RMJJ’s participation in the “Dismantling Racism” trainings) (on file with the Washington and Lee Law Review).

44. See *Leadership Team*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/who-we-are/leadership-team/> (last visited Mar. 8, 2017) (listing members of the RMJJ leadership team and other partners along with their organizational affiliation) (on file with the Washington and Lee Law Review).

45. Chance Lewis, Susan McCarter & Rebecca Hefner, SCHOOL DISCIPLINARY POLICY AND PRACTICE, A NORTH CAROLINA REGIONAL CONVENING OF STAKEHOLDERS INCLUDING: POLICE DEPARTMENTS, SCHOOLS, JUDGES, COUNTY OFFICIALS, DEPARTMENTS OF PUBLIC SAFETY, GUARDIANS AD LITEM, SHERIFFS’ OFFICES, DEPARTMENTS OF SOCIAL SERVICES, CHILD ADVOCATES, AND COMMUNITY LEADERS (2013).

46. Interview with C. Pete Davis, Captain (retired), Charlotte-Mecklenburg Police Dep’t and Vicki Foster, Deputy Chief, Charlotte-Mecklenburg Police

Evidence of this commitment was demonstrated a year later when, for the first time in the district's history, a presentation covering national and local data on school-based offenses, consequences, and programs—"Every Child, Every Day, For a Better Tomorrow"—was delivered to the Charlotte-Mecklenburg Board of Education.⁴⁷ Per the Superintendent's request, the presentation was in part, delivered by the Co-Chair of RMJJ and many members of the Leadership Team were in attendance. Again, the feedback from the presentation of these empirical, local data was that the presentation raised awareness regarding a problem about which few were knowledgeable.⁴⁸ This presentation also highlighted the importance of informing legislators—in this case, members of the Board of Education—charged with policy-setting and decision-making for at the time, all 168 schools; 9,253 teachers; and 146,140 students in the district.⁴⁹

C. Stakeholders

As the *RMJJ-Charlotte Model* illustrates, the importance of stakeholders in this work cannot be overstated. The RMJJ collaborative consists of national, state, and community partners.⁵⁰ National and state partners include: the National Council of Juvenile and Family Court Judges, Casey Family Programs, N.C. Administrative Office of the Courts, N.C. Division

Dep't, in Charlotte, N.C. (June 3, 2013).

47. MINUTES OF THE REGULAR MEETING OF THE CHARLOTTE-MECKLENBURG BOARD OF EDUCATION CHARLOTTE-MECKLENBURG BD. OF EDUC. 17–26 (Apr. 22, 2014), <http://www.cms.k12.nc.us/boe/Board%20Meeting%20Docs/Minutes-04-22-2014.pdf> (recounting the presentation and the comments of Board and community members).

48. Interview with Tom Tate, Bd. of Educ., Charlotte-Mecklenburg Sch., in Charlotte, N.C. (Apr. 22, 2014).

49. CMS FAST FACTS, CHARLOTTE-MECKLENBURG SCHS. 1–2 (2016) <http://www.cms.k12.nc.us/mediaroom/aboutus/Documents/CMS%20Fast%20Facts%20Sheet%202015-2016.pdf>.

50. See *Who We Are*, RACE MATTERS FOR JUV. JUST., <http://www.rmjj.org/who-we-are/> (last visited Mar. 8, 2017) (listing affiliations of leadership team members and partners) (on file with the Washington and Lee Law Review).

of Juvenile Justice, and the Racial Equity Institute.⁵¹ The *RMJJ* collaborative Leadership Team is comprised of representatives from: Juvenile Court Judges of the 26th Judicial District, Family Court Administrator, and Clerk of Superior Court; Mecklenburg County Department of Social Services and Youth and Family Services; Charlotte-Mecklenburg Police Department; Charlotte-Mecklenburg Schools; Judicial District 26 Guardian ad Litem; Mecklenburg County District Attorney's Office; Council for Children's Rights; Chief Court Counselor; Charlotte-Mecklenburg Community Relations Committee; the University of North Carolina Charlotte; Community Building Initiative; Foresight Leadership Training Institute; the faith community, the Department of Criminal Justice Services; and the Possibility Project-Charlotte.⁵²

At the time *RMJJ* was founded, there was trepidation about approaching law enforcement, but the police department was viewed as important to this work and was thus invited. The Charlotte-Mecklenburg Police Department agreed to participate from the start and, to that police chief's credit, to date remains one of *RMJJ*'s staunchest supporters and has brought additional jurisdictions to partner in this work.⁵³ Conversely, though there was some early participation by members of the school system, the superintendent, at the time, remained reticent. As momentum built and directors of other child-serving institutions participated; the school superintendent joined, though likely more out of a desire to be "at the table" than his own commitment to this work. To replicate the *Charlotte Model*, stakeholders should reach out not just to agencies with established track records, or just to those perceived as more inclusive, but to all relevant institutions, recognizing that leaders participate or do not participate for various reasons. And the efforts to court institutions should continue in that not everyone at the table initially will remain, and not everyone absent will remain absent.

51. *Id.*

52. *Id.*

53. Interview with Vicki Foster, Deputy Chief, Charlotte-Mecklenburg Police Dep't, in Charlotte, N.C. (June 3, 2013).

III. The Importance and Role of Data

Data collection and analysis allow stakeholders to better understand the extent and dimensions of racial disproportionality in their jurisdictions. “This understanding enables agencies to diagnose systemic problems and assess the impact of various reform efforts.”⁵⁴ However, presenting a controversial topic, especially race, is apt to evoke a range of reactions that might include, but are not limited to: skepticism, defensiveness, raw emotion, and dismissal.⁵⁵ Because of this range of reactions that will likely be produced, supporting a position with objective evidence is essential. RMJJ suggests that organizers begin with national data, and then use reputable, publicly-available data; understand and incorporate data from a variety of disciplines and agencies; provide context for any data used; reduce defensiveness and build collaboration and trust through data; and document successes and failures.⁵⁶

More data are available publicly than ever before, but these data vary considerably in their validity and reliability.⁵⁷ Generally speaking, using federal government sources (e.g., Census Bureau, Departments of Justice, Education, Health and Human Services) can provide useful and reliable figures.⁵⁸ Since some stakeholders may be skeptical of disproportionality statistics, using reputable and publicly available sources

54. POLICY ACTIONS, *supra* note 38, at 5.

55. See Prudence Carter et al., *You Can't Fix What You Don't Look At: Acknowledging Race in Addressing Racial Discipline Disparities*, DISCIPLINE DISPARITIES SERIES: ACKNOWLEDGING RACE (The Equity Project at Ind. Univ., Bloomington, Ind.) Dec. 2014, at 6, http://www.indiana.edu/~atlantic/wp-content/uploads/2014/12/Acknowledging-Race_121514.pdf (“The topic of racial disparities understandably remains emotionally charged.”).

56. Interview with Dr. Susan A. McCarter, Assoc. Professor, Univ. of N.C. Charlotte, in Charlotte, N.C. (June 11, 2013).

57. See John Wihbey, *Go-to Research Databases Journalists Can Use to Improve Their Reporting*, POYNTER (Nov. 30, 2012), <http://www.poynter.org/2012/go-to-research-databases-journalists-can-use-to-improve-their-reporting/196626/> (last visited Mar. 8, 2017) (providing examples of databases where such data can be found, such as Google Scholar, PubMed Central, and Journalist's Resource) (on file with Washington and Lee Law Review).

58. See, e.g., *infra* notes 59–63 and accompanying text.

strengthens one's case considerably.⁵⁹ Whenever used, these sources should be cited clearly and specifically.

One example of reputable, publicly-available data are from the U.S. Census Bureau's QuickFacts.⁶⁰ To best explain disproportionality, one should first provide a context of proportionality. The U.S. Census Bureau's QuickFacts allows individuals or organizations to validly and reliably estimate the demographic constitution of their city or state and compare that statistic to national figures.⁶¹ For example, in 2013, the U.S. Census estimated that, of the 316,497,531 people living in the U.S., 62.6% identified as White/Caucasian; 17.1% as Hispanic/Latino; 13.2% as Black/African-American; 5.3% as Asian; and 2.4% as multi-racial (and smaller percentages identified as American Indian or Alaska Native and Native Hawaiian and Other Pacific Islander).⁶² For that same year (2013), the Census estimated that, of the 9,848,917 people living in North Carolina, 64.4% identified as White/Caucasian; 22% as Black/African-American; 8.9% as Hispanic/Latino; 2.6% as Asian; and 2% as multi-racial (and smaller percentages identified as American Indian or Alaska Native and Native Hawaiian and Other Pacific Islander).⁶³

Using multiple sources of data can also help fortify individual and organizational understanding.⁶⁴ As an example, examine education data. For the 2011–2012 school year, the U.S. Department of Education estimated U.S. public school enrollment figures (n=49,605,534) to be: 51.7% White/Caucasian; 23.6% Hispanic/Latino; 15.9% Black/African-American; 4.7% Asian; and 2.6% multi-racial (with smaller percentages for American Indian or Alaska Native and Native Hawaiian and Other Pacific Islander).⁶⁵ That same year (2011–2012) public school enrollment

59. See Carter et al., *supra* note 55.

60. *Community Facts*, U.S. CENSUS BUREAU, https://factfinder.census.gov/faces/nav/jsf/pages/community_facts.xhtml (last visited Feb. 15, 2017) (on file with Washington and Lee Law Review).

61. See *id.* (giving users the possibility to enter a state, county, city, town, or zip code to select the demographic they wish to view).

62. *Id.*

63. *Id.*

64. See generally Carter et al., *supra* note 55.

65. U.S. DEPT. OF ED., *Out-of-School Suspensions*, *supra* note 16.

figures for N.C. (n=1,494,191) were: 52.3% White/Caucasian; 26.4% Black/African-American; 13.4% Hispanic/Latino; 2.6% Asian; and 3.6% multi-racial (with smaller percentages for American Indian or Alaska Native and Native Hawaiian and Other Pacific Islander).⁶⁶ Why do these percentages differ from the Census figures? Several reasons contribute to the differences: (1) [as] population demography shifts, older Americans contain less individuals of color as compared to the demographics of school-aged children, which contains more individuals of color; and, (2) [t]hese figures are only public school enrollments and do not include students attending private schools, parochial schools, or students who are homeschooled.⁶⁷

Extensive differences are also evident in the U.S. Department of Education's suspension data. For that same year (2011–2012), the Department of Education reports percentages for youth with more than one out-of-school suspension (n=1,059,641) were: 29.6% White/Caucasian; 20.6% Hispanic/Latino; 45% Black/African-American; 0.8% Asian; and 2.5% multi-racial.⁶⁸ For N.C. (n=45,939) the percentages were: 27.1% White/Caucasian; 57.1% Black/African-American; 9.6% Hispanic/Latino; 0.4% Asian; and 3.4% multi-racial.⁶⁹ So, do youth of color misbehave more than White students? National data suggest they do not. Across disciplines, U.S. scholars have examined several theories⁷⁰ and mitigating variables,⁷¹ including differential involvement (i.e., offense commission differences); income/socioeconomic status; family structure (e.g., single parent, grandparent, group home); geotype (i.e., urban, suburban, rural) and others; and, though a few offense categories vary significantly by race/ethnicity (e.g., arson, petit larceny), the

66. *Id.*

67. *Id.*

68. *Id.*

69. *Id.*

70. See Kann et al., *supra* note 20 (analyzing, *inter alia*, behaviors which contributed to violence); Peguero & Shekarkhar, *supra* note 20, at 59–60 (focusing on factors such as student and school characteristics); *Youth Violence: A Report of the Surgeon General*, *supra* note 20, at ch. 4 (examining personal and environmental factors contributing to youth violence).

71. See FABELO ET AL., *supra* note 21, at 9 (providing examples “such as self-defense, intent, disciplinary history, and a student’s disability”); Eitle & Eitle, *supra* note 21; McCarter, *supra* note 22.

findings are consistent that disproportionality cannot be explained by individuals' behavior.⁷² The Council of State Governments and The Public Policy Research Center studied almost a million students in Texas schools, controlled for eighty-three distinct variables, and found that Black students had a 31% higher likelihood of disciplinary action when compared with otherwise identical White students (e.g., same offense, age, gender, grade, socioeconomic status, zip code, family structure).⁷³

One standard statistical technique used to evaluate disproportionality is a Relative Rate Index (RRI). An RRI can be used, for example, to compare the relative volume, or rate of a phenomenon for minorities with the volume, or rate of that same activity for the majority group.⁷⁴ If the rates are the same, the RRI = 1; If the RRI is < 1, youth of color are underrepresented, and if the RRI is > 1, minority youth are overrepresented.⁷⁵ National statistics suggest that for 2013, the RRI for diabetes deaths was 1.10 for Hispanics and 1.98 for Blacks;⁷⁶ for 2010, the RRI for infant mortality was 1.01 for Hispanics and 2.21 for Blacks;⁷⁷ for 2013, the RRI for percentage of children living 200% below the poverty line was 2.46 for Hispanics and 2.92 for Blacks;⁷⁸ for 2013, the RRI for youth in foster care was 1.13 for Hispanics and 1.89 for Blacks;⁷⁹ for 2011-2012, the RRI for

72. See Russell J. Skiba et al., *The Color of Discipline: Sources of Racial and Gender Disproportionality in School Punishment*, 34 URB. REV. 317, 333 (2002) (arguing that disproportionality might instead originate at the system level); J. M. Wallace, Jr. et al., *Racial, Ethnic, and Gender Differences in School Discipline Among U.S. High School Students: 1991–2005*, 59 NEGRO EDUC. REV. 47, 48 (2008) (describing school policies, such as zero tolerance policies).

73. FABELO ET AL., *supra* note 21, at 45.

74. See U.S. DEP'T OF JUST., OFFICE OF JUV. JUST. AND DELINQ. PREVENTION, DISPROPORTIONATE MINORITY CONTACT TECHNICAL ASSISTANCE MANUAL 1–22 (2009) (“It is useful to recall that the RRI is created by dividing the rate of minority contact by the rate of majority contact.”).

75. See *id.* (“Values that are both more than and less than 1.00 thus reflect disproportionate contact.”).

76. HENRY J. KAISER FAMILY FOUND., *The Number of Diabetes Deaths*, *supra* note 14.

77. Morbidity and Mortality Weekly Report (MMWR) *QuickStats: Infant Mortality Rates, by Race and Hispanic Ethnicity of Mother—United States, 2000, 2005, and 2010*, 63 CTRS. FOR DISEASE CONTROL AND PREVENTION 25 (Jan. 10, 2014), <https://www.cdc.gov/mmwr/pdf/wk/mm6301.pdf>.

78. *Number of Children in Foster Care, by Race/Ethnicity*, *supra* note 15.

79. *Id.*

students with more than one out-of-school suspension was 1.13 for Hispanics and 1.89 for Blacks;⁸⁰ and, finally, for 2013, the RRI for adults in state and federal prisons was 2.42 for Hispanics and 6.00 for Blacks.⁸¹

Whereas incorporating multiples sources of evidence not only strengthens data,⁸² it also diffuses what can be perceived as shame or blame, which often results in defensiveness.⁸³ When organizing with data, certainly consider the audience since often the individuals collecting data are not the same ones in charge of their analysis or reporting or dissemination. RMJJ found that data could be used to build both common understanding of disproportionality and disparate outcomes across systems, as well as, collaboration and trust across stakeholders and agencies. Often, service providers and their data exist in silos.⁸⁴ Scholars Carter, Fine, and Russell suggest that whereas “education and juvenile justice share young people in common, rarely do practitioners in each sector understand the implications of their actions across disciplines.”⁸⁵ Most of these institutions have disproportionality and disparity, but (1) it is called by a different name in each organization (education uses achievement gap; child welfare uses minority overrepresentation; criminal justice uses disproportionate minority contact; healthcare uses health disparities); (2) it may be collected differently (using various race/ethnicity categories) or might not be disaggregated by race/ethnicity; and (3) few share their data or compare their disproportionality data with other organizations.⁸⁶ When

80. U.S. DEPT. OF ED., *Out-of-School Suspensions*, *supra* note 16.

81. CARSON, *supra* note 18.

82. See Alan J. Dettlaff & Joan R. Rycraft, *Deconstructing Disproportionality: Views from Multiple Community Stakeholders*, 87 CHILD WELFARE 37, 37–58 (2008) (incorporating both agency data as well as accounts from communities).

83. See Carter et al., *supra* note 55, at 6 (providing suggestions for a more cooperative interaction in schools).

84. See PRUDENCE CARTER, MICHELLE FINE & STEPHEN RUSSELL, DISCIPLINE DISPARITIES SERIES: OVERVIEW 6 (2014), http://www.indiana.edu/~atlantic/wp-content/uploads/2015/01/Disparity_Overview_010915.pdf (describing that effective student-teacher relations can reduce conflict); McCarter, Maschi & Morgen, *supra* note 8.

85. CARTER, FINE & RUSSELL, *supra* note 84, at 3.

86. See Dettlaff & Rycraft, *supra* note 82, at 44 (“Related to this fear is the perception that agency administration would be unsupportive of caseworkers if

exploring one agency's data, there is often more self-protection and actually less accountability. If, however, a broader group is coalesced and first provided a national context/data example, then subsequently provided multiple agencies' data, this can alleviate the attention to only one organization and highlight the evidence that disproportionality is occurring nationally, regionally, and across agencies. The problem is thus defined as a collective issue, which requires collaborative problem-solving.⁸⁷ Working across agencies in this way also adds a layer of external accountability, as stakeholders have to answer to one another.

Finally, as the RMJJ collaborative has learned, it is important to document both successes and failures.⁸⁸ These successes and failures allow organizations to assess the effects of policy and practice change. They also provide a mechanism to track targeted outcomes and permit an objective performance evaluation.⁸⁹ Once current outcomes are evaluated, qualitative and quantitative benchmarks can be established for measuring improvement. These data can then be used for evaluation, resource allocation, policymaking, and other systemic initiatives.⁹⁰

children were harmed following a decision to allow a child to remain in the home . . .”).

87. See Carter et al., *supra* note 55, at 7 (noting that “restorative practices train staff in structured problem solving to identify contributors to conflict, offering a promising approach for reducing the discipline gap”).

88. See POLICY ACTIONS, *supra* note 38, at 7 (“Through the collection and analysis of data, states can better understand the extent and dimensions of racial disproportionality in their jurisdictions” and “this understanding enables agencies to diagnose systemic problems and assess the impact of various reform efforts” and these data can “include information on the numbers of children of color in the child welfare system, activities and programs created to address disproportionality, progress made to date, and policy and practice recommendations addressed to lawmakers and stakeholders.”).

89. See *id.* (arguing that “benchmarks, both qualitative and quantitative, serve as indicators that programs are progressing as planned”).

90. See POLICY ACTIONS, *supra* note 38, at 5 (“Continuous improvement of the child welfare system requires proper implementation of any service strategy, applying “practice-based evidence” to programs, trying multiple service approaches, and tracking the results of those approaches.”).

IV. *Changing the Narrative Through Education*

The problem of overrepresentation of youth of color in the juvenile justice system is not a new phenomenon, but the recognition of some of its contributors—namely historical, structural, and social exclusion,⁹¹ as well as implicit bias—is.⁹² Therefore, *Race Matters for Juvenile Justice* works to educate and expose the community to both racial exclusion and implicit bias through sponsoring on-going, cross-professional workforce development; facilitating monthly, racially-segregated caucus groups; conducting regular community-wide symposia; and serving as a consultant for agencies interested in learning and doing more. In fact, the demand for RMJJ Speakers Bureau presentations has increased thirty-fold since 2014, and Leadership Team members have addressed audiences across the community, state, region, and nation.⁹³

A. *Historical, Structural, and Social Exclusion*

In the U.S., racial privilege has been systematically reproduced by historical and institutional practices and policies⁹⁴ that constitute structural and social exclusion.⁹⁵ In *American*

91. See Marilyn Elias, *The School-to-Prison Pipeline: Policies and Practices that Favor Incarceration Over Education Do Us All a Grave Injustice*, 34 TEACHING TOLERANCE, Spring 2013, at 41 (noting that teachers have the most interaction with and influence on students and their development); Glenn C. Loury, *Social Exclusion and Ethnic Groups: The Challenge to Economics*, in ANNUAL WORLD BANK CONFERENCE ON DEVELOPMENT ECONOMICS 1999, at 225, 229 (2000) (“Policymaking involves more than simply providing technical solutions to the problems of governance.”).

92. See generally Pamela M. Casey et al., *Helping Courts Address Implicit Bias: Resources for Education*, NAT’L CTR. FOR ST. CTS./RACE & ETHNIC FAIRNESS IN THE CTS. (2012), http://www.ncsc.org/~media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/IB_report_033012.ashx; CHERYL STAATS ET AL., KIRWAN INST. FOR THE STUD. OF RACE & ETHNICITY, STATE OF THE SCIENCE: IMPLICIT BIAS REVIEW 2016 (2017), <http://kirwaninstitute.osu.edu/wp-content/uploads/2016/07/implicit-bias-2016.pdf>.

93. See *Events*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/events> (last visited Feb. 24, 2017)

94. See generally Joe R. Feagin, *Racist America: Roots Current Realities, and Future Reparations*, 95 AM. POL. 998 (2001).

95. See generally Loury, *supra* note 91; Diane Bell-McKoy, *The Perfect*

Society: How it Really Works, Erik Olin Wright and Joel Rogers highlight historical exclusion and the foundation of racial inequality including: genocide and geographic displacement of European settlers, slavery, second-class citizenship, non-citizen labor, and diffuse discrimination.⁹⁶ A series of U.S. laws are often cited as statutory evidence of historical exclusion based on race, and often include:

- 1776, Declaration of Independence: “all men are created equal” except women, Africans, and Natives
- 1790, Naturalization Act: permitted only ‘free White persons’ to become naturalized citizens
- 1830, Indian Removal Act: forcibly relocated Native peoples to make room for White settlers
- 1862, Homestead Act: gave millions of Native peoples’ acreage to individuals—mostly White men
- 1863, Emancipation Proclamation: freed slaves in policy only; convict and forced labor continued
- 1865, General Sherman’s order: forty acres and a mule for newly freed slaves; never paid
- Jim Crow Laws: gave preference in education, housing, employment, and healthcare to Whites
- 1934, Fed. Housing Admin.: Of the \$120 billion in home loans from 1934-68, 98% went to Whites
- 1935, Social Security Act: income after retirement, excluded agricultural and domestic workers—mostly Black
- 1944, GI Bill: supposedly “universal,” job placement, training, housing, and education; disparate by race

Example of Structural Racism, ASSOCIATED BLACK CHARITIES (Apr. 12, 2012), <http://www2.abc-md.org/the-perfect-example-of-structural-racism/> (last visited Mar. 9, 2017) (on file with Washington and Lee Law Review); JOHN A. POWELL ET AL., KIRWAN INST. FOR THE STUD. OF RACE & ETHNICITY, COMMUNITIES OF OPPORTUNITY: A FRAMEWORK FOR A MORE EQUITABLE AND SUSTAINABLE FUTURE FOR ALL (2007), <http://www.raciaequitytools.org/resourcefiles/powell1.pdf>. For an example of the correlation between racial segregation and school poverty, see JOHN A. POWELL ET AL., KIRWAN INST. FOR THE STUD. OF RACE & ETHNICITY, ECONOMIC SEGREGATION: CHALLENGING OHIO’S PUBLIC SCHOOLS (2005), http://www.kirwaninstitute.osu.edu/reports/2005/11_2005_EconomicSegregation_OHSchools.pdf.

96. See generally ERIK O. WRIGHT & JOEL ROGERS, *AMERICAN SOCIETY: HOW IT REALLY WORKS* (2015) (analyzing current social problems through the lens of core American social values).

- 1954, *Brown v. Board of Education*: reversed *Plessy v. Ferguson* and started school desegregation.⁹⁷

Global economic scholars have tested theories of land inequality, racial discrimination, and human capital transmission, and determined that in the 21st century, slavery continues to affect U.S. economy and society.⁹⁸ The Pew Research Center reports that the economic recession (2007–2010) further exacerbated the wealth disparity in the U.S.⁹⁹ This finding is corroborated by the Small Business Administration, which found that of the 2009–2013 American Recovery Capital funds (stimulus loans) where the race of the borrower was reported, 4,104 (91%) went to White-owned firms, 151 (3%) went to Asian- or Pacific Islander-owned businesses, 140 (3%) went to Hispanic-owned businesses, and 65 (1.5%) went to Black-owned firms.¹⁰⁰ In 2010, the wealth of White households was eight times the median wealth of Black Americans and, in 2013, that gap widened to thirteen times.¹⁰¹ Structural exclusion refers to institutional practices and policies that, purposefully or not, exclude individuals based on factors such as age, religion, ability,

97. See *Race—The Power of an Illusion*, PUB. BROADCASTING SERV., http://www.pbs.org/race/000_General/000_00-Home.htm (last visited Mar. 9, 2017) (providing an interactive look at the history and science of race and society) (on file with the Washington and Lee Law Review); JOHN ICELAND, ET AL., U.S. CENSUS BUREAU, RACIAL AND ETHNIC RESIDENTIAL SEGREGATION IN THE UNITED STATES: 1980–2000, 4, 7 (2002), <https://www.census.gov/prod/2002pubs/censr-3.pdf> (examining changes in racial segregation over the last two decades).

98. Graziella Bertocchi & Arcangell Dimico, *Slavery, Education, and Inequality*, Center for Economic and Policy Research (CEPR) Discussion Paper 8073 (2011).

99. See Rakesh Kochhar & Richard Fry, *Wealth Inequality has Widened Along Racial, Ethnic Lines since End of Great Recession*, PEW RES. CTR. (Dec. 12, 2014), <http://www.pewresearch.org/fact-tank/2014/12/12/racial-wealth-gaps-great-recession/> (last visited Mar. 9, 2017) (noting an increase in both White-to-Black and White-to-Hispanic wealth inequality since 2007) (on file with the Washington and Lee Law Review).

100. Aaron Glantz, *Minority Businesses Shut Out of Stimulus Loans*, SAN FRANCISCO BAY VIEW (Jan. 2, 2010), <http://sfbayview.com/2010/01/minority-businesses-shut-out-of-stimulus-loans/> (last visited Mar. 9, 2017) (on file with the Washington and Lee Law Review).

101. See Kochhar & Fry, *supra* note 99 (adding that “the wealth of White households is now more than 10 times the wealth of Hispanic households, compared with nine times the wealth in 2010”).

income, and/or race ethnicity.¹⁰² Despite more integrated schools,¹⁰³ networks, and workforces,¹⁰⁴ African Americans are still denied equal educational,¹⁰⁵ housing,¹⁰⁶ healthcare,¹⁰⁷ employment,¹⁰⁸ living,¹⁰⁹ and equity-earning opportunities,¹¹⁰ and

102. See Marta Russel, *Backlash, the Political Economy, and Structural Exclusion*, 21 BERKELEY J. EMP. & LAB. L. 335, 364 (2000) (noting that any solution to the exclusion “must address the very nature of social relations”).

103. See Alan Finder, *As Test Scores Jump, Raleigh Credits Integration by Income*, N.Y. TIMES, (Sept. 25, 2005), <http://www.nytimes.com/2005/09/25/education/as-test-scores-jump-raleigh-credits-integration-by-income.html> (last visited Mar. 9, 2017) (discussing Raleigh’s efforts to create economically diverse public schools) (on file with the Washington and Lee Law Review).

104. See Karen Chapple, *Overcoming Mismatch: Beyond Dispersal, Mobility, and Development Strategies*, 72 J. AM. PLAN. ASS’N, 322 (2006) (outlining strategies to promote access to the employment for groups underrepresented in the workforce).

105. See PAUL A. JARGOWSKY, BROOKINGS INST., STUNNING PROGRESS, HIDDEN PROBLEMS: THE DRAMATIC DECLINE OF CONCENTRATED POVERTY IN THE 1990S 2 (2003), <http://www.brookings.edu/~media/research/files/reports/2003/5/demographics-jargowsky/jargowskypoverty.pdf> (suggesting that geographically-organized school districts concentrating poor families results in low-performing schools); FABELO ET AL., *supra* note 21, at x–xi (“African-American students . . . were disproportionately likely to be removed from the classroom for disciplinary reasons”).

106. See Sheryll D. Cashin, *Localism, Self-Interest, and the Tyranny of the Favored Quarter: Addressing the Barriers to New Regionalism*, 88 GEO. L.J. 1985, 2003 (2000) (observing that housing areas dominated by poverty often receive fewer public infrastructure funds); John A. Powell, *Opportunity-Based Housing*, 12 J. AFFORDABLE HOUSING & COMMUNITY DEV. L. 188, 192 (2003) (discussing the “housing wage,” or the amount an individual must earn to afford housing).

107. See Kevin A. Schulman, et al., *The Effect of Race and Sex on Physicians’ Recommendations for Cardiac Catheterization*, 340 NEW ENG. J. MED. 618, 618 (1999) (“Some studies have found that Blacks . . . are less likely than Whites . . . to undergo cardiac catheterization or coronary-artery bypass graft surgery when they are admitted to the hospital for treatment of chest pain or myocardial infarction.”).

108. See generally EDWARD L. GLAESER, MATTHEW KAHN, & CHENGHUAN CHU, BROOKINGS INST., JOB SPRAWL: EMPLOYMENT LOCATION IN U.S. METROPOLITAN AREAS (2001), <https://www.brookings.edu/wp-content/uploads/2016/06/glaeserjobsprawl.pdf> (explaining the extent of job sprawl in the U.S. and how political fragmentation seems to decentralize employment within cities).

109. See generally *Discrimination in Metropolitan Housing Markets: National Results from Phase 1, Phase 2, and Phase 3 of the Housing Discrimination Study (HDS)*, U.S. DEP’T HOUSING & URB. DEV., (Mar. 31, 2005),

the result is disparate outcomes by race. Finally, social exclusion examines concepts such as social capital—which are not marketable, traded commodities—and their role in inclusion or exclusion. A Brown University economics professor, Glenn Loury, suggests that an individual’s social origin (including family and community) “has an obvious and important effect on the amount of resources which are ultimately invested” in their development—and that for many Americans, their social origins include an enduring legacy of slavery and segregation.¹¹¹ Loury further argues that Blacks continue to be affected by “discrimination in contact,” which are informal (and legal) patterns of socializing and networking that exclude persons of color and perpetuate racial inequality.¹¹²

B. Implicit Bias

Racial inequality is also perpetuated by implicit bias. Devine, Plant, Amodio, Harmon-Jones, and Vance, in the *Journal of Personality and Social Psychology*, explain that explicit biases are those biases that are conscious and can be stated.¹¹³ For example, imagine that if, as a child, your father took you to an NFL game at Soldier Field to watch your hometown team play the Bears. Your team wins, but what you remember most from that trip is how rude the Chicago fans were. Later, you are out as an adult and you see someone wearing a Bears jersey. You comment to

<https://www.huduser.gov/portal/publications/hsgfin/hds.html> (last visited Mar. 9, 2017) (providing study results that show discrimination in housing practices including requiring non-White tenants to pay higher rent payments or selectively renting based on race) (on file with the Washington and Lee Law Review).

110. See Powell, *supra* note 106, at 196 (noting that because the lack of affordable housing affects community development, residents of affordable housing also lack easy access to employment opportunities).

111. Loury, G.C., *A Dynamic Theory of Racial Income Difference*, in WOMEN, MINORITIES, AND EMPLOYMENT DISCRIMINATION 176 (P.A. Wallace & A.M. Lamond, eds. 1977).

112. *Id.* at 125.

113. See generally Patricia G. Devine et al., *The Regulation of Explicit and Implicit Race Bias: The Role of Motivations to Respond Without Prejudice*, 82 J. PERSONALITY & SOC. PSYCHOL. 835 (2002) (suggesting that because they are in the conscious mind, explicit biases are more easily controllable).

your friends about how rabid and rude that person must be and how Bears' fans are, overall. The National Center for State Courts (NCSC) defines explicit bias as the attitudes or beliefs that one endorses at a conscious level, which can be based on a host of experiences or reasons.¹¹⁴ In contrast to explicit bias, implicit bias operates outside of awareness.¹¹⁵ Implicit bias is “the bias in judgment and/or behavior that results from subtle cognitive processes (e.g., implicit attitudes and implicit stereotypes) that often operate at a level below conscious awareness and without intentional control.”¹¹⁶ In a famous TED talk about overcoming bias, Vernā Meyers describes that, despite her work as an inclusion and diversity trainer and facilitator, that as she boarded a plane recently and heard the voice of a female pilot over the loudspeaker, she thought how wonderful it was to hear, and how far women have come.¹¹⁷ And then, as soon as the plane met with some turbulence, she thought, “I wonder if she (the pilot) knows how to fly?”¹¹⁸ Meyers then asked herself, “Why, in all the years I’ve been flying, have I never thought that while aboard a male-piloted flight?”¹¹⁹ In this way, an implicit bias of her own was revealed. Thus, implicit bias has been credited as a vehicle in which an individual may unknowingly manifest prejudices towards others.¹²⁰

114. See Casey et al., *supra* note 92, at 1 (categorizing explicit biases as those recognizable by the individual, and under conscious control).

115. See John F. Dovidio et al., *Implicit and Explicit Prejudice and Interracial Interaction*, 82 J. PERSONALITY & SOC. PSYCHOL. 62 (2002) (“[P]eople do not have to be aware of the operation of attitudes for attitudes to be influential; attitudes can be implicit . . .”); STAATS ET AL., *supra* note 92, at 4 (“Implicit biases are activated involuntarily and beyond our awareness or intentional control.”).

116. NAT’L CTR. FOR STATE COURTS, HELPING COURTS ADDRESS IMPLICIT BIAS 1 (2012), <http://www.ncsc.org/~media/Files/PDF/Topics/Gender%20and%20Racial%20Fairness/Implicit%20Bias%20FAQs%20rev.ashx>.

117. See generally Vernā Myers, *How to Overcome Our Biases? Walk Boldly Toward Them*, TED (Nov. 2014), https://www.ted.com/talks/verna_myers_how_to_overcome_our_biases_walk_boldly_toward_them (last visited Mar. 9, 2017) (exploring implicit biases and imploring listeners to “[a]cknowledge your biases”) (on file with the Washington and Lee Law Review).

118. *Id.*

119. *Id.*

120. See John A. Powell, *Structural Racism: Building Upon the Insights of John Calmore*, 86 N.C.L. REV. 791, 799 (2008) (“Though most of us are completely unaware of their influence on our subconscious, these biases affect

Assessing implicit bias helps to understand this phenomenon. Implicit bias is most often measured using an Implicit Association Test (IAT)¹²¹ and the scientific community generally recognizes the IAT as valid and reliable.¹²² Anthony Greenwald and his colleagues developed the IAT in the late 1990's.¹²³ Greenwald used the IAT to measure the speed at which an individual processes pairs of concepts¹²⁴ and suggested that humans react quicker to schema-consistent pairs than schema-inconsistent pairs.¹²⁵ In other words, individuals will likely respond quicker to a pairing with which they are familiar. Typically, the IAT asks participants to pair White or Black photographs with "good" or "bad" words.¹²⁶ Studies show that subjects tend to view stigmatized groups unfavorably.¹²⁷ For instance, a pro-White bias was found in most Americans with significant differences in the outcomes for jury selection and sentence delivery.¹²⁸ When applied to real-life situations, these biases can have profound consequences.

how we perceive, interpret, and understand others' actions.").

121. See, e.g., *Frequently Asked Questions*, PROJECT IMPLICIT, <https://implicit.harvard.edu/implicit/faqs.html> (last visited Mar. 9, 2017) (explaining the purpose and method of implicit association testing) (on file with the Washington and Lee Law Review).

122. See Jerry Kang & Kristin Lane, *Seeing Through Colorblindness: Implicit Bias and the Law*, 58 UCLA L. REV. 465, 477 (2010) ("After a decade of research, we believe that the IAT has demonstrated enough reliability and validity that total denial [of its utility] is implausible.").

123. See generally Anthony G. Greenwald et al., *Measuring Individual Differences in Implicit Cognition: The Implicit Association Test*, 74 J. PERSONALITY & SOC. PSYCHOL. 1464 (1998) (providing a detailed background of the methodology and results of IAT research).

124. See *id.* at 1466 (summarizing Greenwald's "Experiment 1").

125. See generally Anthony G. Greenwald et al., *Understanding and Using the Implicit Association Test: I. An Improved Scoring Algorithm*, 85 J. PERSONALITY & SOC. PSYCHOL. 197, 198 (2003) (discussing how to score the IAT to account for different response times).

126. BLACK MALE RE-IMAGINED II, TRANSFORMING PERCEPTION: BLACK MEN AND BOYS 7–8 (2013) <http://perception.org/wp-content/uploads/2014/11/Transforming-Perception.pdf>.

127. See Anthony G. Greenwald & Linda Hamilton Krieger, *Implicit Bias: Scientific Foundations*, 94 CALIF. L. REV. 945, 949 (2006) (observing that discrepancies between implicit and explicit attitudes are often present in distinctions made on "race, age, ethnicity, disability, and sexual orientation").

128. See Robert J. Smith & Justin D. Levinson, *The Impact of Implicit Racial Bias on the Exercise of Prosecutorial Discretion*, 35 SEATTLE U. L. REV.

Dr. Jennifer Eberhardt, a social psychologist from Stanford University and 2014 recipient of the McArthur Foundation's "Genius Award," has conducted several studies that also suggest significant distinctions made between Blacks and Whites. Specifically, several of Dr. Eberhardt's studies use line drawings that begin as blurry images in Frame 1, and as the frames advance to the end, Frame 41, they become much clearer.¹²⁹ In one such study, participants were asked to identify the images as quickly as possible.¹³⁰ The images were classified into two categories: crime-irrelevant objects (e.g., cup and saucer, stapler, bugle) and crime-relevant images (e.g., gun, knife, handcuffs).¹³¹ Study participants were randomly divided into three groups: the first receives no priming; the second is primed by being shown photographs of White Stanford faculty, staff, and students at the rate of 30 milliseconds, which is undetectable to the conscious mind; and the third group is primed by being shown photographs of Black Stanford faculty, staff, and students, also at the undetectable speed of 30 milliseconds.¹³² All three groups have similar response times for the crime irrelevant objects, taking approximately 22–24 frames.¹³³ Group 1 participants who were shown no photographs, then identified crime relevant objects in a similar response time, approximately 23 frames.¹³⁴ However, for

795, 818–19 (2012) (examining racial bias during jury selection; Justin D. Levinson et al., *Devaluing Death An Empirical Study of Implicit Racial Bias on Jury-Eligible Citizens in Six Death Penalty States*, 89 N.Y.U. L. REV. 513, 563–73 (2014) (outlining results from studies showing bias in sentencing trends among jury-eligible citizens); Cheryl Staats et al., *Kirwan Inst. for the Stud. of Race & Ethnicity, State of the Science: Implicit Bias Review 2016* (2017), <http://kirwaninstitute.osu.edu/wp-content/uploads/2016/07/implicit-bias-2016.pdf>.

129. See Jennifer L. Eberhardt et al., *Seeing Black: Race, Crime, and Visual Processing*, 87 J. PERSONALITY & SOC. PSYCHOL. 876, 879–80 (2004) (describing the "stimulus materials" used for the study).

130. See *id.* at 880 ("Participants were instructed to press the space bar as soon as they knew what the object was.").

131. See *id.* (noting that each participant saw fourteen objects, four of which were crime relevant).

132. See *id.* at 879–80 (reassuring that "[e]xtensive pilot testing revealed that no one was aware of the primes).

133. See *id.* at 880 fig.2 (displaying the average number of frames at which objects could be detected).

134. See *id.* (showing that Group 1 also identified crime-irrelevant objects at an average of the same rate).

those primed with White photographs, it took participants an average of 27 frames to identify crime relevant images—a statistically significantly longer response time.¹³⁵ And for those primed with Black photographs, it took participants an average of 18 frames—a statistically significantly shorter response time¹³⁶ Eberhardt's research suggests that Blacks are linked with crime at a subconscious level.¹³⁷ Additional examples of her research also contend that when study participants thought about Black juvenile offenders, they assigned harsher penalties.¹³⁸ She also found that “stereotypical” Black defendants were more likely than non-stereotypical defendants to be sentenced to a harsher prison term, including the death penalty.¹³⁹ Finally, for additional court-relevant examples such as: Shooter/Weapons Bias,¹⁴⁰ Police

135. See *id.* at 880 (“[E]xposure to White primes inhibited the detection of crime-relevant objects compared with the no-prime condition . . .”).

136. See *id.* (“Black primes dramatically reduced the number of frames needed to accurately detect crime-relevant objects . . .”).

137. See generally *id.* (examining multiple studies tending to show unconscious biases).

138. See Rebecca C. Hetey & Jennifer L. Eberhardt, *Racial Disparities in Incarceration Increase Acceptance of Punitive Policies*, 25 PSYCHOL. SCI. 1949, 1950 (2014) (suggesting that “the Blackness of [a] penal institution [could] increase people’s acceptance of punitive policies”); Aneeta Rattan et al., *Race and the Fragility of the Legal Distinction Between Juveniles and Adults*, PLOS ONE May 2012, at 1, 4 (discussing a one-word primer that affected how participants judged juveniles culpability based on race).

139. See Jennifer L. Eberhardt et al., *Looking Deathworthy: Perceived Stereotypicality Of Black Defendants Predicts Capital-Sentencing Outcomes*, 17 PSYCHOL. SCI. 383, 384 (2006) (“24.4% of those Black defendants who fell in the lower half of the stereotypicality distribution received a death sentence, whereas 57.5% of those Black defendants who fell in the upper half, received a death sentence.”).

140. See, e.g., Joshua Correll et al., *The Police Officer’s Dilemma: A Decade of Research on Racial Bias in the Decision to Shoot*, 8 SOC. & PERSONALITY PSYCHOL. COMPASS 201, 202–03 (2014) (outlining the design and results of a study showing bias in first-person-shooter experiments simulating the experiences of police officers); Lois James et al., *Racial and Ethnic Bias in Decisions to Shoot Seen Through a Stronger Lens: Experimental Results from High-Fidelity Laboratory Simulations*, 10 J. EXPERIMENTAL CRIMINOLOGY 323, 336 (2014) (showing “significantly greater threat responses against Black suspects than White or Hispanic suspects suggesting they held subconscious biases associating Blacks with threat”); E. Ashby Plant et al., *Eliminating Automatic Racial Bias: Making Race Non-Diagnostic for Responses to Criminal Suspects*, 41 J. EXPERIMENTAL SOC. PSYCHOL. 141, 153 (2005) (observing that study participants were more likely to mistakenly shoot a Black character paired with a neutral object and more likely to mistakenly refrain from shooting

Officers and Implicit Bias Training,¹⁴¹ Judicial Performance Evaluations,¹⁴² and Jurors and Jury Instructions,¹⁴³ please see *State of the Science: Implicit Bias Review 2016*.¹⁴⁴

V. Changing the Narrative Through Policies and Practices

As Glenn Loury suggests, “[p]olicymaking involves more than simply providing technical solutions to the problems of

a White character paired with a weapon); Melody S. Sadler, et al., *The World is not Black and White: Racial Bias in the Decision to Shoot in a Multiethnic Context*, 68 J. SOC. ISSUES 286, 306 (2012) (comparing results of college students and police from a simulated shooting experiment, while noting that “the decision to shoot is not simply an anti-Black phenomenon”).

141. See generally GREG STEWART & EMILY COVELLI, PORTLAND POLICE BUREAU, STOPS DATA COLLECTION: THE PORTLAND POLICE BUREAU’S RESPONSE TO THE CRIMINAL JUSTICE POLICY AND RESEARCH INSTITUTE’S RECOMMENDATIONS (2014), <http://www.portlandoregon.gov/police/article/481668> (detailing the Bureau’s collection of feedback regarding its officers’ stops and presenting potential methods of reducing bias).

142. See Kimberly Papillon, *The Court’s Brain: Neuroscience and Judicial Decision Making in Criminal Sentencing*, 49 CT. REV. 48, 62 (2013) (acknowledging racial bias in judges’ decision making and suggesting that solutions should target the neurophysiologic reactions of judges); Jeffrey J. Rachlinski et al., *Does Unconscious Racial Bias Affect Trial Judges?*, 84 NOTRE DAME L. REV. 1195, 1197 (2009) (reporting that judges have implicit racial biases which affect their judgment); Maya Sen, *How Judicial Qualification Ratings May Disadvantage Minority and Female Candidates*, 2 J. L. & CTS. 33, 34 (2014) (finding that Black and female judicial nominees receive lower ABA ratings, decreasing their chances of appointment). See generally Rebecca D. Gill, *Implicit Bias in Judicial Performance Evaluations: We Must Do Better Than This*, 35 JUST. SYST. J. 301 (2014) (pointing to judges’ bias found in attorney surveys).

143. See JENNIFER K. ELEK & PAULA HANNAFORD-AGOR, NAT’L CTR. STATE CTS., CAN EXPLICIT INSTRUCTIONS REDUCE EXPRESSIONS OF IMPLICIT BIAS? NEW QUESTIONS FOLLOWING A TEST OF A SPECIALIZED JURY INSTRUCTION (2014), <http://www.ncsc-jurystudies.org/~media/Microsites/Files/CJS/What%20We%20Do/Can%20Explicit%20Instructions%20Reduce%20Expressions%20of%20Implicit%20Bias.ashx> (finding no evidence that specialized jury instructions produce harmful effects, but also failing to replicate traditional juror bias); Levinson et al., *supra* note 128, at 35 (discussing the potential effects of specialized jury instructions on juror bias); Danielle M. Young et al., *Innocent Until Primed: Mock Jurors’ Racially Biased Response to the Presumption of Innocence*, PLOS ONE, Mar. 18, 2014, at 3 (“[P]resumption of innocence instructions lead to biased attention for Black faces suggesting that implicit racial cues are present in the judicial setting.”).

144. STAATS ET AL., *supra* note 92.

governance. It also involves taking symbolic actions that express a people's values and beliefs. And it is about doing justice."¹⁴⁵ RMJJ actively promotes practice change both across and within agencies and systems. Simultaneously, it strives to influence broader policy reform to actualize its vision of a community in which outcomes cannot be predicted by race or ethnicity.

The Alliance for Racial Equity in Child Welfare is managed by the Center for the Study of Social Policy.¹⁴⁶ The Alliance partners include: the Annie E. Casey Foundation, Jim Casey Youth Opportunities Initiative, National Council of Juvenile and Family Court Judges, Black Administrators in Child Welfare, National Indian Child Welfare Association, Children's Defense Fund, Child Trends, and First Focus.¹⁴⁷ In 2009, after a scan of eleven states, the Alliance published *Policy Actions to Reduce Racial Disproportionality and Disparities in Child Welfare*,¹⁴⁸ which included six dimensions of change that were meant to guide this type of national change in policy and practice.¹⁴⁹ Guided by these six dimensions of change, the *Race Matters for Juvenile Justice-Charlotte Model* developed six corresponding initiatives.

A. Public Will and Communication

The Alliance for Racial Equity in Child Welfare found that, "[i]ncreasing public awareness of the issues . . . is critical in the creation of comprehensive action plans and strategies aimed at addressing racial disproportionality."¹⁵⁰ *The Charlotte Model* has

145. Lory, *supra* note 91, at 229.

146. See *Alliance for Racial Equity in Child Welfare*, CTR. STUD. SOC. POL'Y, <http://www.cssp.org/reform/child-welfare/alliance-for-race-equity> (last visited Mar. 9, 2017) (providing leadership in support of "improved outcomes for children and families of color involved with the nation's child welfare system) (on file with the Washington and Lee Law Review).

147. See *id.* (including also a host of individuals who share a commitment to furthering the coalition).

148. See POLICY ACTIONS, *supra* note 38, at 3 (examining state efforts to accomplish long-term sustainable change in the child welfare system).

149. See *id.* at 3–5 (advocating for legislative and policy reform, as well as, community development).

150. *Id.*

two significant mechanisms for building public will, communication, education, and awareness: a Speakers Bureau as well as conferences and symposia. The first RMJJ symposium was held on January 28, 2011. The symposium involved more than 300 attendees, provided disproportionality and disparity data, and featured social work practitioners and researchers such as Dr. Carol Wilson Spigner from the University of Pennsylvania, Drs. Mark Testa and Dean Duncan from UNC Chapel Hill, and Dr. Susan McCarter from UNC Charlotte.¹⁵¹ As the *Charlotte Model* has grown, members of the Leadership Team have begun to present RMJJ's work locally, regionally, and nationally.¹⁵² This fostered the development of the RMJJ Speakers Bureau Community Presentation Series, which now offers presentations on six topics: (1) Overview of *Race Matters for Juvenile Justice-The Charlotte Model*; (2) National, State, and Local Disproportionality Data; (3) Implicit Bias; (4) School-to-Prison Pipeline; (5) The History of Racial Exclusion; and, (6) What is White?¹⁵³ The inaugural RMJJ Speakers Bureau Community Presentation Series launched in September 2016 with "Defining Race and Measuring Its Impact;" November 2016, "History of Racial Exclusion;" January 2017, "Implicit Bias;" March 2017, "The School-to-Prison Pipeline;" and May 2017, "What is White?"¹⁵⁴

On October 23, 2015, RMJJ hosted its first bi-annual conference titled "The Science of Fairness: Exploring Implicit Bias," and featured keynote speaker Dr. Rita Cameron-Wedding, a renowned professor of race, gender, and social class disparities, and national trainer.¹⁵⁵ The purpose of the conference was to

151. See generally *Who We Are*, *supra* note 50.

152. See *Speakers Bureau Presentation*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/events-2/speakers-bureau-presentation> (last visited Mar. 9, 2017) (presenting to raise awareness about the issue) (on file with the Washington and Lee Law Review).

153. See generally *id.*

154. See *id.* (developing strategies aimed at increasing the community's understanding of disparities).

155. See *The Science of Fairness: Exploring Implicit Bias*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/conference-announcement/> (last visited Mar. 9, 2017) (noting that Dr. Cameron Wedding focuses her scholarship on race, gender, and social class disparities) (on file with the Washington and Lee Law Review).

inform and engage the community in an understanding of implicit bias and its contribution to the disproportionality and disparities in the community and its systems.¹⁵⁶ Nearly 400 community members attended and were invited to broaden and deepen their personal and professional exploration of addressing disparate outcomes based on race and ethnicity.¹⁵⁷

B. Workforce Development

Preparing a culturally sensitive and competent workforce requires an agency-wide commitment to personal and institutional actions that eliminate decisions, policies, and procedures, which lead to negative outcomes for youth of color.¹⁵⁸ For the *Charlotte Model*, workforce development includes the foundation of a race analysis. This race analysis provides an educational foundation that allows stakeholders and community members to share a common vocabulary and rudimentary understanding of the causes and contributors of racism, which are both individualized (explicit and implicit) and institutionalized.¹⁵⁹ Moreover, the way a problem is solved almost always depends on how that problem is defined. RMJJ's two-day, intensive Dismantling Racism workshop is facilitated by members of the RMJJ Leadership Team and trainers from the Racial Equity Institute (REI).¹⁶⁰ RMJJ's first Dismantling Racism

156. See *id.* (informing the community of the work that the organization does while gaining commitments to broaden the scope of inquiries and interventions).

157. See *id.* (raising awareness of implicit racial bias).

158. See *supra* note 38, at 5 (“Developing a culturally competent workforce in the child welfare system requires an agency wide commitment to act individually and collectively to eliminate decisions that lead to negative outcomes for families of color.”)

159. See *Dismantling Racism Training*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/events-2/dismantling-racism-training/> (last visited Mar. 9, 2017) (training provides race analysis, historical and contextual factors for race, and a foundational vocabulary) (on file with the Washington and Lee Law Review).

160. See *Workforce Development/Race Analysis*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/current-initiatives/workforce-development-race-analysis> (last visited Mar. 9, 2017) (intending to inform the dismantling of racism by creating and sustaining workshops for employees and individuals) (on file with the Washington and Lee Law Review).

workshop was held on June 25-26, 2012, and by the end of December 2016, RMJJ had hosted sixty-four workshops and trained 1,974 individuals in this analysis. Typically the workshops include up to forty judges, social workers, police officers, teachers, court personnel, business leaders, magistrates, service-providers, and community members.¹⁶¹ The training is designed to ultimately build the capacity of educators, health practitioners, child welfare workers, judicial representatives, and other stakeholders, to understand and eliminate racial inequities and disparities in our society.¹⁶²

C. Research, Evaluation, and Data-Based Decision-Making

The collection and analysis of data allows jurisdictions to make policy, program, and practice decisions based on empirical evidence. This evidence assists agencies in diagnosing systemic problems and evaluating reform efforts.¹⁶³ For the *Charlotte Model*, the Research, Evaluation, and Data-Based Decision-Making initiative required the leadership group to call upon the trust and rapport, that had been built earlier with local institutional leaders, to allow data-sharing at a level that had never before been accomplished in Charlotte. Child-serving agencies—such as education, social services, healthcare, juvenile justice—not only have different names for disproportionality, but they also often collect data differently and analyze the data within their individual silos, very rarely sharing it within the levels of their agencies and even less often outside their agencies.¹⁶⁴ This prevents the realization that their statistics look very similar across local and even national agencies and systems.

161. See *id.* (including the District Attorney's office and other legal entities).

162. See *id.* (providing content for participants to deepen their race analysis).

163. See POLICY ACTIONS, *supra* note 38, at 5 (“Through the collection and analysis of data, states can better understand the extent and dimensions of racial disproportionality in their jurisdictions. This understanding enables agencies to diagnose systemic problems and assess the impact of various reform efforts.”)

164. See Dettlaff & Rycraft, *supra* note 82, at 55 (“To reduce disproportionality, child welfare agencies must ally themselves with communities and draw upon the strengths of communities.”).

RMJJ used this fact to build the evidence base for courageous conversations on racial and ethnic disparities. Couching an examination of disproportionality in the national data first, and then in the local data, and finally, depending on the audience, in the individual-level agency data, allows these conversations to be less personal (and thus, less defensive) as it quickly becomes apparent that minority overrepresentation is not limited to one agency, system, or jurisdiction.¹⁶⁵ The RMJJ Data Committee first assembled data that were publicly available and then informally asked the RMJJ Leadership Team representatives from the different local agencies to share their own organizational data disaggregated by race and ethnicity.¹⁶⁶ The result was a unique cross-agency examination of disproportionality and disparity that in many ways mirrored national statistics and clearly demonstrated a similar trend across institutions.¹⁶⁷ This strategy resulted in a problem-solving model that recognized the pervasiveness of disparate outcomes, engendered a collaborative response, and kept the role of race central throughout.

D. Youth, Parent, and Community Partnership and Development

Involving clients (in this case, youth) and their families, as well as community members, is paramount in any significant reform effort. To this end, the *Charlotte Model* incorporates Catalyzing Change and the Youth Initiative.¹⁶⁸ Catalyzing Change is a compilation of caucus groups designed to bring together alumni of the Dismantling Racism workshops “to think,

165. See Wihbey, *supra* note 57 (outlining various sources for gathering data).

166. See *Research and Evaluation*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/current-initiatives/research-evaluation/> (last visited Mar. 9, 2017) (evaluating data that “tells the story of change, and supports the sharing and dissemination of collaborative partners) (on file with the Washington and Lee Law Review).

167. See *id.* (exploring several theories, such as “differential involvement, income/socioeconomic status, family structure, and geotype”).

168. See *generally Catalyzing Change*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/events-2/catalyzing-change-caucuses/> (last visited Mar. 9, 2017) (on file with the Washington and Lee Law Review).

talk, and work together to eliminate the effects of individualized racism¹⁶⁹—including both explicit and implicit biases and institutionalized racism in a safe (but not always comfortable) space. Catalyzing Change consists of three overlapping affinity groups/caucuses: The People of Color Affinity Group, White Affinity Group, and Joint Caucus.¹⁷⁰ Individuals who identify as multi-racial may choose the affinity group where they feel they belong.¹⁷¹ “Each session provides a forum to discuss, probe, reflect, and inquire about the impact of race on our lives personally, professionally, and as members of the community.”¹⁷² “Skilled facilitators navigate group discussions using shared agreements and a flexible agenda.”¹⁷³ “Through focused dialogue, participants gain new insights into their own beliefs as well as the beliefs of others, build new relationships of trust, and exercise their voices in making a difference.”¹⁷⁴ The Catalyzing Change effort began in the summer of 2013 and continues to meet monthly.¹⁷⁵ Frequently, initiatives directed towards social change fail to involve the individuals directly impacted by the conditions the program seeks to change. *The RMJJ-Charlotte Model* intends to avoid this common mistake by directly involving youth.¹⁷⁶ To that end, in July of 2013, RMJJ’s Youth Initiative took a group of young people to Chapel Hill to attend the Youth Leadership Conference and the two-day, intensive Dismantling Racism workshop.¹⁷⁷ Since then, RMJJ has conducted four youth trainings titled “Resist Racism” in July 2014, November 2014, August 2015, and January 2017.¹⁷⁸ These trainings were created

169. *Id.*

170. *Id.*

171. *See id.* (encouraging inclusion and acceptance).

172. *Id.*

173. *Id.*

174. *Id.*

175. *See id.* (meeting on every third Tuesday of the month).

176. *See Youth, Parent & Community Partnership*, RACE MATTERS FOR JUV. JUST., <https://www.rmjj.org/current-initiatives/youth-parent-community-partnership/> (last visited Mar. 9, 2017) (“Create and implement strategies to build sustainable partnerships with public, private, and civic sector community leaders . . .”) (on file with the Washington and Lee Law Review).

177. *See generally id.*

178. *See id.* (equipping students with the “history, tools, and resources to explore race and its impact on a new generation”).

as a developmentally-appropriate, corollary program for high-school and college-aged students.¹⁷⁹ “Resist Racism” alumni are poised to continue their educational journey and to provide an influential, informed, and sensitive voice within their schools and the greater community.¹⁸⁰ Significant partners in the Youth Initiative include the “Charlotte-Mecklenburg Schools, the faith community, and the Possibility Project–Charlotte.”¹⁸¹

E. Practice Change

The Preliminary Protective Hearing Benchcard (“PPH Benchcard”) is a judicial decision-making tool developed by the NCJFCJ’s Courts Catalyzing Change Initiative and is an example of the type of practice change RMJJ is effecting.¹⁸² PPH Benchcard acknowledges judges’ crucial and final role in the justice process by involving them in addressing disproportionate outcomes for children of color.¹⁸³ Benchcards are specifically designed to help judges reduce the implicit bias in their decision-making by “[d]eveloping and employing checklists at various key decision points (e.g., detention intake) . . . [and encouraging] less biased decisions by providing an objective framework to assess [their] thinking and subsequent decisions.”¹⁸⁴

The PPH Benchcard is a list of internal and external questions directing judges’ attention to any personal biases

179. *See id.* (catering to people whose ages range from sixteen to twenty-four).

180. *See id.* (developing strategies to “encourage and strengthen neighborhood and community dialogues around race and equity”).

181. *Id.*

182. *See* NANCY B. MILLER & CANDICE L. MAZE, RIGHT FROM THE START: THE CCC PRELIMINARY PROTECTIVE HEARING BENCHCARD 4 (2010), http://www.ncjfcj.org/sites/default/files/CCC%20Benchcard_0.pdf (“The CCC mission is to create and disseminate judicial tools, policy and practice guidelines that court systems can implement to reduce disproportionality and disparities.”).

183. *See id.* at 5 (noting that judges must be leaders in their communities).

184. SHAWN C. MARSH, THE LENS OF IMPLICIT BIAS 19 (2009), http://www.ncjfcj.org/sites/default/files/The%20Lens%20of%20Implicit%20Bias_0.pdf.

potentially playing a role in their decisions.¹⁸⁵ The Benchcard provides a judicial inquiry into persons who should be present for the hearing, a review of the petition, reflective questions, an Indian Child Welfare Act check, engagement of parents and family, Due Process considerations, legal threshold determinations, reasonable efforts determinations, returning home considerations, the appropriateness of placement, and closing questions.¹⁸⁶ The Benchcard serves as a mechanism for understanding cultural and family constructs specific to each family, which allows a judge's decision to be "individually-tailored."¹⁸⁷

Use of the PPH Benchcard increases both engagement and discussion of important issues between families and the court.¹⁸⁸ The engagement of parents' section of the Benchcard gauges families' understanding of the proceedings and petitions, any language barriers, and whether all family members and individuals of importance are present.¹⁸⁹ This opening discussion also gives judges the opportunity to lay groundwork "for the rest of the proceedings by modeling and promoting cooperation, communication, engagement and a strength-based family-centered approach."¹⁹⁰ Research from more than 500 children in three pilot sites suggests that employing the Benchcards increased dependency topics discussed, judicial inquiry, and family placements (and reduced non-relative foster care placements).¹⁹¹ Further assessment confirmed these initial

185. See MILLER & MAZE, *supra* note 182, at 6 (attempting to help judges understand their own thought process to reduce the disproportionate numbers of children of color entering the judicial system).

186. See *generally* NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, PRELIMINARY PROTECTIVE HEARING BENCHCARD 1-4 (2010) [hereinafter PPH BENCHCARD], <http://www.ncjfcj.org/sites/default/files/CCC%20Bench%20Card%20Insertsfinal.pdf>.

187. MILLER & MAZE, *supra* note 182, at 10.

188. *Id.* at 52.

189. PPH BENCHCARD, *supra* note 186, at 3.

190. MILLER & MAZE, *supra* note 182, at 22; see also Jesse Russell & Alicia Summers, *Reflective Decision-Making and Foster Care Placements*, 19 PSYCHOL. PUB. POL'Y & L. 127, 127-33 (2013) (noting the success of the Benchcard when coupled with training on implicit and institutional bias).

191. Five questions were used to measure engagement: (1) whether the judge spoke directly to the party; (2) whether the judge gave the person an opportunity to be heard; (3) whether the judge asked if the person understood

findings.¹⁹² Moreover, in November 2015, the NCJFCJ approved additional Benchcards for all dependency hearings, and Mecklenburg County judges are currently in the process of adopting these additional Benchcards.¹⁹³

F. Legislation, Policy Change, and Finance Reform

School discipline is designed to insure the safety of students, faculty, staff, and property.¹⁹⁴ In the pursuit of safe and drug-free schools, zero-tolerance policies were widely adopted and subsequently produced unintended consequences¹⁹⁵ such as

the next steps; (4) whether the judge asked if the person had any questions; and (5) whether the judge asked if the person understood the hearing process. See MARI KAY BICKETT & NANCY B. MILLER, NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, RIGHT FROM THE START: THE CCC PRELIMINARY PROTECTIVE HEARING BENCHCARD STUDY REPORT—TESTING A TOOL FOR JUDICIAL DECISION-MAKING 1–36 (2011), <https://www.ncjfcj.org/sites/default/files/CCC%20Benchcard%20Study%20Report.pdf> (examining “the success associated with judges’ use of the PPH Benchcard). The Resource Guidelines’ topics include discussion of the petition, parties who should be present, services offered and their appropriateness, placement of the child, whether the child can go home today, and reasonable efforts. The CCC topics include discussion of the allegations and parties, any paternity issues, probable cause for removal, cultural and linguistic issues relating to removal and placement, offering services that might allow the child to go home, safety planning, engaging parents in developing services, and focusing on strengths. See Stephanie Macgill & Alicia Summers, *Assessing the Relationship Between the Quality of Juvenile Dependency Hearings and Foster Care Placements*, 52 FAM. CT. REV. 678, 679 (2014) (describing the topics discussed in a preliminary protective hearings). Cf. LISA PORTUNE, SOPHIA GATOWSKI & SHIRLEY DOBBIN, NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, RESOURCE GUIDELINES: SUPPORTING BEST PRACTICES AND BUILDING A FOUNDATION FOR INNOVATION IN CHILD ABUSE AND NEGLECT CASES 1–42 (2009), <http://www.ncjfcj.org/sites/default/files/The%20RG%20Supporting%20Best%20Practices%20and%20Building%20Foundations%20for%20Innovation%20in%20CAN%20Cases.pdf> (reflecting on the Resource Guidelines).

192. MARI KAY BICKETT ET AL., RESEARCH REPORT: ASSESSING THE LONG-TERM EFFECTS OF COURTS CATALYZING CHANGE PRELIMINARY PROTECTIVE HEARING BENCHCARD (2014), https://www.ncjfcj.org/sites/default/files/Research%20Report%20_Assessing%20the%20Long%20Term%20Effects%20of%20the%20CCC%20Benchcard.pdf.

193. *Id.*

194. See Lawrence T. Kajs, *Reforming the Discipline Management Process in Schools: An Alternative Approach to Zero Tolerance*, 29 EDUC. RES. Q. 16, 17 (2006) (noting that discipline in education can serve multiple purposes one of which is safety).

195. See generally TERI DEAL ET AL., SCHOOL PATHWAYS TO THE JUVENILE

low-risk juveniles being referred to the juvenile courts.¹⁹⁶ Minor infractions such as yelling, fighting, and swearing have resulted in suspensions and juvenile justice system contact.¹⁹⁷ National research suggests that suspensions and contact with the justice system increase the likelihood of criminal justice system contact in the future—in what has come to be known as the “School-to-Prison Pipeline” or the school pathway to the juvenile justice system.¹⁹⁸

With training and technical assistance provided by the NCJFCJ, the *RMJJ-Charlotte Model* is effecting legislative change through the School Pathways to the Juvenile Justice System (Pathways) project.¹⁹⁹ The primary goal of the Pathways program is to decrease the number of children entering the juvenile court system for school-based offenses and to increase the use of diversion or effective school-based disciplinary action.²⁰⁰

Implementation of a NCJFCJ Pathways program begins from the top down, with the site-lead judge serving the initial and primary role of assembling stakeholders from different systems to form a multi-system collaborative.²⁰¹ The District Attorney’s

JUSTICE SYSTEM PROJECT: A PRACTICE GUIDE 1–2 (2014), https://www.ncjfcj.org/sites/default/files/NCJFCJ_SchoolPathwaysGuide_Final2.pdf (describing in detail the unintended effect of zero tolerance policies).

196. *Id.* at 2.

197. *Id.* at 1; *see also* FABELO ET AL., *supra* note 21, at 15–20 (using Texas as a model to discuss and analyze juvenile justice and school discipline trends).

198. *See* Heather Cobb, *Separate and Unequal: The Disparate Impact of School-Based Referrals to Juvenile Court*, 44 HARV. C.R.-C.L. L. REV. 581, 583–84 (2010) (discussing that the increased presence of police in schools results in referrals to the juvenile court system); Susan A. McCarter, *The School-to-Prison Pipeline: A Primer for Social Workers*, 62 SOCIAL WORK, 53–62, at 57 (2017) (“Of the students who have been suspended or expelled at least once, more than one in seven had subsequent contact with the juvenile justice system.”); DEAL ET AL., *supra* note 195, at 1 (highlighting that the zero tolerance policies has led to “[i]ncreases in school referrals to the juvenile justice system”).

199. *See generally* NAT’L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, LEGISLATIVE UPDATE (2015), http://www.ncjfcj.org/sites/default/files/NCJFCJ_On eSheet2015_NC.pdf.

200. *See* DEAL ET AL., *supra* note 195, at 2–3 (“The practice guide is intended to provide the Multi-System Collaborative . . . with thorough and thoughtful guidance on implementing judicially led collaborations to address school pathways to the juvenile justice system.”).

201. *See id.* at 9–12 (setting forth step one of the Multi-System

office, law enforcement, school resource officers, the probation department, the Public Defender's office and school administrators serve critical roles in the collaborative.²⁰² Once formed, the collaborative develops shared vision and mission statements²⁰³ and gains a better understanding of the school pathways to prison problem facing their individual agencies and communities.²⁰⁴ After setting measurable goals and objectives,²⁰⁵ the next step in the Pathways program is to identify activities to accomplish the shared goals of the collaborative plan.²⁰⁶ The Pathways group should discuss and answer questions such as “[h]ow and when should police or school resource officers intervene with disruptive students?” and “[w]hat strategies can the school employ to address disruptive students without involving juvenile court?”²⁰⁷ Then, the group should create concrete action plans and a system for updating and monitoring the program once established.²⁰⁸

Mecklenburg County stakeholders, including seven law enforcement agencies, the School District, the Office of the District Attorney, District Court, and the Division of Adult Corrections and Juvenile Justice, entered into a Memorandum of Agreement, which establishes uniform policies and procedures for school resource officers across the district and creates a school-based diversion program for minor offenses that do not pose a serious threat to school safety.²⁰⁹ The parties to the Agreement established the Mecklenburg County School-Justice Partnership with the goal of reducing unnecessary school-based referrals to the juvenile and adult criminal justice systems and

Collaborative).

202. *See id.* at 11 (listing the core stakeholders).

203. *See id.* at 12–13 (providing a plan to develop a shared vision).

204. *See id.* at 13–17 (imparting a method to understand the school pathways to prison problem).

205. *See id.* at 20 (“In crafting a plan to measure and assess performance, it is useful to reflect on the shared vision and to think in terms of goals, objectives, and performance measures.”).

206. *See id.* at 21–22 (identifying particular activities).

207. *Id.*

208. *Id.* at 23–25 (discussing the last step in the Multi-System Collaborative).

209. *See generally* Mecklenburg County School-Justice Partnership Memorandum of Agreement (2016) (on file with author).

reducing the disproportionate number of children of color subject to formal police and justice interventions at school.²¹⁰

VI. Conclusion

Youth of color have historically been overrepresented in the juvenile justice system.²¹¹ To address this, legislative reform was initiated through the Juvenile Justice and Delinquency Prevention Act (JJJPA) of 1974 to improve the system and address disproportionate minority confinement/contact.²¹² In 1988, the JJJPA was reauthorized and required states to address disproportionate minority confinement (DMC).²¹³ It specifically stated that if the proportion of youth detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups are overrepresented when compared to their numbers in the general population, that this constitutes disproportionality.²¹⁴ Yet, practice change did not ensue and few states took steps to address DMC.²¹⁵ Congress, therefore, amended the JJJPA again in 1992, this time to make DMC a core requirement with financial reform and penalties to states' formula grant allocations.²¹⁶ A final amendment to the JJJPA was made in 2002, which renamed DMC—from

210. See *id.* at 1 (setting forth the goal of the Memorandum of Agreement).

211. See Leiber, *supra* note 10, at 3 (“In 1992, the issue of disproportionate minority youth confinement (DMC) was included as a core requirement of the Juvenile Justice and Delinquency Prevention Act of 1974 . . .”).

212. See generally Juvenile Justice and Delinquency Prevention Act of 1974, Pub. L. No. 93-415, 88 Stat. 1109; Susan A. McCarter, *Disproportionate Minority Contact in the American Juvenile Justice System: Where Are We After 20 Years, a Philosophy Shift, and Three Amendments?*, 1 J. FORENSIC SOC. WORK 96 (2011).

213. See Juvenile Justice and Delinquency Prevention Amendments of 1988, Pub. L. No. 100-690, sec. 7258, § 223(a), 102 Stat. 4181 (permitting the Administrator to “address efforts to reduce the proportion of juveniles detained or confined”).

214. *Id.*

215. See McCarter, *supra* note 212, at 100 (noting that “minorities still comprised 32% of the total juvenile population, yet they now made up 65% of the juveniles in secure detention and 69% of those in juvenile correctional centers”).

216. See Juvenile Justice and Delinquency Prevention, Pub. L. No. 102-586, sec. 213, §13001b, 106 Stat. 4982 (1992) (describing the consequences for failure to implement program activities).

disproportionate minority “confinement” to disproportionate minority “contact.”²¹⁷ Scholars contend that these changes had two effects: (1) broadened the focus from just the final stage in the juvenile justice system/sanctions (incarceration); and, (2) broadened the focus of disparity from solely the youth and his/her/their family to also examine the greater system.²¹⁸ However, the outcomes remain largely unchanged²¹⁹ and further, these outcomes extend into criminal justice as well as other systems in the U.S., such as education, healthcare, child welfare, housing, and banking, largely without the oversight and accountability sought by the JJDPA.²²⁰

So what is the difference that *Race Matters for Juvenile Justice* makes? First, as was also evident in DMC initiatives, the *RMJJ-Charlotte Model* relies on research and evaluation to inform decision-making.²²¹ Largely absent from DMC initiatives, however, is a race analysis, which the *Charlotte Model* includes.²²² Second, RMJJ’s commitment to workforce development challenges leaders, policymakers, and workers to take note of embedded systemic factors impacting juvenile justice, including historical and structural exclusion as well as implicit racial bias.²²³ Third, the majority of DMC programs sought to address behaviors of the juvenile and his/her/their family.²²⁴ Only recently have practitioners recognized that, in addition to legal

217. See 21st Century Department of Justice Appropriations Authorization Act, Pub. L. No. 107-273, sec. 12209, § 5633, 116 Stat. 1758 (2002) (“[T]he disproportionate number of juvenile members of minority groups, who come into contact with the juvenile justice system.”).

218. See, e.g., McCarter, *supra* note 212, at 101 (acknowledging the effects of the amendments).

219. See *id.* (explaining that after two decades of change “the juvenile justice system still exceeds the proportion of minority youth in the general population”).

220. See *id.* (positing that the effects of disproportionate minority contact with the juvenile justice system has collateral effects).

221. See *supra* Part III (discussing the importance of data in the RMJJ-Charlotte Model).

222. Compare *supra* notes 212–218 (describing the DMC initiatives), with *supra* Part V.B (providing information on the RMJJ-Charlotte Model’s workforce development).

223. See Elias, *supra* note 91, at 39–40 (highlighting that racial minorities and children with disabilities are “disproportionately represented in the school-to-prison-pipeline”).

224. *Supra* text accompanying note 212.

variables, there are also extra-legal and systemic variables affecting DMC.²²⁵ *The Charlotte Model* focuses on fixing systems (lakes) versus fixing individuals (fish).²²⁶ Moreover, RMJJ spent time developing trust, rapport, and unique data-sharing among stakeholders, which has ultimately fostered a community definition, assessment, and intervention to reduce disparate outcomes for youth of color. Finally, policymakers have historically sought solutions that were universal and applied to all groups, instead of focusing on the role of race and seeking race-focused solutions.²²⁷ *The Charlotte Model* equips and encourages stakeholders to use public will and communication to openly discuss race as a factor in seeking equitable, sustainable, and race-focused solutions.²²⁸

The issue facing our communities is this: How do we create equitable systems where outcomes for juveniles—as in the case of the two boys who hold up the fast-food restaurant—will not be predicted by race? At the start of this article, we proposed the questions, “What if the courts, recognizing the disparate outcomes for individuals of color within their hallowed halls, decide to organize to change these outcomes?” and “Could the courts encourage and facilitate other institutions to organize as well?” As our community has learned through the *RMJJ-Charlotte Model*, the answer is a resounding, “Yes!” *Race Matters for Juvenile Justice* is striving to bring racial justice into our courtrooms and to the community using a common race analysis to ground us as we work through the six dimensions of change in our jurisdiction—and we invite you to do the same in yours.

225. *Supra* note 220 and accompanying text.

226. *See supra* Part II.B (outlining the goals of the Charlotte Model).

227. *See* TIM WISE, COLORBLIND: THE RISE OF POST-RACIAL POLITICS AND THE RETREAT FROM RACIAL EQUITY 15–16 (2010) (“Beginning in the late 1970s . . . extending through to the Obama campaign . . . post-racial liberalism has advocated a de-emphasis of racial discrimination and race-based remedies for inequality, in favor of class-based or ‘universal’ programs of uplift . . .”).

228. *See supra* Part V.A (noting the Charlotte Model’s mechanisms for building public will and communication).