



EVAN B. DONALDSON ADOPTION INSTITUTE

FINDING FAMILIES FOR
AFRICAN AMERICAN CHILDREN:
The Role of Race & Law in Adoption from Foster Care

Executive Summary

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EXECUTIVE SUMMARY

Many children adopted in this country come from social, economic, racial and cultural backgrounds that differ from those of their new parents. Transracial adoption – defined as occurring when a child’s race/ethnicity is different from that of both parents when a couple adopts, or from that of a single parent when only one adopts – adds an additional layer of complexity to the issues faced by many adoptive families. While transracial adoptions can provide much-needed homes for boys and girls who may not otherwise have them, it is important to address the potential challenges in this growing practice in order to best serve everyone involved, especially the children.

Practices and policies impacting the transracial placement of children in the United States vary according to the type of adoption. At the federal level, three laws apply:

International adoptions into the U.S. are governed by an international treaty, the Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and the U.S. legislation to implement the Hague Convention, the Intercountry Adoption Act of 2000. The State Department issued implementing regulations that address children’s racial and ethnic needs, requiring that prospective parents receive training related to transracial adoption, as well as counseling related to the child’s cultural, racial, religious, ethnic, and linguistic background. The Convention took effect in the U.S. in April 2008.

Adoption of Native American children is governed by the Indian Child Welfare Act of 1978 (ICWA), which was enacted after decades of child-welfare practices that included removing large numbers of children from reservations and sending them to institutions or non-Indian homes. ICWA sought to protect the best interests of Indian children and to promote the stability and security of Indian tribes and families by keeping children with families of their own ethnic heritage and through continued involvement with their tribes.

Adoption of children from foster care (other than Native Americans) is subject to the Multiethnic Placement Act of 1994 (MEPA), which: 1) prohibits the delay or denial of a child’s foster or adoptive placement *solely* on the basis of race, color, or national origin; and 2) requires that state agencies make diligent efforts to recruit foster and adoptive parents who represent the racial and ethnic backgrounds of children in foster care. In 1996, MEPA was amended by the Removal of Barriers to Interethnic Adoption Provisions (IEP), which deleted the word “solely” from MEPA’s prohibition against delaying or denying an adoptive placement on the basis of race. IEP prohibits agencies receiving federal funding from considering race in decisions on foster or adoptive placements, except in exceptional circumstances. Noncompliance is a violation of Title VI of the Civil Rights Act, subject to a large fine; individuals claiming discrimination under the Act may file suits in U.S. district courts.

This paper by the Evan B. Donaldson Adoption Institute focuses on domestic transracial adoption and assesses its use as a policy and practice approach in meeting the needs of African American children in foster care who cannot be safely reunited with their parents or placed with kin. The content of this paper – including its findings and recommendations – is being endorsed by the North American Council on Adoptable Children, the Child Welfare League of America, the Adoption

Exchange Association, the National Association of Black Social Workers, Voice for Adoption,¹ and the Foster Care Alumni of America. In addition, the National Association of Social Workers, which has no policy for supporting research papers per se, endorses its recommendations.

The current federal law and policy governing consideration of race in foster and adoptive placements (MEPA/IEP) is being evaluated, as indicated by a September 2007 hearing convened by the U.S. Civil Rights Commission. The Commission posed five questions regarding whether federal laws and policies governing the transracial adoption of children from foster care have accomplished the purposes for which they were created; those questions are examined in this paper.

Issues of race and adoption are highly sensitive, and statements relating to them are often subject to misinterpretation. The Adoption Institute wants to be clear about its underlying philosophy and purpose in writing this paper: to bring law and policy in line with sound adoption practice that addresses the relevant issues in selecting families for children and in preparing parents to successfully care for them. The purpose of this paper is *not* to impede or prevent transracial adoptions or to promote racial matching; rather, it seeks to apply relevant knowledge to the practice of child welfare adoptions in order to best serve children and families.

PRINCIPAL FINDINGS

African American children who come into contact with the child welfare system are disproportionately represented in foster care, and are less likely than children of other racial and ethnic groups to move to permanency in a timely way. These children account for 15 percent of the U.S. child population but, in FY2006, they represented 32 percent of the 510,000 children in foster care. Black children, as well as Native American children, also have lower rates of adoption than those of other races and ethnicities (U.S. DHHS, 2008a; U.S. GAO, 2007). The explicit purpose for the policy embodied in MEPA-IEP regarding the role of race was to address these inequities for Black children. This analysis highlights the context surrounding race and adoption in the U.S. and reviews the research related to transracial adoption, which provides a basis for assessing current policy and needed directions. It also examines the outcomes of MEPA and IEP for African American children in foster care.

Researchers in the fields of sociology, psychology, and social work began to focus on transracial adoption in the 1970s and 1980s, examining children's overall adjustment, including self-esteem, achievement, and level of adjustment problems. Most used very small sample sizes and evaluated children at one point in time and at young ages; and some did not have comparison groups of children placed in same-race families. Also, almost all of these studies have been conducted on children adopted as infants or from other countries, rather than on children adopted from foster care. Generally, these studies found that children adopted transracially in the U.S. or from other countries had overall adjustment outcomes similar to children placed in same-race families (Grow & Shapiro, 1974; Kim, 1977; McRoy, Zurcher, Lauderdale, & Anderson, 1982, 1984; McRoy & Zurcher, 1983; Simon & Alstein, 1987; Feigelman & Silverman, 1983; Shireman & Johnson, 1986).

Research on transracial adoption has progressed over the past 35 years in methodological rigor and complexity. Overall, the current body of research on this issue supports three key conclusions:

¹ The Voice for Adoption is a coalition whose Board is composed of Adoption Advocacy, Adopt America Network, Adoption Exchange Association, the Adoption Exchange Inc., Casey Family Services, Child Welfare League of America, Children Awaiting Parents, Family Builders Network, Kinship Center, Lilliput Children's Services, National Adoption Center, New York Council on Adoptable Children, North American Council on Adoptable Children, Spaulding for Children, and Michigan Three Rivers Adoption Council.

1. Transracial adoption in itself does not produce psychological or social maladjustment problems in children.
2. Transracially adopted children and their families face a range of challenges, and the manner in which parents handle them facilitates or hinders children's development.
3. Children in foster care come to adoption with many risk factors that pose challenges for healthy development. For these children, research points to the importance of adoptive placements with families who can address their individual issues and maximize their opportunity to develop to their fullest potential.

Little research has examined transracial adoption of children from foster care, but the studies that do exist have found that while parents are equally satisfied, there is a higher rate of problems in minority foster children adopted transracially than in-race. Also, when children have issues, there is evidence that they have a stronger association with problematic parent-child relationships among transracial adoptions than in same-race adoptions (Rosenthal & Groze, 1992; Howard & Smith, 2003).

An underlying assumption of past research was that transracial adoption was not a challenge for adoptees if there were no significant differences on overall adjustment measures between groups of transracial and in-race adoptees. However, recent studies – using more rigorous methods to directly measure the racial and ethnic experiences of adoptees and how these experiences may contribute to psychological adjustment – have found parents' attitudes and behaviors related to racial socialization affect their transracially adopted children's outcomes on a range of variables (Lee, 2003).

Recent research has focused on parents' approaches to cultural and racial socialization and examined how different approaches affect aspects of their children's ethno-racial identity and psychological adjustment, finding that when parents facilitate their children's understanding of and comfort with their own ethnicities, the children show more positive adjustment in terms of higher levels of self-esteem, lower feelings of marginality, greater ethnic pride, less distress, and better psychological adjustment (DeBerry, et al., 1996; Yoon, 2001; Lee & Quintana, 2005; Mohanty, Keokse, & Sales, 2006; Johnston, Swim, Saltsman, Deater-Deckard, & Pettrill, 2007). Some of the challenges confronting transracially adopted children are summarized below:

- **Transracially adopted children face challenges in coping with being “different.”** Many transracially adopted children of color, particularly those with dark skin, express the wish to be White (Juffer, 2006). Several studies have found that transracially adopted children struggle more with acceptance and comfort with their physical appearance than do children placed in-race (Andujo, 1988; Kim, 1995). Appearance discomfort has been linked to higher levels of adjustment difficulties in transracially adopted children and young adults, and one study found that those raised in heavily White communities were twice as likely as adoptees living in racially mixed communities to feel discomfort with their racial appearance (Juffer, 2006; Feigelman, 2000).
- **Transracially adopted children may struggle to develop a positive racial/ethnic identity.** Several studies have found that these children scored lower on racial identity measures than their in-race adoptive counterparts (McRoy, Zurcher, Lauderdale, & Anderson, 1982; Andujo, 1988; Baden, 2002). The importance of these issues is further highlighted by research indicating that transracial adoptees' confusion over ethnic identity is associated with behavior problems and psychological distress (Cederblad, Hook, Irhammar, & Mercke, 1999) and that their ethnic pride is related to higher well-being and less distress (Yoon, 2001).

- **A key life skill for transracially adopted children is the ability to cope with discrimination.** Learning to deal with prejudice is particularly important when adoptees belong to racial groups that experience significant discrimination. Brooks and Barth (1999), in a study of different racial/ethnic groups of transracial adoptees, found that African Americans – particularly males – experienced the highest level of discrimination. Studies of transracially adopted adolescents and young adults have found that perceived discrimination is significantly associated with behavior problems and psychological distress (Cederblad, et al., 1999; Feigelman, 2000).

The body of research supports the conclusion that transracial adoption brings additional challenges to adopted children and their families – challenges that need to be addressed in matching children with families and in preparing families to meet their children’s needs.

This paper examines the impact of MEPA-IEP on the adoption outcomes of African American children from the child welfare system by addressing the five questions posed by the U.S. Civil Rights Commission at its hearing in September 2007. While some of these questions can be answered succinctly, others are much more complex and nuanced. The questions were:

1. Has the enactment of MEPA removed barriers to permanency facing children involved in the child welfare system? (addressed in this paper on page 32-33)
2. Has the enactment of MEPA reduced the amount of time minority children spend in foster care or wait to be adopted? (addressed on pages 34-35)
3. How effectively is the U.S. Department of Health and Human Services enforcing MEPA/IEPA? What impact has enforcement had on best practices in adoption? (addressed on pages 35-39)
4. What is the impact of DHHS’ enforcement of MEPA-IEP on the efforts of prospective parents to adopt or provide foster care for minority children? (addressed on page 40)
5. Does transracial adoption serve children’s best interest or does it have negative consequences for minority children, families, and communities? (addressed on page 40 and throughout this paper.)

Major findings based on consideration of these questions include the following:

- **The enactment of MEPA-IEP has not resulted in equity in achieving permanency for African American children awaiting adoption.** The adoption rates of Black children (as well as Native Americans) have remained consistently lower than those of other racial/ethnic groups (U.S. GAO, 2007). Data indicate there have been small increases in transracial adoptions of Black children from foster care – rising from 17.2 percent in 1996 to 20.1 percent in 2003; however, this growth in transracial adoptions has not resulted in Black children being equally represented among children adopted from foster care relative to their proportion of children awaiting adoption. (Hansen & Pollack, 2007; USDHHS, 2007a; U.S. GAO, 2007).
- While the time that all children remain in foster care has declined due to the reforms legislated by the Adoption and Safe Families Act, **African American children still stay in foster care an average of nine months longer than do White children** (U.S. GAO, 2007).
- **The interpretations of MEPA-IEP that have served as the basis for its enforcement run counter to widely accepted best practices in adoption.** The manner in which MEPA-IEP is enforced mandates an unyielding color-blindness that is counter to the best interest of children and sound adoption practice. It prohibits agencies from employing such practices as assessing families’ readiness to adopt a child of another race/ethnicity, preparing families for transracial

adoption in any way that is not provided to those who adopt within race, and considering families' existing or planned connections with the child's racial/ethnic group – practices that are considered to be sound and are standard in international adoptions.

- **The diligent recruitment provision of MEPA-IEP has not been well implemented and is not being enforced.** Implementation of this requirement would expand the pool of potential adoptive parents for Black children, and would do so in communities that are most likely to adopt them – and in which some of the issues relating to transracial adoption would be least likely to occur.

RECOMMENDATIONS

While the passage of MEPA served a positive purpose in addressing discriminatory practices, more than a decade of experience illustrates that many of the assumptions underlying the development of this law and its subsequent amendment were not accurate and, consequently, the hoped-for outcomes have not been realized. The goals of decreasing the racial disparity in the length of time African American children remain in foster care, their waiting time for adoptive families, and their opportunities for adoption must be met through different policies and practices. Two principles provide a solid framework for meeting the needs of Black children and youth in foster care: that adoption is a service for children, and that acknowledgement of race-related realities – not “color blindness” – must help to shape the development of sound adoption practices. Although color does not influence acceptance and opportunity in an ideal world, the reality of our society is still far from this ideal. Failure to address these social realities in practice is a disservice to children and their adoptive parents, and does not provide the best prospects for successful adoptions.

When children in foster care cannot be safely reunited with their parents or members of their extended families, they need the security, stability and love of adoptive parents. To ensure that children of color are placed with families who can meet their long-term needs, this report makes the following recommendations:

- **Reinforce in all adoption-related laws, policies and practices that a child's best interests must be paramount in placement decisions.**
- **Amend IEP to allow consideration of race/ethnicity in permanency planning and in the preparation of families adopting transracially. The original MEPA standard – which provided that race is *one factor, but not the sole factor*, to be considered in selecting a foster or adoptive parent for a child in foster care – should be reinstated.**
- **Enforce the MEPA requirement to recruit families who represent the racial and ethnic backgrounds of children in foster care and provide sufficient resources, including funding, to support such recruitment.**
- **Address existing barriers to fully engaging minority families in fostering and adopting by developing alliances with faith communities, minority placement agencies, and other minority recruitment programs.**
- **Provide support for adoption by relatives and, when that is not the best option for a particular child, provide federal funding for subsidized guardianship.**

- **To help families address their transracially adopted children's needs, provide post-adoption support services from time of placement through children's adolescence.**

CONCLUSION

In order for children of color to be placed with families who can meet their long-term needs, consideration must be given to needs arising from racial/ethnic differences. Consequently, when workers choose permanent families for children, and when they seek to prepare and support them in addressing the children's needs, race must be one consideration – such as promoting connection of the child to adults and children from their own racial/ethnic group, developing a positive racial/ethnic identity, and learning to deal with discrimination they may experience. Sound social work practice to accomplish these goals is severely impeded under current federal law and policy.

Attention to the well-being of African American children in the child welfare system needs to become a top priority for the future development of laws, policies, practice, and research. For decades, we have documented and discussed the reasons for inequities, and it is essential for these children that promising solutions, such as those recommended above, be implemented thoughtfully and expeditiously.

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