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The Child Protection Juvenile Court Process from a Communication Perspective:  
A Glimpse Behind the Veil of Objectivity Reveals that Race Matters

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A Dissertation

Presented to

The Faculty of Social Sciences

University of Denver

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In Partial Fulfillment

Of the Requirements for the Degree

Doctor of Philosophy

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by

Debra A. Mixon Mitchell

November 2009

Advisor: Dr. Roy Wood

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Title: THE CHILD PROTECTION JUVENILE COURT PROCESS FROM A COMMUNICATION PERSPECTIVE: A PEEK BEHIND THE VEIL OF OBJECTIVITY REVEALS RACE MATTERS

Advisor: Roy Wood

Degree Date: November 2009

## ABSTRACT

Reports indicate that in the United States disproportionate numbers of African American children are represented in the child welfare and juvenile justice systems. Studies also indicate disparities in the provision of services to African American young people. Some researchers claim that poverty is the cause. Others blame the high incidence of single-parent families. Others contend that individuals' biases and our racist systems are to blame. While it is almost certain that each of the aforementioned causes and many other factors contribute to disparate outcomes and the overrepresentation of African Americans in the juvenile justice and child welfare systems, this project presupposes that causation is deeply rooted and intricately interconnected with the history of racism and injustice by the child protective system towards African American people. Indeed, examining respondent parents, child protective services workers, attorneys and judges lived experiences within the child welfare and juvenile justice systems, this qualitative study contends that a major cause for the disparities and disproportionalities is the correlation between race and the social cognition processes that subconsciously occurs within all communicants and is enacted through their communication. The process in which individuals exchange information provides entry into one of many potential areas of study that have previously received little attention from researchers related to the

issue of disparities and disproportionalities. Utilizing a phenomenological approach, this study relies on in-depth, semi-structured interviews to collect and analyze the data.

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## Chapter One: Introduction

A recognition that much of communication is subjective and personal has led to the observation that the amazing thing about human communication is not that it sometimes seems to fail but, rather, that it ever seems to succeed. (Ruben & Stewart, 1998, p. 77)

Reports indicate that African American children and youth are disproportionately represented in United States' child welfare and juvenile justice systems. Additionally, disparities in the provision of services to African American young people are also reported. Since the process of determining whether to intervene on a child's behalf is crucial and complicated, a close examination of this process, specifically relating to race and participants' social cognition processes, which are enacted through their communication, are central to raising the awareness of, preventing and eliminating the factors that are contributing to disparities and disproportionalities. This study provides such a close examination as well as recommendations for achieving more effective communication toward preventing and eliminating disproportionality and disparate outcome in the juvenile justice and child welfare systems.

Concerning the disparities and disproportionalities relating to African Americans in the child welfare and juvenile justice systems, the communicative process has received little attention from researchers. As few people have analyzed, from a communications perspective, the process in which individuals exchange information as it relates to matters

of a child's safety and well being, this research begins to fill that gap of knowledge by leveling a focused gaze on child protection communication.

In this study, various concepts are used to explore the interconnection between race and communication as they relate to the child welfare and juvenile justice systems, such as: disproportionality, disparity, discrimination, child welfare system, child maltreatment, child protective services, juvenile justice system, and respondent parent. The aforementioned terms and phrases assist in providing a deeper understanding of what occurs in the child welfare and juvenile justice systems. As it is important to be clear, a discussion of what the terms and phrases mean now will be provided.

“Disproportionality” and “disparity” are the simplest terms to define as they relate directly to the core concern of this study. Disproportionality is the unequal difference in the percentage of children of a certain racial or ethnic group in the United States as compared to the percentage of the children of the same group in the child welfare system. For instance, in 2000 African American children made up 15.1 percent of the children in this country but were 36.6 percent of the children in the child welfare system (Hill, 2006). In this study, the terms “disproportionality” and “overrepresentation” are used interchangeably.

Figure 1.1 visually represents disproportionality. Indeed the figure illustrates that the reality of overrepresentation describes the quantitative comparisons of two or more populations. For instance, as previously stated, African American children represent about 15 percent of the total population of children in this country but about 37 percent of the children in the child welfare system; conversely, white children represent about 61 percent of America's children and about 46 percent of the children in the child welfare

system (Hill, 2006). Thus, African American children are over-represented in the system while white children are underrepresented (Figure 1.1).

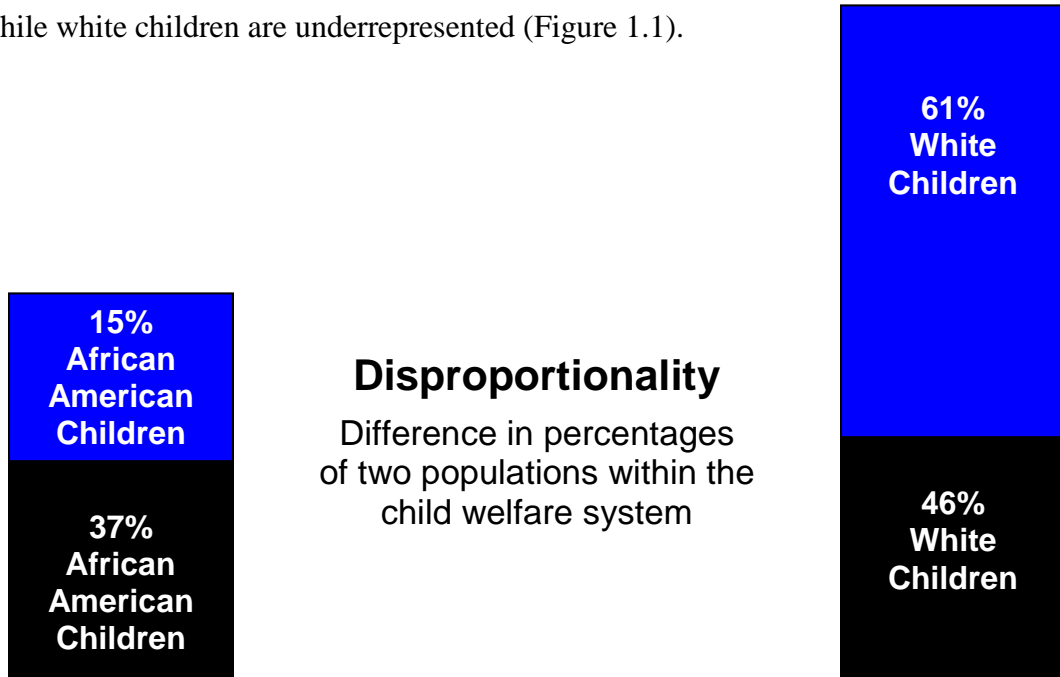


Figure 1.1

“Disparity” or “disparate outcomes” speaks to the unequal and unfair treatment when comparing one racial group to another (Hill, 2006). Concerning the child welfare and juvenile judicial systems, disparity is used to describe the difference in: the experience of children with respect to their involvement in the systems; the various aspects of the decision-making process including reporting, investigating, deciding whether to remove a child from his or her home, and deciding whether to return a child to the care of his or her parent; and the difference in care provided, the quality of care and the access to care. Research suggests that the child welfare system treats African American children and their families differently; often the treatment is poor when compared to that received by white children and their parents. For instance, the system provides mental health services to fewer African American children even though the identified need for such services may be as great, if not greater, for African American

children as for white children (Hill, 2006). Further, research identifies disparate outcomes in both the number of African American children who are admitted into foster care and the number of children who are reunified with their family. For example, examination of the 2000 National Study of Child and Adolescent Well-Being (NSCAW) data revealed that at every age, African American children were more likely to be placed in foster care than whites or Hispanics (Wulczyn, Barth, Yuan, Jones-Harden, & Landverk, 2005). Indeed, the aforementioned findings evidence “discrimination,” a term that is defined as unjustified negative actions or decisions that deny individuals or groups of people equal treatment and equal opportunity (Dovidio & Hebl, 2005).

Regarding the relationship between disparity and disproportionality, the terms are used to describe the reality that some groups of children are over-represented in the child welfare and juvenile justice systems given the composition of the overall population of children. As disparity and disproportionality are used to describe difference, frequently both are used interchangeably; however, this is a faulty communication. Indeed, when the terms are used interchangeably this ignores the important reality that disparities produce disproportionality. For instance, according to Wulczyn and Lery (2007), factors causing the overrepresentation of African American children in the juvenile justice and child welfare systems are both the disparities in the likelihood of their involvement in the systems and the disparities in likelihood of them ending their involvement with the systems. Thus, until such disparities are addressed, there is no way to eliminate the systems’ disproportionalities.

As this research is exploring the disproportionalities and disparities in the child welfare and juvenile justice systems, it is helpful to have an understanding of the two

systems. The “child welfare system” is defined as “a group of services designed to promote the well-being of children by ensuring safety, achieving permanency, and strengthening families to successfully care for their own children” (Child Welfare Information Gateway, [www.childwelfare.gov](http://www.childwelfare.gov), 2008). Although the services and oversight of the child welfare system are largely the responsibility of each state, the federal government also supports states by providing financial and legislative support. Typically, children and their families become involved with the child welfare system when someone files a report of child abuse or neglect, which is often called “child maltreatment.” According to the Child Abuse Prevention and Treatment Act (CAPTA) child maltreatment is:

Serious harm (neglect, physical abuse, sexual abuse, and emotional abuse or neglect) caused to children by parents or primary caregivers, such as extended family members or babysitters. Child maltreatment also can include harm that a caregiver allows to happen or does not prevent from happening to a child. In general, child welfare agencies do not intervene in cases of harm to children caused by acquaintances or strangers. (Child Welfare Information Gateway, [www.childwelfare.gov](http://www.childwelfare.gov), 2008)

Reports of child maltreatment are investigated by “child protective services” (CPS). According to Brittain and Hunt (2004) CPS are defined as specialized supports and/or interventions for abused, neglected or exploited children. If CPS workers determine that a court order is needed to ensure the safety and well being of a child, the child may be separated from his or her family and the parent issued an order to appear in juvenile court to answer charges of child abuse and/or neglect.

Indeed, when children and families encounter the juvenile justice system, they become deeply involved with child welfare, legal professionals (i.e. attorneys, judges or magistrates) and, if deemed necessary, medical specialists, all whom make important decisions about their futures. Specifically, the “juvenile justice system” is a system through which a respondent parent responds to allegations of child maltreatment. The intention of the juvenile court process is to ensure that the judge or jury has the most complete, impartial, and accurate information possible in order to arrive at a fair and just conclusion that reflects the best interest of the child (Brittain & Hunt, 2004). If visualizing the process a case follows through the child welfare and juvenile justice systems is challenging, that is because the actual process is extremely complex. Figure 1.2 provides a simplified illustration of this complicated decision-making process.

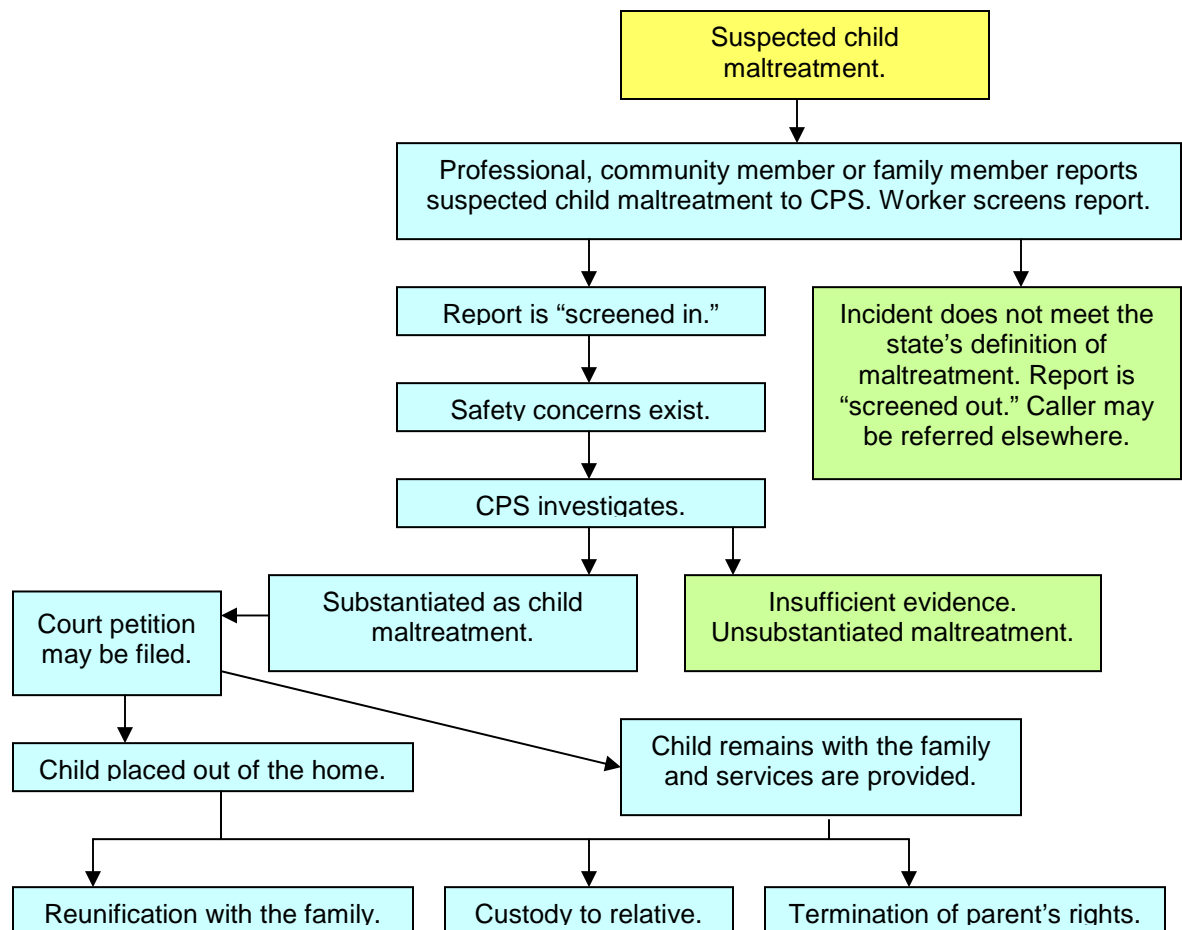


Figure 1.2



As is depicted by Figure 1.2, the decision-making process begins when a child is the subject of suspected child abuse or neglect and a community member, family member or professional reports the suspicion to the child welfare system. If the allegation fails to meet the state's definition of maltreatment or there is insufficient information, the report is screened out and the matter is dropped. But if the report meets the definition of child maltreatment, a CPS worker investigates the matter. If the worker concludes that the allegation is unsubstantiated, the case is closed. However, if the report is substantiated the CPS worker may elect to either allow the child to remain with his or her family while the family receives services to mitigate the issues related to the abuse or neglect. The worker also has the option of placing the child out of the family home in a foster or group facility while the child's family receives services. In the event the services are successfully utilized the child is returned to the care of his or her family. Yet, if the parent fails to successfully respond to services, the child may be placed in the custody of a relative/kinship caregiver and/or the parent's right to raise the child may be legally terminated.

Indeed, many of the issues identified in this research apply to multiple racial and ethnic groups. However, since the disparity and disproportionality numbers are higher for African Americans than for any other group, this project focuses on African Americans' experiences. Ultimately, after examining the communicative process used when deciding if parents retain the right to keep their child or children, this study will determine whether race emerges as a significant factor in the decision-making and make recommendations concerning improving communication within the systems. Thus, in an attempt to see the

child protection juvenile court process through the eyes of a naïve observer, this study begins with a first-hand description as provided by the researcher.

*I pull open the heavy metal door, enter the dimly lit corridor of the City and County Building and I immediately encounter a clunky security system. Two security guards flank the security contraption. As I join other people who are already waiting in line for the approval to enter, I realize that my anger at being scrutinized is ignited. I wonder, “What opinions do these guards have of me, an African American woman, being in this building? Have they assumed that I’m one of “those people”? Have they assumed that I’m on the wrong side of the law?” Without saying a word, a uniformed man pushes a gray plastic container toward me, I respond by placing my purse, notebook, and coat inside the container. My belongings are moved through the security device on a conveyer belt while I walk through a metal archway that resembles a doorframe. Once they determined that I am not a “security risk,” I am permitted to collect my belongings and enter the corridor.*

*Soon, I spot an empty section on a long wooden bench and take a seat outside of a courtroom. As I sit quietly, I begin to reminisce. I was about six or seven years old when I accompanied my grandmother (we called her “Granny”) to the town’s tiny courthouse. Each week she took me and my cousins there to “help” her clean-up. These were wonderful opportunities that I cherished. Granny assigned us important tasks. It was my job to use the big, brown feather duster to remove dust from the chairs and tables in each of the majestic courtrooms. Granny instructed us to “Do a good job children” and to “behave respectfully” while in the building. So, of course, my cousins and I were prohibited from running and playing. We were to behave and beautify. Though I was*

*a young child, I was keenly aware that this was an important place where important people came to decide what was fair and just.*

*Today there are few reminders of the dignified imaginings of my youth. In fact, as the door opens and I stand to enter the courtroom, I feel a momentary surge of anxious butterflies in my belly, but I quickly compose myself, enter the room and sit down. Inside, there is a hustle of tense movement as people enter or exit the courtroom. A low murmur of chatter hovers in the room, words in English and words in various other languages permeate the air. Three rows of long wooden pews provide seating for only a small fraction of those present. So we sit close to each other. People, most of whom are people of color, fill the available seats and stand along three walls of the courtroom. There are a few children, but mostly adults are present; later many of the people are identified by the judge as “indigent” and are assigned to a public defender for representation.*

*At approximately 9:00 a.m., a voice commands, “All rise, Judge September presiding.” At this point, all conversations cease and those seated stand-up as a man enters the room dressed in a long black robe. The judge sits in a lavish brown leather chair, which is elevated above all others in the room. The two attorneys, one representing Child Protective Services and the other representing the respondent parent, are positioned about ten-feet from the judge. The families who are waiting for their case to be called are seated behind the attorneys. After organizing papers and checking his nearby computer, the judge states, “I’m ready. Call it!” With this statement the proceedings begin. This is an opening scene that is typical in the legal process used to protect children from abuse and neglect.*

## Problem Statement

African American children and families face an unequal burden in the child welfare and juvenile justice systems. Although African American children comprise less of the general population as compared to white children, African American children's representation in the child welfare and juvenile judicial systems exceeds that of all other groups. Although a number of reasons for the disproportionality and disparate outcomes concerning African American children have been identified, some variables emerge consistently across studies, including: low socioeconomic status, lack of access to resources, racist professionals, and racist systems. However, much of the research focuses on social issues and overlooks the importance of the exchange of information. The main reason that it is important to include an examination of the impact of communication, in particular inter-racial communication, is it opens doors for other possible explanations and consequently other possible solutions to preventing and eliminating disproportionalities and disparities. To adequately explore the correlation between race and communication during the decision-making process in the juvenile justice and child welfare systems, this research will now explore how institutional racism affects disparate outcomes and disproportionalities for African American children.

## Institutional Racism

According to Billingsley and Giovanni (1972) "institutional racism" is a phrase that describes the "systematic oppression, subjugation and control of one racial group by another dominant or more powerful racial group, made possible by the manner in which the society is structured" (p. 8). Indeed, institutional racism is widely used to describe the

way government and public and private institutions systematically afford whites various social, political and economic advantages simply due to their whiteness, while marginalizing and putting at a disadvantage African Americans and other people of color. Institutional racism “can be covert or overt, unconscious or conscious, and unintentional or intentional. In other words, for this form of racism to occur it is not necessary for a group of people to assemble in a backroom to consciously conspire against another group” (Hill, 2004, p. 3). Despite efforts to ensure equal opportunity and equal access, institutional racism remains embedded in every institution and system in American society. For example, in the workplace, interviews with employers reveal that they commonly recruit applicants by word-of-mouth or by targeting advertising of job openings to particular neighborhoods, often avoiding inner city or predominantly African American neighborhoods (Kirshenman & Neckerman, 1991; Brief, Butz, & Deitch, 2005). Similar racism exists within the housing sector. According to the most recent Housing and Urban Development (HUD) audit “African Americans and Hispanics continue to face significant discriminatory barriers when searching for a home to rent or buy” (Roscigno, Darafin, & Tester, 2009, p. 51). Thus, institutional racism is still rampant today and remains entrenched in a range of institutions including businesses and schools.

As such, the issue of race and institutional racism may play an important role with respect to efforts to protect America’s children from child abuse and neglect. While it is believed by many that both the child welfare and juvenile judicial systems are staffed by individuals who examine the facts and render an objective decision, people of color may disagree with this claim, viewing both systems with apprehension and distrust. When

considering African Americans' historical realities of slavery, Jim Crow laws, and continued reports of discriminatory practices and policies, it is understandable why many African Americans may approach the juvenile judicial and child welfare systems expecting injustice. Details of major historical events that have shaped the child welfare system provides an important backdrop to the attitudes and values reflected in the system today.

### The Child Welfare System: A History of Benevolence and Bias

According to McGowan (2005) "the social provisions for dependent children during the first two centuries of American history can be characterized as meager arrangements made on a reluctant, begrudging basis to guarantee a minimal level of subsistence" (p. 12). Indeed, to address the needs of children who were orphaned or from a poor family in this country, the children were placed in local almshouses or they served as indentured servants to wealthy families until they reached the age of maturity. Parents who were unable to "provide adequately for their children were deprived of the right to plan for their children and were socially condemned" (McGowan, 2005, p. 11). Over time, the child welfare system developed as a system of services for responding to the needs of dependent children. However, there is evidence that the institution of slavery and segregation left its mark on the child welfare system.

Slavery in America reflects a socially constructed hierarchical structure that formalized a system for ranking human beings according to racist perceptions of a group's worth. Further, the "importation of large numbers of slaves and the eventual abolition of slavery first reduced the number of requests for indentured white children and later created opposition to a form of care for white children that was no longer

permitted for blacks ” (McGowan, 2005, p. 12). Thus, the white majority population devalued African American children and families and intentionally withheld resources from them.

In the U.S., the organized movement to protect children from abuse and neglect began in 1875. Those in the social work field profess a deeply valued and long legacy of being professionals who unselfishly provide community service, support, and advocacy in response to individuals who are engaged in familial crisis. Yet, the profession’s history of excluding African American children from those who were viewed as worthy of service and support (McGowan, 2005; Roberts, 2002; Smith & Devore, 2004) contradicts the benevolent values that the system claims to be its foundation. The National Association of Social Worker’s website identifies the organization’s mission in part as follows:

The primary mission of the social work profession is to enhance human well-being and help meet the basic human needs of all people, with particular attention to the needs and empowerment of people who are vulnerable, oppressed, and living in poverty. A historic and defining feature of social work is the profession’s focus on individual well being in a social context and the well being of society. Fundamental to social work is attention to the environmental forces that create, contribute to, and address problems in living. Social workers promote social justice and social change with and on behalf of clients.

(<http://www.naswdc.org/pubs/code/code.asp>)

A professed purpose of meeting “the basic human needs of all people” and promoting “social justice” reflects a dramatic divergence from the historical practice that included institutional racism.

In 1910, the National Urban League was organized to achieve a “more equitable distribution of child welfare services” (McGowan, 2005, p. 25). This goal along with the migration of African Americans to urban communities forced the National Urban League to address the needs of African American children. Engaging the needs of African American children resulted in a growing sentiment that “black children were entitled to the same standard of care as white children and that they should generally be served through the existing child welfare system” (McGowan, 2005, p. 25). The need for African American children and families to have support and services were further acknowledged in the 1920’s and 1930’s, when social workers in Philadelphia, Boston and Chicago advocated for the development of separate public child welfare agencies for African American children (Smith & Devore, 2004). This systematically racist practice was instituted along with others, which included the distribution of “children to foster care agencies based on gradations of skin shade and hair texture” (Roberts, 2002, p.7). Children who possessed darker skin color and other characteristics reflective of their African ancestry were refused acceptance into foster care agencies.

Further, this focus on African American families was not particularly inspired by a desire to support African American parents in meeting the needs of their children. Rather, views of the poor as a deviant subculture, especially in the case of African Americans, tended to perceive the African American family as pathological. These sentiments are espoused in Daniel Patrick Moynihan’s 1965 report, *the Negro Family*,



which described poor African Americans as inferior human beings compared to other groups (Roberts, 2002).

In 1955, several organizations representing social workers from different specialty areas including psychiatric, medical, school, and community social work combined efforts and skills by founding the National Association of Social workers (NASW). The purpose was to establish an arena in which those in the field of social work could come together with an equal voice (regardless of the individual's professional expertise) to promote the common good related to social well-being. But many in the African American community believed social workers and others working in the child welfare system marginalized and stigmatized African American people. Thus, a coalition of African American human service practitioners convened in 1968 to form the National Association of Black Social Workers (NABSW). According to NABSW, its founding marked "the first time, people of African ancestry had an opportunity to unify in combating racism and white supremacy in the social welfare system" (<http://www.nabsw.org>). This unified effort by organizers of the NABSW to seek radical change within the "traditional local and national Euro-centric focused human services and social welfare systems" (<http://www.nabsw.org>) is evidence of a rupture within the social work profession generated by issues of racial discontent.

Also during the 1950's and 1960's, as the civil rights movement expanded, "the number of children of color in the child welfare system increased, while the number of poor white children decreased," (Smith & Devore, 2004, p. 431); thus, effectively shifting African American children's involvement in the child welfare system from exclusion, to that of disproportionately over represented. Unfortunately, the child welfare

system has maintained this overrepresentation of African American children for the past six decades.

### Disproportionality and Disparity in the Child Welfare System

The existing research reflects a harsh reality for many African Americans who become involved in child welfare's child protection system. Researchers document disproportionalities and disparities involving families of color, specifically African American children, who come in contact with the child protection system (Billingsley & Giovannoni, 1972; Coulton & Pandey, 1992; Hill, 2006; McCrory, Ayers-Lopez & Green, 2006; Walker, Zangrillo, & Smith, 1994). According to Hill (2007), data provided for the year 2005 by the U.S. Census Bureau indicates that whites represent approximately 60 percent of America's population of children under the age of 18 and African Americans make up about 15 percent of the population. Studies indicate, however, that African Americans are twice as likely to be investigated for child maltreatment as white families and twice as likely to be substantiated as perpetrators of child maltreatment than white parents (Hill, 2004; Rolock & Testa, 2005; Kohl, 2007).

Further, according to Dunbar and Barth (2007), who summarized both published and in-press peer reviewed articles and chapters gathered during the National Survey of Child and Adolescent Well-being (NSCAW), of 5504 children who underwent child maltreatment investigations between November 1999 and April 2001, "White children are more likely to remain at home than to be removed from their homes following the investigation of the case" (p. 2). Conversely, a study published by the United States Department of Health and Human Services (2005) reports, "Black children who were

victims of child maltreatment were 36 percent more likely than white victims of abuse and neglect to be placed in foster care” (p. 2).

In examining race and how it affects African American children’s experience in the child welfare system, some studies followed African American children who had protective factors such as: they were older when they entered the welfare system; they lived in two-parent families; they had at least one employed parent; neither parent abused drugs; the family relied on earnings and not on Aid to Families with Dependent Children (AFDC); the family lived in low crime neighborhoods; and the family had no prior CPS history. Studies concluded that even when African American families had the aforementioned protective factors, the children were still more likely to be placed in foster care than compared to white children with the same protective factors (U.S. Children’s Bureau, 1997).

Providing further evidence of disproportionality, the number of whites declines from 59 percent at investigation (the first step after a report of maltreatment has been filed) to 57 percent at substantiation to 42 percent at removal from home and placement. On the other hand, the proportion of blacks increased from 25 percent at investigation to 27 percent at substantiation to 36 percent at removal and placement (Hill, 2007). Thus, the proportion of white children decreases as they move through the child welfare system while the proportion of African American children increases.

Additionally, studies reveal that African American children are less likely to be reunified with their families than white children (Barth, Webster, & Lee, 2000; Courtney & Wong, 1996, McMurty & Lie, 1992; Stoltzfus, 2005). According to Hill (2007) “white children were about four times more likely to be reunified with their families than black

children” (p. 24). So race continues to be a strong predictor as to whether children will be reunited with their families. Some speculate that many of the disproportionalities reported for African Americans result from a bias on the part of those who initially report maltreatment. However, Hill (2007) contends that the “concentration of blacks markedly increases as children go further into the child welfare system” (p.9). This suggests that disparities and disproportionalities are caused by individual biases and institutional racism that is embedded throughout the system. Not only are disproportionalities and disparities reported for African Americans in the child welfare system but in the juvenile judicial system as well.

#### The Juvenile Judicial System: Color and Blindness

Following a report of child maltreatment, investigation, substantiation, and consequently a child is removed from the parent’s care, laws require that judicial oversight actions be enacted. According to Roby (2001),

It is the responsibility of the courts to interpret and apply those [federal and state] laws to specific cases, and regulate the activities of child welfare agencies by initial adjudication, on-going supervision reviews and concluding with case closure which may include termination and adoption. (p. 307)

Specifically, the role of the judge is to issue protective orders, learn the details of the case, examine the specific facts as they relate to laws, and make a ruling. After that, the judge orders a course of action that is intended to be in the child’s best interest. Further, in an effort to closely monitor the case, regularly scheduled hearings (often every 60 days) are conducted.

As a statutory rather than a criminal court, juvenile court has a special jurisdiction of a parental nature over delinquent and neglected children (Brittain & Hunt, 2004). Indeed, the juvenile justice system is one through which parents communicate with caseworkers, judges, and attorneys in response to allegations of child maltreatment. The court process is engaged to ensure that the judge or jury has the most complete, impartial, and accurate information possible in order to arrive at a fair and just conclusion that reflects the best interest of the child (Brittain & Hunt, 2004). This process of decision-making is commonly accepted as fair. Yet, a more in-depth analysis reveals cracks and contradictions in the juvenile system of “justice” that may have profound consequences for involved parents, especially for African American parents.

While this country’s judicial system is often referred to as the “justice system” it, like the child welfare system, has a history impacted by racist values. Legal scholar, A. Leon Higginbotham, argued that “American law once overtly embraced a ‘precept of inferiority’ with regard to blacks, a precept that we suggest continues to exert discernible effects even into the present day” (Bobo & Thompson 2006, p. 448). This is important to note as the ideal of equality before the law is a long-standing, core principal that prevails in the American legal culture today (Johnson & Secret, 1990). Indeed, this basic principle of American law maintains that “all persons stand equally before the law, and that the law should not favor individuals on the basis of extralegal factors such as race or color” (p. 159). However, there is evidence that disputes the accepted notion of a bias-free judicial system.

As the child welfare system has a history that includes both the exclusion of and bias toward African American people, this is also true for the judicial system.

Historically, African Americans have experienced unequal protection by the law, as they could not rely on the police or the courts for protection from the brutal racist attacks by whites (Bobo & Thompson, 2006; Kennedy, 1997). In remembering such publicized incidents as the dog attacks and drenching by fire hoses during the Civil Rights era, the Rodney King beating, and the Amadou Diallo shooting (he was shot 41 times by four New York police officers) it is evident that African Americans have also been subjected to unequal enforcement of the law as identified by the unusually harsh and arbitrary treatment African American suspects' experience. Today, many activist and critics suggest that some law enforcement procedures and policies result in the disproportionalities reported for African Americans who are funneled through the judicial system (Bobo & Thompson, 2006). It is within this judicial system that parents communicate with caseworkers, judges, and attorneys in response to allegations of child maltreatment.

Indeed, interventions and services provided by public child welfare services are mandated, regulated and supervised by the legal system (Roby, 2001). When a judge orders that a child be placed out of his or her home due to an allegation of child maltreatment, the parent not only becomes involved in the child welfare system but in the judicial system as well. At that point, the child welfare and judicial systems converge to facilitate the decision-making that occurs with respect to child protection issues. The juvenile judicial system provides the structure by which the laws related to child protection are interpreted and enforced. Judges, attorneys, and other professionals interact with parents to determine what steps must be taken to ensure that the child's need for safety and well-being is addressed. In such cases, "the judge's role is to issue protective

orders, learn the facts of the case, ferret out the legal issues, analyze the specific facts against the law, and ultimately make a ruling. The judge must then order a course of action which would be in the child's best interest" (Roby, 2001, p. 311). Although the juvenile justice system is based on the historical ideal of *parens patriae*, where the court treats children in the entirety of their family and support system and decisions regarding young people are made on a case-by-case basis, African American children are overrepresented in most juvenile justice systems throughout the country.

#### Disproportionality and Disparity in the Judicial System

According to a report published by the National Council on Crime and Delinquency (2009), African Americans make up 13% of the general US population, yet they constitute 28% of all arrests, 40% of all inmates held in prisons and jails, and 42% of the population on death row; in contrast, whites make up 67% of the total US population and 70% of all arrests, yet only 40% of all inmates held in state prisons or local jails and 56% of the population on death row (Hartney & Vuong, 2009). Further, the U.S. Government Accountability Office (GAO) (1990) reports that: "blacks were 12 times more likely to be arrested for robbery than were whites" (p. 2), and in 82 percent of the studies, race of the victim was found to influence the likelihood of being charged with capital murder or receiving the death penalty. Data further revealed that the murder of a white person was more likely to result in a death sentence than did the murder of an individual who was identified as African American (U.S. GAO, 1990). Additionally, according to Mauer (2004), "One of every eight black males in the 25-34 age group is locked up on any given day and 32% of black males born today can expect to spend time in a state or federal prison if current trends continue" (p. 79).

As expected, for African Americans disproportionalities and disparities also extend to the juvenile judicial system. According to Guevara, Spohn and Herz (2004), “there is some evidence that White and minority youth appearing in the juvenile court receive differential treatment” (p. 345). For instance, African American youth are disproportionately represented among adjudicated delinquency cases and those youth placed in residential placements. Thus far, the information presented provides important grounding for understanding how the intricate underpinnings of the child welfare and justice systems may buttress disproportionalities and disparities. Knowledge of how a report of child maltreatment comes to the child protection juvenile court system is also essential to understanding the dynamics related to this study.

#### The Report: An Allegation of Child Maltreatment

A report that a child is the suspected victim of abuse or neglect reaches the child welfare system, specifically the Child Protection Service (CPS) Department, in a variety of ways. For instance, law enforcement may respond to a complaint, determine the need for a child protection assessment and make a referral to the child welfare system. In other cases, a community member (i.e., neighbor, store clerk, etc.) or individual who, due to his or her role (i.e., teacher, medical professional), may report a concern for a child’s safety or well-being. For example, a doctor may examine a child who is brought to her office due to illness and notice an injury that is suggestive of something caused non-accidentally and report the matter to the authorities. Or, a neighbor may hear a child’s prolonged cries and report their concern.

When the report is received and determined to warrant further investigation, a CPS worker responds by conducting an investigation. The CPS worker must interview



the parent(s) and child(ren) to determine if there is evidence that maltreatment has indeed occurred and whether the child is at imminent risk of future harm. If the CPS worker concludes that the parent is unable or unwilling to provide for the child's need for safety and well being, the child may be separated from his or her family and the parent issued an order to appear in court to answer charges of child abuse and neglect.

As one might expect, when a parent appears in court the situation is highly charged with emotion. For many parents the mere prospect of having their child(ren) taken away, even temporarily, can evoke feelings of fear and anger. The CPS workers, attorneys, and judges may reciprocate the parents' emotions with anxiety and tension of their own. Yet, within the court environment, there is little tolerance for behavior that is other than poised and professional. Even those who appear in court and struggle from mental illness or who are under the influence of substances are likely to make efforts to maintain some degree of self-regulation. This contentious climate provides the springboard from which perceptions are formed and communications exchanged.

#### Research Questions

The purpose of this study is to determine if racial dynamics emerge during the communicative events that occur during the child protection juvenile court process and to explore the notion of objective decision-making as it relates to determining a parent's "fit-ness" to parent a child. Thus, the following research questions guide this study:

- 1) What are the contextual factors affecting the communication that occurs in the child protection juvenile court system?
- 2) Do racial dynamics emerge during communication encounters that are enacted within the child protection juvenile court process?

3) What effects do identified racial dynamics have on the child protection process?

According to Hill (2006) the causal factors that explain disproportionalities and disparities can be separated into three categories: elements of parent and family risk in which families have disproportionate needs due to factors that include substance abuse, incarceration, and mental illness; whether the family resides in a community with risk factors such as high levels of poverty, unemployment, single parenting, and those who are recipients of welfare assistance; and organizational and systemic factors including decision-making and system structure (Hill, 2006). Further, explanations of cause implicate such contributors as “the cultural insensitivity and biases of workers, governmental policies, and institutional or structural racism” (Bent-Goodley, 2003; Everett, Chipungu, & Leashore, 2004; McRoy, 2004; Morton, 1999a; Roberts, 2002). However, this study is exploratory in that it examines the impact of race with a focus on the communications that occurs involving the respondent parents, CPS workers/supervisors, attorneys, and judges or magistrates within the context of the child protection juvenile court process. Indeed, this research examines the impact the internal perceptual process may have on the interpretation of behavior of different race communicators. The decision to examine the matter from this perspective is an effort to broaden the scholarly dialogue that seeks to explicate the causal factors associated with the disproportionate and disparate outcomes for African American children who become involved in the child protection system. Furthermore, this study will be shared with experts and professions in the child welfare and juvenile justice systems so as to destabilize normative notions and practice conventions that deny the subjective nature of perception formation and uphold racial bias.

Subsequent chapters include a discussion of the theoretical frameworks that undergird this research. The frameworks discussed in Chapter Two include: Social Cognition Theory, An Interethnic Communication Theory, and Co-Cultural Communication Theory. Chapter Three describes the research methods used to examine the research questions while Chapter Four outlines the findings. Chapter Five provides a discussion and conclusions reached as well as recommendations for further research and steps in addressing, preventing and eliminating disproportionalities and disparities in the child welfare and juvenile judicial systems.

## Chapter Two: Theoretical and Conceptual Foundation

This chapter provides an overview of the theoretical perspectives that serve as the foundation for this study. Several theoretical perspectives including Constructivism, Social Cognition Theory, a Contextual Theory of Interethnic Communication, and Co-Cultural Communication Theory are used in examining the communicative process that is enacted when determining if a person is willing and able to provide healthy care for his or her child. Each will provide an important lens for viewing and understanding the communication events. Additional concepts that provide the foundation for this research are also explicated.

### Constructivism

This study is exploratory in that it examines the issue of disproportionality and disparity from a communication perspective to understand what impact race may have on the communicative events that occur. A constructivist approach serves as a framework for analyzing the impact. Denzin and Lincoln (2003) contend that, “the constructivist paradigm assumes a relativist ontology (there are multiple realities), a subjectivist epistemology (knower and respondent co-create understandings) and a naturalistic (in the natural world) set of methodological procedures” (p. 35). Further, through the constructivist lens, researchers examine the numerous realities constructed by people and the implications of those constructions for their lives and their interactions with others (Patton, 2002, p. 96). Thus, all of our perceptions and “understandings are contextually

embedded, interpersonally forged, and necessarily limited” (p. 96). In this study, the experiences of the CPS worker, attorney, judge, and respondent parent are deconstructed to understand the affect race may play on the interactions.

Further, there are issues of power that relate to the exchange of information and the resulting constructions. According to Hall (2002), power reflects “the conditions of unequal relations in terms of class, knowledge, and authority” (p. 261). This study also examines issues of power to understand the role power may play in the actions and reactions that occur.

### A Contextual Theory of Interethnic Communication

A contextual theory of interethnic communication is an approach focused on the communication event in which communicants engage. According to Kim (2005) an interethnic communication event is “an open system that consists of subsystems (or elements) that are functionally interdependent” (p. 327). The open system involves intricate components that are “directly or indirectly related in a causal network such that each component is related to at least some other parts in a more or less stable way within a particular period of time” (Goldenberg & Goldenberg, 1995, p. 357). Thus, a system focuses on the connection between interacting parts within the larger context; consequently, emphasizing the system’s unity.

Systems theory serves as an integral aspect of a contextual theory of interethnic communication. It is used in this study to provide a framework for understanding how context affects behaviors and in turn how behavior functions as an associative or dissociative factor during interracial or interethnic communications (Kim, 2005). A contextual theory of interethnic communication regards a communication event to be an

interethnic or interracial one whenever the communicator perceives himself or herself to be different from the other participant(s) in terms of ethnic or group membership (Kim, 2005). Kim (2005) contends that communication behavior “is defined broadly to include not only overtly observable (external) actions and reactions, but also covert (internal) actions and reactions” (p. 329). The external or observable behaviors are the activities of verbal and nonverbal message encoding, that is, the process of taking the information and feelings we want to communicate and putting it into a form or codes that can be transmitted. Then the behavioral information and feelings transmitted is decoded or translated by the receiver. One aspect of decoding includes the categorization of information about or from outgroup members (Kim, 2005). During the process of decoding “there is a strong tendency to simplify our cognitive representations of the social world by dividing persons into discrete social categories; that is, to perceive outgroup members as ‘undifferentiated items in a unified social category’ and not as individuals” (Kim, 2005, p. 329). Further, a contextual theory of interethnic communication suggests that when categories have been defined and labeled, processes of stereotyping are set into motion. Thus, the communication of a message does not ensure that during the process of decoding the message will be received without distortion. Indeed, there is no guarantee that “the picture in the head of the receiver will bear any resemblance to that in the head of the sender” (Kim, 2005, p. 27). Rather, there is a definite potential for message misinterpretation.

According to interethnic communication theorists, behaviors can be plotted along a continuum: “Behaviors close to the associative end of the continuum facilitate the communication process by increasing the likelihood of understanding, cooperation,

and the coming together of the involved parties into some kind of an at least temporary cooperative relationship” (Kim, 2005, p. 330). Associative decoding behaviors include the mental processes of mindfulness or “the pattern of perception and thought that seeks a finer cognitive discrimination and more creative ways of interpreting messages about and from outgroup members” (Kim, 2005, p. 330). It includes mindfulness which involves thinking that attends to the unique characteristics of a person distinguishing him/her from the individual’s perceived group identity.

Further, according to Kim (2005), “Behaviors at the dissociative end of the continuum tend to contribute to misunderstanding, competition, and an at least temporary coming apart of the relationship” (p. 331). Dissociative decoding behaviors include processes like categorization, stereotyping, communicative distance, and making the ultimate attribution error. Moskowitz (2005) defines a stereotype as:

A set of beliefs about the personal attributes of a group that can structure the way we think about this group. It is a list or picture in our heads of the behaviors, characteristics, and traits that our culture has taught us a particular social group is likely to possess; it allows us to categorize and make predictions about the members of that category when forming impressions. (p. 440)

Thus, a dissociative decoding behavior effectively challenges interethnic communication as it creates self-fulfilling prophecies prompting us to see behavior that confirms our expectations even when it is absent.

Ultimately, a contextual theory of interethnic communication focuses on “the interface of multilayered contextual forces” (Kim, 2005, p. 327). This would include the action and/or behavior as influenced by the communicator, the situation, and the

environment. Therefore, one may conclude that it is important to minimize the incidence of dissociative behaviors and encourage the use of associative behaviors as a means of facilitating effective interethnic communication.

### Social Cognition Theory

Social psychologists refer to social cognition theory as a framework for understanding thought processes. This approach is defined as “the study of the mental processes involved in perceiving, attending to, remembering, thinking about, and making sense of the people in our social world” (Moskowitz, 2005, p. 3). Social cognition theory contradicts the notion that one can exercise objectivity at will.

Indeed, the process of making sense of people or forming perceptions of others is a complex one born out of an effort to understand one’s environment and the people acting within it. According to Moskowitz (2005), “people detect features of others as revealed by their looks, posture, and gestures, and they make inferences and form impressions about those others based on those features, even in the absence of any interaction with such others” (p. 73). So people make assumptions about and form opinions of others prior to having any direct exchange. In explanation of this phenomenon, Moskowitz (2005) provides the following description for how people organize stimuli to make sense of it:

The information to which we have attended gets focused on for an analysis of its features. Next we have to determine what these features are representative of. This proceeds through a process called cue search. Here we analyze the features (or cues) and check them against categories that contain similar features; we attempt to match the features of the cue to one of our existing categories to which there



is sufficient feature overlap. The next step involves concluding that we have encountered an instance of a particular category if there is enough of a feature match between the category and the stimulus. At this stage, we make an inference that the new experience is actually just another instance of something we are already familiar with; we place the new experience into one class of things rather than another, assuming that the features it possesses means that it belongs in this class or category. (p. 113)

Thus, people take in the new information and immediately begin to categorize based on basic element such as shape, color, and other physical properties. During this categorization “comes the triggering of an associated set of inferences that provide us as perceivers with expectancies and informs us about how to act” (Moskowitz, 2005, 16). Again, this process occurs without interacting with the individual attended to resulting in perceptions formed of the person. For example, there are studies which examined the affect of perceived physical attractiveness on perceptions formed. Such studies found that research respondents judged pictures of “attractive” individuals to have a host of positive traits and behaviors including being kind, sociable, poised, interesting, warm, outgoing, having a fulfilling life, prestige, good moral character, and professional success (Eagly, Ashmore, Makhijani, & Longo, 1991; Mazur, A., 1986; Wilson & Eckel, 2006). These perceptions resulted from inferences and were made without the benefit of any information beyond that of a visual image.

The process of perception formation is done based on the perceivers sense of events, objects, or people seeming similar and thus appropriate for being grouped together. One then moves through a process of mental analysis (which includes making

inferences) to decide how to describe or depict the image or person in our mind and if needed, use language to articulate the constructed representation (Moskowitz, 2005; O’Keefe & Delia,1982;). Thus, perception or impression formation is a constructive process that builds one phase upon the other. Social cognition then assumes that an individual’s unique experience, including one’s cultural context, plays an important role in influencing what is worthy of attention and how to make sense of events, objects, and people.

Social cognition theory also contends that, “people are simplified, structured, and assigned to categories in much the same manner that objects are” (Moskowitz, 2005, p. 16). The raw materials related to person perception includes not only physical attributes such a color and shape but behavior as well. That is to say that we “engage in inferential processes that first tell us how to identify and interpret the type of behavior being enacted and then decide the most appropriate behavioral response to engage ” (Moskowitz, p. 17). Thus, this process of making inferences is a process in which people develop biased perceptions about the causes for positive and negative events. They then evaluate new information toward determining whether the new information has positive or negative implications.

Further, there is growing evidence among social psychologists that much of the cognitive activity involved in the construction of perception occurs in the subconscious beyond our conscious awareness and control. According to Moskowitz (2005),

We see ourselves as merely transcribers of the qualities displayed by others, despite the fact that our construal of them is heavily influenced by subjective forces (existing wholly in our own minds as perceivers) that are divorced from

the actual qualities of the persons being perceived. We remain naïve to our biased perception of others, clinging to the image of ourselves as objective. (p. 22)

This steadfast view of the self as objective is referred to as a condition of “naïve realism.” This naïve realism occurs at the initial stages of processing information. Indeed, early in processing, “selectivity of stimuli has already started to direct what we see and hear, prior to the involvement of our conscious will or conscious awareness of what we have done” (Moskowitz, p. 67). Thus, our perceptions begin to form during the subconscious phase of mental activity. This is important to note because objectivity is promoted in child welfare practice through a theoretical perspective referred to as the cultural competence model.

The cultural competence approach promotes the need for child welfare practitioners to attain education and training in order to become “neutral and impartial culture-free agents” (Yan & Wong, 2005, p. 181). It is assumed that the training enables workers to be competent in providing culturally appropriate assessment and effective intervention in cross-cultural and cross-racial interactions. Yet, some scholars argue that social work education and services is embedded in methods that are largely ‘monocultural’ and insensitive to the needs of different ethnic and cultural populations (Boyle & Springer; Carillo, Holzhalb, & Thyer, 1993; Schlesinger & Devore, 1995).

However, the cultural competence model continues to be regarded by many throughout the child welfare system as a means for ensuring that families who are members of marginalized groups due to their racial, cultural, and socio-economic identity are assessed and served in a fair and equitable manner. Indeed, there is a belief that cultural competence is accomplished when practitioners exercise self awareness in such

a way that the awareness of and sensitivity to workers' own values, biases, and power differences with their clients allows the practitioners to maintain objectivity (McPhatter, 1997; Kondrat, 1999; Yan & Wong, 2005). Thus, the cultural competence model assumes an ability to view oneself objectively and to maintain an objective position when interacting with others who are culturally and or racially different from the practitioner.

But research refutes this position. According to Moskowitz (2005), "the forces that shape social cognition even though we remain naïve to their influence include: (1) the context in which a behavior occurs (2) the ways in which we perceivers 'make' experience, how we construct perception and (3) the power of the data in shaping an impression of other people" (p. 23). Thus, while these factors play a critical role in the perceptions formed, these issues are not addressed as a part of the cultural competence model.

Indeed, studies show that preferences and attitudes are automatically activated without conscious intention or awareness to then exert their influence on thought and behavior to determine what should be the focus of the perceivers attention (Bargh, Chaiken, Govender, & Pratto, 1992; Bargh, Chaiken, Raymond, & Hymes, 1996; Fazio, Sanbonmatsu, Powell, & Kardes, 1986; Roskos-Ewoldsen, D. R., & Fazio, R. H. 1992). According to Moskowitz (2005), "An automatic process is one that is triggered directly and immediately from stimuli in the environment, rather than initiated by a conscious choice" (p. 85). So what we see and how we identify what we see, has already been labelled according to the subjective forces within us as perceivers; yet we remain unaware that such forces have been at work. As these cognitive processes are "internal, complex and often unavailable to the 'cognitor,' they are susceptible to generating

inaccurate perceptions, biases and distortions of external events” (Steele and Morawski, 2002, p. 37). This may be particularly true when racial and cultural difference is in operation.

### Co-Cultural Communication Theory

Co-cultural communication theory provides an approach for understanding the ways in which marginalized or co-cultural group members communicate in dominant societal structures. This theory focuses on the communication experience from the perspective of the co-cultural group member in an effort to understand how non-dominant group members adapt to communication when interacting in social systems with dominant group members. The theory is based on two assumptions. First, reality is a subjective social construction. It reflects human perception that “is not real in an absolute sense, as the sun is real” (Patton, 2002, p. 96). As such, reality depends on a worldview and “no worldview is uniquely determined by empirical or sense data about the world” (p.97). The second presupposition of co-cultural theory is that individuals may agree that there is such a concept as a “sun” but may have a different concept of what constitutes a sun. Thus, each interactant constructs a representation of his or her reality that is subjective and influenced by one’s historical and present cultural context.

According to Patton (2002), truth “becomes a matter of consensus among informed and sophisticated constructors, not of correspondence with an objective reality” (p. 96). As constructions held by non-dominant group or marginalized group members are often ignored or dismissed as invalid, co-cultural theory explains how co-cultural group members are marginalized in the dominant societal structures and aims to give

voice to the marginalized group member by placing them in the foreground when analyzing a communication event.

In offering further clarity regarding co-cultural theory, Orbe & Spellers (2002) define the phrase “co-cultural groups” as: “people of color, women, persons with disabilities, gays/lesbians/bisexuals, and those from a lower socioeconomic background” (p. 174). Thus, according to co-cultural theory, co-cultural group members adopt particular communication behaviors in an effort to manage life in oppressive dominant structures and ultimately manage tension. So, co-cultural group members generally have one of three goals for their interactions with dominant group members. One potential goal is assimilation, which involves relinquishing any distinguishing characteristic in an effort to blend in with the dominant group. Another potential aim is accommodation which is “the belief that communication is most effective when individuals can retain some of their cultural uniqueness” (p. 178). The third objective is separation in which the objective is to “join other co-cultural group members and create social communities and organizations that are reflective of their own values, mores, and norms” (p. 178).

Further, co-cultural communication theory contends that a marginalized group member chooses one of three communication approaches that are best able to achieve the outcome the individual desires. One possible approach is a nonassertive approach that includes “actions in which individuals are inhibited and nonconfrontational while putting the needs of others before their own” (p. 179). A second possible approach is one that is aggressive and is described as “actions more hurtfully expressive, self-promoting, and controlling, (putting self needs before the needs of others)” (p. 179). A third potential

approach is identified as assertive and involves “self-enhancing, expressive communication that takes into account the needs of both self and others” (p. 179).

Additionally, scholars contend that there are six interrelated factors that influence the process by which underrepresented groups communicate within dominant social systems. According to Orbe & Spellers (2002) the six factors are:

1. The individual determines the preferred outcome for their interaction based on what communication behavior will lead to the desired effect;
2. The field of experience which refers to the sum of an individual’s lived experiences and is influenced by the impact of ones past experiences communicating with dominant group members;
3. The person’s relative ability to enact different practices for managing communication with dominant group members;
4. The situational context which refers to where the interaction occurs, who is present, and the particular circumstances that shape the interaction;
5. The perceived costs and rewards associated with ones selected communication behavior;
6. What communication approach: nonassertive, assertive, or aggressive does the situation call for. (p. 175)

Co-cultural theory combines these six factors in various ways to describe several possible communication orientations that a marginalized group member might utilize when interacting within socially dominant social structures. Just as one has several cultural identities, many co-cultural group members operate in one or more orientations during the course of their day depending upon the situational context involved. Orbe (1996)

provides a detailed description of the nine communication orientations that may be used by marginalized group members. However, only a brief synopsis of each is provided for the purpose of this study. The possible communication orientations as outlined by Orbe (1996) include the following:

1. A nonassertive assimilation orientation that displays “communicative practices like emphasizing commonalities and censoring self as a means to blend into the dominant society;” (p. 179)
2. The assertive assimilation orientation of communication that reflects an “attempt to fit into dominant structures by highlighting the quality of their contributions as individuals;” the individual engages “practices such as “bargaining, overcompensating, and extensive preparation;” (p. 179)
3. An orientation identified as aggressive assimilation “takes a determined, sometimes belligerent, approach to efforts at being seen as one of the dominant group...place great importance on fitting in;” (p. 179)
4. A communicator that uses a nonassertive accommodation style strives “to invoke change through a seemingly constrained and nonconfrontational manner” including, such practices as putting his or her “best foot forward” in an effort to become more visible; (p. 179)
5. Assertive accommodation is a communicative orientation that “creates a balance between self and others’ needs in attempts to transform societal structures;” the person is “able to work with others—both co-cultural group and dominant group members—in order to change existing dominant structures;” (p. 180)



6. The orientation described as aggressive accommodation involves a marginalized group member who strives “to become part of dominant structures and then work from within to promote change;” the individual uses “confrontational tactics and power moves to gain advantage” but is “not overly concerned with dominant group perceptions” of his or her actions; (p. 181)
7. A nonassertive separation orientation reflects the “use of subtle communication practices to maintain a separation orientation during co-cultural group interactions” (p. 181). The act of avoidance is implemented whenever possible. However, when interaction with dominant group members is unavoidable the co-cultural group member subtly enacts certain behaviors that create psychological distance between the two thereby promoting separation;
8. An assertive separation orientation involves individuals who are “self-assured in their attempts to create co-cultural structures exclusive of dominant group members” (p. 181). Such practices as “exemplifying strengths and embracing stereotypes” may be included;
9. The aggressive separation orientation “seeks to exert personal power through the use of co-cultural communicative practices like verbal attacking and sabotaging dominant group efforts;” this approach does not involve personal power that matches “the societal power bases of dominant group members [but] they do enable some individuals to confront the pervasiveness of dominant structures on a smaller level.” (p. 181)

Thus, there are multiple factors that act as agents to frame the communicative event for the co-cultural group members. Further, co-cultural group members may develop

considerable mastery in the ability to engage the necessary communication behaviors needed to successfully navigate communication in a dominant institution. Co-Cultural Communication theory is used in this study to understand the behavior of a respondent parent who is in a racially marginalized position during the communicative event that occurs during the child protection juvenile court process.

### Human Communication and Cultural/Racial Difference

The thrust of this research is the correlation between communication and race as they relate to the juvenile justice and child welfare systems. Human communication is the process through which individuals respond to and create messages to convey information to one another” (Ruben & Stewart, 1998). Indeed, communication serves as the foundation for the decision-making that transpires in child welfare and juvenile justice systems. Since referrals of child maltreatment are reported on parents of all socio-economic and educational levels as well as various ethnic and cultural groups, it is critical that those who are responsible for assessing and intervening in such situations possess the knowledge and skill needed to communicate effectively with people whose culture may differ from theirs. According to Hall (2002) culture is defined as:

the production and the exchange of meanings – the ‘giving and taking of meaning’ – between the members of a society or group. To say that two people belong to the same culture is to say that they interpret the world in roughly the same ways and can express themselves, their thoughts and feelings about the world, in ways that will be understood by each other. (p. 2)

Indeed, the meaning of the term “culture” differs from that of “race “in that race refers to a “political and social construct. It is the organizing discursive category around which has

been constructed a system of socio-economic power, exploitation and exclusion – i.e., racism” (Gunaratnam, 2003, p.4). “Ethnicity” on the other hand refers to difference that is grounded in cultural and religious features...[however]...the articulation of difference with Nature (biology and the genetic) is present, but displaced through kinship and inter-marriage (Guanaratnam, 2003. p. 4). According to Ruben and Stewart (1998) “human communication is the process through which individuals, in relationships, groups, organizations, and societies, respond to and create messages to adapt to the environment and one another” (p. 16). It serves as the foundation for the decision-making that transpires in the child welfare and juvenile justice systems. Since referrals of child maltreatment are reported on parents of all socio-economic and educational levels as well as various ethnic and cultural groups, it is critical that those who are responsible for assessing and intervening in such situations possess the knowledge and skill needed to communicate effectively with people whose culture may differ from theirs.

#### Summary

This chapter addressed and defined the theoretical perspectives that buttress this research. The paradigms discussed include: Social Cognition Theory, A Contextual Theory of Interethnic Communication, and Co-Cultural Communication Theory. Some of the main points made during this discussion were: 1) Social Cognition Theory is a framework for understanding the mental processes involved in perception formation 2) Co-Cultural Communication Theory provides a framework for understanding the ways in which child marginalized people communicate in dominant social structures, and 3) a Contextual Theory of Interethnic Communication offers a framework for examining how

context affects communication. The following Chapter Three outlines the research methods utilized to collect and analyze data for this study.

## Chapter Three: Methodology

This chapter describes the process used to collect and analyze data for this study. It identifies the process for the recruitment of participants, outlines the methods used in collecting and analyzing the data, and includes a description of the study sample. The research questions for this study are:

1. What are the contextual factors affecting the communication that occurs in the child protection juvenile court system?
2. Do issues of race emerge during communication encounters that occur within the child protection juvenile court process?
3. What effect do any identified dynamics related to race have on the court process when there is an allegation of child maltreatment?

This study employed qualitative techniques of inquiry and methods of analysis to better understand the experiences of communicants who interact in the child protection juvenile court system. Denzin and Lincoln (2003) define qualitative research as a situated activity that locates the observer or researcher in the world. Qualitative methods include a set of interpretive, material practices that make the world visible. Researchers who utilize qualitative methodology study things in their natural settings, attempting to make sense of, or to interpret, phenomena in terms of the meanings people bring to them. Research methods associated with this approach consist of “ways of finding out what people do, know, think, and feel by observing, interviewing, and analyzing documents” (Patton, 2002, p. 145).

## Phenomenology

Conducting qualitative research intended to produce knowledge about race-related difference can be a complex process as it often relies on contested conceptualizations that define race based on biological distinctions (Gunaratnam, 2003). This study does not seek to determine how participants in this research construct racial difference but rather to better understand how social discourse in the child welfare and juvenile justice systems may be affected when race-related difference is a factor. Thus, phenomenology was identified as the preferred research method for answering the research questions for this study.

Regarding phenomenology, this method can be engaged as a tool of inquiry that focuses on examining how humans make sense of experience and transform experience into understanding. Supporting this claim, Moustakas (1994) contends:

The empirical phenomenological approach involves a return to experience in order to obtain comprehensive descriptions that provide the basis for a reflective structural analysis that portrays the essence of the experience. The approach seeks to disclose and elucidate the phenomena of behavior. (p. 13)

Thus, this study employs a phenomenological framework to provide the structure needed for “interrogating the trajectories of power through which systems of domination and oppression among groups of persons are sustained” (Martinez, 2006, p. 293). Further, phenomenology is utilized to determine the underlying structures of the communicative experience by interpreting the originally given descriptions reported of the communication events which occur.

Further, this research engaged a hermeneutic perspective to inform the process of inquiry and analysis. A hermeneutical approach is utilized to examine the conditions or context in which the communicative events are enacted thereby contributing to the interpretation of meanings reached. Hermeneutic philosophy suggests that, “what something means depends on the cultural context in which it was originally created as well as the cultural context within which it is subsequently interpreted” (Patton, 2002, p. 113). Additionally, in using this as a research paradigm, hermeneutics also places the role of the researcher in the foreground by stipulating that, “one can only interpret the meaning of something from some perspective, a certain standpoint, a praxis, or a situational context” (p. 115). Thus, the researcher constructs “reality” on the basis of their interpretation of information with the assistance of the participants who provided the data in the study.

According to Patton (2002) phenomenological analysis seeks to grasp and elucidate the meaning, structure, and essence of the lived experience of a phenomenon for a person or group of people. In this study, the phenomenon under examination is the communicative event in which communicants interact to exchange meaning concerning children’s best interest. Additionally, for this research, phenomenology provides a means for examining and analyzing the lived experience of parents, attorneys, CPS workers, and judges who interact within the child protection juvenile court process to determine a child’s safety.

There were several factors that contributed to the identification of phenomenology as a suitable research method for this study. First, phenomenology makes room for a sub-cultural or co-cultural perspective with the contention that “reality can never be fully

apprehended, only approximated” (Denzin & Lincoln, 2003, p. 14). Second, a phenomenological approach focuses on how social reality forms in human interaction with the environment, and in particular, in communicative interaction with others. Third, phenomenology encourages the use of reflexivity “as a way of emphasizing the importance of self-awareness, political/cultural consciousness, and ownership of one’s perspective” (Patton, 2002, p. 64) related to the research process. Finally, phenomenological methods allow research a great degree of access to the historically residue of human experience where cultural perception and expression is created and maintained.

#### Participant Recruitment

The researcher obtained approval from the University of Denver’s Institutional Review Board to conduct research for this study. Participants were from one of four key informant groups including respondent parents, CPS workers/supervisors, judges or magistrates, and attorneys. The attorneys included individuals who represented the respondent parent’s legal interests (respondent attorneys), those who represented the Department of Human Services (agency attorneys), and those who represented the child (Guardian Ad Litem or GAL). The decision to include these varying perspectives reflects an effort to include diverse perspectives and to gain first hand knowledge about the lived experiences of those who are primary performers in the system.

A local conference on the Minority Overrepresentation of Children of Color in the Child Welfare System was identified as a potential source for recruiting participants. The conference was attended by judges, attorneys, and CPS workers. In attendance for the conference, the researcher made an impromptu appeal for research participants during the



“Question and Answer” section of the conference. This public appeal resulted in the identification of several participants.

Area court administrators/coordinators were also contacted as were program administrators/coordinators in both the public and non-profit sectors of Human Services Departments. The researcher provided information explaining the goals of the study and requesting assistance in the use of their existing email listserves and mailing addresses for the purpose of identifying potential participants for this study. The researcher sent an indeterminate number of emails to judges and attorneys and over 256 letters to parents whose child protection case was closed prior to November 2006 requesting participation in the study. There was no way for the researcher to determine the ethnic or racial background of those who were sent requests to participate in the study as the researcher had to rely on others to utilize their confidential sources for accessing contact information.

Concerning recruiting CPS workers/supervisors, the researcher contacted individuals who were previous co-workers in the field of child protective services and requested referrals to individuals who might be interested in participating in the study. These efforts resulted in obtaining judges, attorneys, and CPS workers/supervisors to participate in the study.

Additionally, the researcher contacted a private community family services agency, which that was located in a predominantly African American neighborhood, to recruit potential study participants. The contact resulted in the recruitment of a CPS worker who is Latina and another who is African American. The appeal did not result in the recruitment of any respondent parents.

Overall there was little success concerning recruiting eligible respondent parents to participate in the study. It was discovered that agencies and attorneys no longer had a “good address” (i.e. addressee no longer residing at the address, no forwarding address, etc.) for reaching parents whom had previous involvement with the child welfare system two years after closing the case. Further, the University of Denver’s Institutional Review Board stipulated that only those parents whose child protection case had been closed for a minimum of two years could take part in the research. The intent was to minimize any potential harm of recreating trauma or anxiety for the parent. Ultimately, recruitment efforts resulted in a response from one eligible respondent parent expressing an interest in participating in the study. Indeed, it is possible that after two years, parents either feared they would not be well served by revisiting the past child maltreatment case or that it was a chapter in their life they simply wanted to leave in the past thus explaining the lack of response to requests for participation. This was an unexpected development for the researcher who anticipated that respondent parents would view participation in the study as an opportunity to have their voices heard.

This study sought to determine if racial dynamics emerged during the communicative events that occurred in the child welfare and juvenile judicial systems. A response concerning the interconnectedness of race and communication is not limited by one’s racialized positionality but can and will be answered based on the experiences and perceptions of the participants involved in this study.

When potential study participants responded either by email or by phone, a “Request for Participation” letter (See Appendix A) was sent to each as a formal request for the person’s participation in the study. An individual’s follow-up response resulted

in the arrangement of a time and place to conduct the interview which was determined based on the participants wishes. One prospective participant was ineligible to participate. This participant's case had not been closed for a period of two years. Another person did not appear for the interview. A total of 17 individuals participated in this study.

### Data Collection

The researcher gained data for this study from participant observations and in-depth semi-structured interviews using interview guides. Since the goal of this study was to examine what role race may play in the communicative events enacted during the process of determining children's best interest, an urban Department of Human Services was identified as the site in which to assume the role of participant observer. The researcher made this selection in an attempt to increase the potential for observing interactions that reflected the intersection of racial difference. The child protection juvenile court process was observed over a period of three months in an effort to view the phenomenon from a broad perspective. A total of twelve observations were conducted and each observation lasted an average of three hours. Interviews ranged in length from approximately 20 minutes (in the case of the respondent parent) and lasting as long as one and a half hours (an interview with an attorney).

As the interview is a "conversation, the art of asking questions and listening" (Denzin & Lincoln, 2003, 48), the purpose of the interview in this study was to determine the "hows" and "whats" of people's experiences. Indeed, the utilization of the semi-structured interview allowed for the use of probing questions to ensure that the participant's responses reached the depth and clarity needed to ensure understanding for

the researcher. The interviews for this study were initiated with an explanation for conducting the study including the motivation for selecting the research topic. The “Informed Consent” form (See Appendix B) was then discussed and the participants’ signature obtained acknowledging his or her understanding of and desire to participate in the study. Each interview that was obtained for this research was initiated with an explanation of the study including the stimulus for selecting the research topic. The motivation cited was to identify what is needed to improve the process of communication that occurs in the child protection juvenile court process.

The “Interview Guide” was developed for use with CPS workers, attorneys, and judges (See Appendix C). The “Parent Interview Guide” (See Appendices D) was employed during the interviews with a parent or guardian. The researcher utilized a guide to ensure that the same basic lines of inquiry were used with each participant (Patton, 2003). The guide also permitted the interview to be conducted in a more systematic and comprehensive way so as to gain an understanding of what participants think and the interactions that occur during the communicative events.

For this study, data were collected over a period of four months. The data included the researcher’s field notes, which were taken during observations of court proceedings and also during interviews. Additionally, the researcher audio-taped each interview (with each participants’ permission) so as to record an accurate account of the data reported. The audio-taped interviews were stored in a locked file cabinet in the researcher’s home office and then erased and destroyed once the dissertation was completed. The actual names of participants were not used in the analysis of the data. Instead, a pseudonym was assigned to each participant to maintain each person’s

confidentiality. Further, all participants completed either a “Demographic Questionnaire” (See Appendix E) given to CPS workers, attorneys, and judges or a “Demographic Questionnaire for Parent” (See Appendix D) at the conclusion of the interview to obtain general demographic information.

### Participant Demographics

Of the 17 study participants, nine were female and eight were male. Participants reported their own ethnicity/race as follows: one as Asian/Asian, four as African American, three as Latino or Latina, and nine as White or Caucasian. Participants included three judges, five child protective service (CPS) workers, two supervisors of CPS workers, five attorneys, one respondent parent, and one legal guardian of relative children. The mean years of experience for CPS workers was 12 years, for supervisors 10 years, for attorneys 23 years, and for judges 19 years. The study participants ranged in age from 35 to 61.

### Epoche

Phenomenologists contend that phenomenology involves a multi-staged process of analysis that begins first with epoche, progresses to phenomenological reduction, then moves to imaginative variation, and ends with a process of synthesis (Moustakas, 1994; Patton, 2002). According to Patton (2002) epoche is the ability “to refrain from judgment, to abstain from or stay away from the everyday, ordinary way of perceiving things” (p. 484). Thus, the challenge of the epoche phase is to allow whatever is present to the consciousness to reveal itself so that we may see in a naïve and completely open way. This is described as “a process that the researcher engages in to remove, or at least

become aware of prejudices, viewpoints or assumptions regarding the phenomenon under investigation” (Patton, 2002, p. 485).

The pursuit of epoche involved focused attention devoted to the researcher’s situatedness as a previous CPS worker/supervisor and an African American parent. This was accomplished by pointing out experiences and ideological frameworks that shape interpretations reached in this study. For example, it was noted that as an African American ex-CPS worker and supervisor, the researcher was often positioned as the dissenting voice in a social work profession largely dominated by Caucasians. There were many instances in which Caucasian colleagues labeled African American parents who used strict discipline (i.e., children may not talk back or challenge one’s parent, children must obey their parents as persons in a position of authority, etc.) as rigid and controlling and deemed such behavior to be incongruent with the child’s best interests. While the researcher accepted this as one plausible interpretation, the researcher understood the behavior quite differently. Indeed, from the researcher’s perspective, strict discipline reflected a responsible parent striving to provide a child with essential skills needed to survive in a racist society.

Additionally, from a phenomenological perspective, Riessman (1994) describes the challenging positioning of the researcher, stating:

We are not robots who collect pure information, but humans with emotions, values, social biographies, and institutional locations. They shape the problems we choose, the ways we go about studying them, the eyes we bring to observation, and the relationships we have in the field. (p. 135)

So begins the difficult task of disentangling the data collected for this study in a way that reflects balanced understanding and portraying the world accurately in all its intricacy while being self-critical. Thus, the researcher engaged epoche in an effort to be “as transparent as is reasonably possible about the epistemological, ontological, theoretical, and personal assumptions” that inform this research (Doucet & Mauthner, 2002, p. 125).

### Data Analysis

Following the collection of data for this study, the researcher engaged in phenomenological reduction or data analysis. This process began with the researcher transcribing each interview, beginning analysis during the transcription process and reading of the transcriptions. During the second reading, the researcher highlighted words, phrases, and statements that described and/or explained how the participant experienced the communication events which occur in the child protection juvenile court process. The researcher then bracketed the data; to bracket data “the researcher holds the phenomenon up for serious inspection” (Patton, 2005, p. 485). The data was then dissected – a process during which foundational components and structures were noted and analyzed. During this phase of the process, “every perception is granted equal value” a step referred to as horizontalizing (Moustakas, 1994, p. 97). During this intense analysis, the researcher developed a second grouping, forming larger meaning units referred to as themes. This occurred through a process of delimitation by which irrelevant, repetitive, or overlapping data were eliminated, resulting in an expanded version of the themes.

Further the researcher engaged in a phase known as imaginative variation. This has as its goal to seek potential meanings by using imagination in differing the frames of reference, employing polarities and approaching the phenomenon from divergent

perspectives, and positions. According to Moustakas (1994), that imaginative variation includes four phases:

- 1) Systematic varying of the possible structural meanings that underlie the textural meanings;
- 2) Recognizing the underlying themes or contexts that account for the emergence of the phenomenon;
- 3) Considering the universal structures that precipitate feelings and thoughts with reference to the phenomenon;
- 4) Searching for exemplifications that vividly illustrate the variant structural themes and facilitate the development of a structural description of the phenomenon.

(p.99)

Thus, the researcher noted the experience of the phenomenon in the form of poignant illustrations of the phenomenon. The descriptions included information about how participants described the context or structure in which the communicative event occurred.

The final phase of the analytical process is that of synthesis. This phase is the fundamental synthesis that represents the “essence of a particular time and place from the vantage point of an individual researcher following an exhaustive imaginative and reflective study of the phenomenon” (p. 100). Thus, during this phase, the researcher developed composite descriptions of the communicative event including any perceptions about the impact of race as described by the participants.



## Summary

Chapter Three discussed the use of phenomenology as a research method for this study. This chapter also provided a detailed outline of the methods used by the researcher for data collection and analysis. The stages of phenomenological methodology include epoche, phenomenological reduction, imaginative variation, and synthesis. Chapter Four will present the results of the data analysis.

## Chapter Four: Findings

This qualitative study takes a phenomenological approach in examining the experiences reported by respondent parents, judges or magistrates, attorneys and CPS workers/supervisors related to communication events that occur to determine the status of a child's safety and well-being. Data for this study were collected over a period of seven months; during four of the seven months information was acquired utilizing in-depth, semi-structured interviews. Each study participant was interviewed and their responses to eight questions audio-recorded. The researcher transcribed each interview and read the transcriptions while highlighting key words, phrases, and statements that explained or described how participants experienced the communicative events that occurred during the child protection juvenile court process. The highlighted information was then grouped into units having similar meaning followed by a second grouping conducted to determine overarching themes. The major themes identified in this study include: context matters, race matters and other-ism is enacted.

Demographic information was also collected from participants. Of the 17 study participants, nine were female and eight were male. Participants reported their own ethnicity/race as follows: one as Asian American, four as African American, three as Latino(a), and nine as White/Caucasian. Participants included three judges, five child protective service (CPS) workers, two supervisors of CPS workers, five attorneys, one respondent parent, and one individual who sought the legal guardianship of relative children due to reports that the children's parents maltreated the children. The mean years

of experience for CPS workers were 12 years, for supervisors 10 years, for attorneys 23 years, and for judges 19 years. The study participants ranged in age from 35 to 61 (See Table 1). To protect the confidentiality of the participants, when writing about the participants, the researcher used pseudonyms.

Interview #	Role	Self Reported Gender	Self Reported Ethnicity	Years of Experience
01	Judge Sabrina	Female	Latina	6 Years
02	CPS Worker Molly	Female	African American	10 Years
03	CPS Worker Ana	Female	African American	25 Years
04	CPS Supervisor Beth	Female	African American	10 Years
05	Attorney Amanda	Female	White/Caucasian	31 Years
06	Attorney Jeff	Male	White/Caucasian	22 Years
07	CPS Worker Bill	Male	White/Caucasian	10 Years
08	CPS Supervisor Kim	Female	White/Caucasian	10 Years
09	CPS Worker Angie	Female	Latina	4 Years
10	CPS Worker Kirk	Male	African American	4 Years
11	Attorney Craig	Male	Asian American	7 Years
12	Attorney Peter	Male	White/Caucasian	29 Years
13	Judge Rudolph	Male	White/Caucasian	33 Years
14	Respondent Parent Pat	Female	White/Caucasian	N/A
15	Attorney Gordon	Male	White/Caucasian	26 Years
16	Judge Tim	Male	White/Caucasian	22 Years
17	Legal Guardian Glenda	Female	Latina	N/A

## Child Protection Court: The Context for Communication

This chapter begins with a description of the essentialized role characterizations as reported by those who participated in the study. The essences related to characteristics used to describe the judge, attorney, CPS worker, and respondent parent are provided. This information is important in understanding how the communicators relate to one another.

### The Judge

In the child protection juvenile court system the judge is positioned at the system's apex and wields overriding power and authority over the proceedings as well as the communicators who interact therein. The judge's demeanor, tone of communication, and utilization of power creates a climate in which communicators (CPS workers, attorneys, and parents) either feel encouraged to share their information or are inhibited to do so. Further, judges set the foundation by either promoting a goal of the exchange of meaning, which promotes mutual understanding, or the goal of an exchange of information, which is focused on simply the delivery of information. The following descriptions illustrate perceptions of the judge:

I think many judges that I stood before tend to be very imposing and intimidating individuals. (CPS worker Bill)

The judges need to say 'OK, I'm still a judge but I don't have to talk and behave like a judge in that stern commanding voice or tone. [...] If I am sitting high on a bench and you're low on that bench automatically it's created a barrier in the communication. I mean it's like in the old royalty, right. They had that king fellow or prince on the high elevation. Automatically what happened? You got intimidated. (Attorney Craig)

I actually think the presence of the judge – in his robe and with the formal language, 'I'm advising you' and those kind of words – I actually think you do see the parent, who was hostile in the hallway, now kinda settle down. There's

much more respect for the judge than really probably anybody else out there. (CPS supervisor Kim)

Some judges are very formal and they stick to, uh, like an advisement and it's going to be pretty much verbatim, they don't take the time to really explain the terminology. They certainly will ask them [the respondent parent] 'Do you understand what I just said?' but everybody generally nods their head whether they understand or not. (Attorney Amanda)

The judge is also viewed as being emotionally disconnected in some ways while at other times struggling with reactions and emotions that are dissociative to the process of effective interethnic communication. Participants contend:

With the judges it was more, 'You're just a docket. You're just another face in the crowd' that somewhere along the line has turned from a crowd into being a tidal wave. And they see people so much and they see the same people that they get so tired of it. It's just they're burned out. It's just an eight hour day [...] We went in front of several Black judges and it seemed to me that the Black – the two Black judges that we went in front of were more open and eager where the Caucasian ones were just like 'Come on. There's gotta be a way to just end this today.' It was not only that but they were older. They were older judges that I'm sure were just to the point where it was like, 'OK, I've already heard this story; different players but same story.' I think a lot of it is they're burned out. They're so tired of seeing the same thing over and over again. (Guardian Glenda)

And particularly our current juvenile judge has struggled with that emotional response. And it has impacted some cases significantly. And it's one of the more difficult things for somebody like me, who's been in it for a long time, to get around and to sort of say 'OK, how I can present this differently to the court so that there isn't that immediate emotional response?' But then they also – parents will have an emotional response – that will set off the judge who's more likely not to have that and then again we're back to where we start losing control of where the case should be going and making good decisions about the case. (Attorney Jeff)

I think that the judges get frustrated with the parents who come back time after time and who don't make any improvement in their circumstances. (Attorney Amanda)

#### The Respondent Attorney

In most situations a respondent parent, based on his or her income, is assigned an attorney to represent the respondent parent's interest in a child protection case. According

to Roberts (2002) “With rare exception, the families who become involved with the child welfare system are poor,” (p. 27) and unlikely to have access to the financial resources needed to retain an attorney as a legal representative. However, the law requires that “indigent parents are entitled to a court-appointed lawyer in child removal, placement, or termination of parental rights proceedings” (Brittain & Hunt, 2004, p. 457). Thus, the respondent attorney’s role is to represent the wishes of his or her client and to ensure that their client is informed about the legal process. According to Hardin (2005) “The diligent parents’ attorney will perform an independent investigation and consult with independent experts and they will advocate the will of the parents” (p. 691). This seems to occur in varying degrees and attorneys reflect different levels of competency. Indeed, the findings from this study identify a concern regarding the quality of legal representation that indigent respondent parents may receive.

As far as the attorneys are concerned, and I don’t want to sound biased, but I, I do think that most attorneys do an adequate or better than adequate job of making sure that their clients understand the legal process. (Attorney Amanda)

I have been having this issue kinda nonstop where court starts at 8:30, I’m sitting on the bench, my staff is there, the parents are there, and I don’t have attorneys showing up on time. And I think that sends such a horrible message. [...] What I hear the most from the parents complaining is the lack of preparedness by their lawyers and just feeling like they’re one of a hundred clients [...] I think there are some respondent parent counsel that really shouldn’t be doing this work because quite frankly I don’t think they’re competent. And I don’t think they explain the process as well as they should. And because we have so few lawyers that want to do this work they have a lot of cases. So, they take on a lot of cases and then they don’t have enough time to really advocate for their clients, to stay in touch with their clients. I have a lot of people come, a lot of parents coming in complaining that their lawyers never returned their call, their lawyers didn’t provide any legal advice, and didn’t do the things that lawyers are suppose to do. (Judge Sabrina)

Attorneys, defense attorneys communicate with the parents in their own style. They communicate well, they communicate poorly – a combination of the two depending on what kind of parent they get and it is not, there’s no oversight and should not be. (Attorney Peter)

And what I try to do and I tell my clients see ‘You’re not my only client. Now by the nature of the beast, just because I have to be the attorney to give you effective representation I must have a good relation with the attorneys over there.’ I say ‘OK let me ask you. If you and your wife or a friend don’t like each other will you try to be understanding to that person’s position or with your grandfather or relative or anybody else? You first have to like the person to even want to communicate with a person right. Or even to hear the person, ok? So I say ‘I have to use that. I first need the other side’s attorneys and the DHS [Department of Human Services] attorney and including the judge to at least like me; that I am a personable person. Correct? But that doesn’t mean that I am going to sell you down the tube, OK? I don’t do that.’ (Attorney Craig)

Attorneys are on a contract. State pays a set amount of money for you to handle one of these cases. And so, you have to decide I think, as a lawyer how you’re going to utilize your time. (Attorney Amanda)

There’s a problem in the system with how we’re paid that rewards mediocrity. [...] What we’ve done in [name of state] is we’ve come up with a flat rate contract pay. So, if you put in a hundred hours or ten hours it’s all the same. Human nature being what it is, typically lawyers don’t put in the time they should because they’re certainly not paid for it. So the system generally encourages us to do the least. (Attorney Gordon)

The high caseloads can impact an attorney’s ability to be prepared in a particular situation. It makes it more difficult for them to stay in contact with clients; they’re in court more often. We’re fortunate that we have experienced people who are able to handle things kind of on the fly. But that also is not necessarily the best way to represent a client in cases as difficult as some of these can be. (Attorney Jeff)

Frequently, many parents haven’t talked to their attorney from one hearing to another; get no advice, no guidance, and no input. [...] I think there’s an honest tendency amongst people in the entire child welfare system, too many people, to put in just the acceptable effort; that there’s not enough people willing to put in an extraordinary effort. And too often that’s let slide by lawyers, by the case [CPS] workers, by the judges by everybody in the system. Like I say, we’re kinda pals and we’re too tolerant of doing a crummy job for our parents. (Attorney Gordon)

#### CPS Worker

The role of the CPS worker is to manage the case which includes the coordination of services and forging a relationship with the respondent parent in a way that supports the parent’s ability to safely parent and respond to the needs of his or her child. There

appears to be a range of practices reflected and degree to which this is achieved. Further, the CPS worker appears to be challenged by time constraints and have conflicting emotions where the respondent parent is concerned. For example, a worker may struggle with competing needs; on the one hand a need to approach the respondent parent in order to obtain information, and on the other hand a fear of giving the parent too much or inaccurate information resulting in legal action being directed against the worker.

I think we have good workers – no matter what the ethnic background is – and they're able to deal with different people from different lifestyles, ethnic groups, cultural groups. And then we have some workers who truly don't understand. They grew up in their own little world and know what they see again on the media, what they read in the magazines, they don't really understand what that person is in front of them [...] I think it depends on the worker. I think you've got really good workers who really care about their families who are willing to go the extra mile and again treat their clients with respect and make sure that they're getting their needs met. [...] And I think you've got some workers who take pride in being punitive, being the bad guy. (CPS supervisor Beth)

I think court is probably the place where the most awkward communication occurs. And I say that because 72 hours or less prior to court, this caseworker [CPS worker] was out at this family's home really getting into some pretty heavy personal things for this family; and finding out a lot about them very quickly. And then all of a sudden we get to court and there's like there's this invisible wall now between the client and the caseworker. And I don't know if that's a, 'need to be careful because now they're going to have an attorney and so I need to let the attorney do the talking for them; I shouldn't be advising them about what this process is about' or whatever. So it's almost like it creates this artificial barrier where before there was a lot of communication. Workers saying, 'You need to tell me about this because if you don't and I can't figure it out here's where we're headed.' And now all of a sudden it's like 'I don't want you to tell me anything more. Talk to your attorney.' (CPS supervisor Kim)

The caseworker also holds a tremendous amount of power. She or he not only may shape the trajectory of the case through the words utilized to describe the parent, the child, and the situation, but the CPS worker also has input concerning the degree to which the parent comprehends and is engaged in the assessment and planning involved



in the case. A factor in this process may be the brief amount of time utilized in which to address these matters. Participants contend:

A lot of times the respondent parents are not involved in actually assisting the caseworker in the components of the treatment plan. So, they're coming to court on the day of the hearing, they're getting a treatment plan that's put right in front of their face, and they're being asked if they agree to it. And I just thought that's a lot of information to take in without just further discussion taking place. (Judge Sabrina)

Caseworkers are overworked. They don't really have time to really spend twenty minutes on the phone with a client or, should I say they choose not to take the time to spend twenty minutes with the parent. (Attorney Gordon)

#### Respondent Parent

The respondent parent is positioned at the bottom of the system's hierarchy.

Similarly, the person is often positioned in the margins of society. This is often true concerning race, socio-economic status, education, and linguistics. Participants describe the respondent parent in the following terms:

Respondent parents in general, and this has nothing to do with race or gender, in general are not well treated in the child welfare system. And I think there's a real lack of communication with them. I don't think that they really understand what the expectations are. (Attorney Amanda)

I think a parent's angry; frustration in dealing with the department obviously, tremendously affects communication and frequently will result in a lot of negative delays. It just seems like once you get that snowball started, it just kinda gets out of control and becomes enormous (CPS worker Angie).

We know that parents come into the system, especially the first time they come in, like deer in headlights often. [...] People [respondent parents] don't want to be here for the most part. They are angry, often they are ashamed. They have regret about a lot of things. As I say they are sometimes in a fog because of drugs or alcohol. (Judge Rudolf)

Maybe some people might not understand or have the knowledge about what they're saying. Cause there's some words they use and you don't understand and you're like, 'You need to explain, I don't understand that' (Parent Pat).

I felt that they deemed me as uneducated and ignorant. (Guardian Glenda)

There's very little control that parents can exert in this system and it is not an equal playing field by any means. (Attorney Amanda)

They [the respondent parent] communicate directly with social services to stay updated as to hearings and those kinds of things. But it's very clear from the court and the process that it's their responsibility to remain in contact with their attorneys and it's their responsibility to stay up to date. (Attorney Jeff)

### Context Matters

The first research question asks, "What are the contextual factors affecting the communication that occurs in the child protection juvenile court system?" According to Martin and Nakayama (2004) context is "created by the physical or social aspects of the situation in which communication occurs" (p. 99). The findings suggest that there are several contextual factors that influence the perceptions communicators form as well as resulting behaviors.

### Contextual Factors that Affect Communication

According to the findings of this study there are contextual factors affecting the communication that occurs in the child protection juvenile court system. According to Kim (2005) context refers to the conditions of the immediate social milieu in which a person is engaged in interethnic communication. The contextual factors that emerged as influential focused on contextual environment, communication that is based on limited preparation and is rushed, a communicative process that appears contrived, and communication that places the parent on display.

One contextual factor identified as affecting communication concerns contextual environment and hierarchical structure. Participants contend:

Tell me which courtrooms have an inviting appearance, a pleasing appearance? [...] The whole structure of the court is that, the building – and has nothing to do with the people inside. And when you go in there, 'OK, there's only something

happening here bad; nothing good is going to happen' [...] I mean it's like in the old royalty right. They had that king fellow or prince on the high elevation. Automatically what happened? You got intimidated. (Attorney Craig)

I think many judges that I stood before tend to be very imposing and intimidating individuals. (CPS worker Bill)

Another aspect of context identified as an important influencing factor was that the communication occurred with little preparation and involved a brief dialogic episode conducted in a rushed manner in order to proceed with the initial or subsequent hearings.

Participants say:

So, they're [respondent parent] coming to court on the day of the hearing, they're getting a treatment plan that's put right in front of their face and they're being asked if they agree to it. (Judge Sabrina)

The opportunity for communication is certainly somewhat limited because you're meeting your client at the courthouse for the first time [...] Everybody's in a hurry. The lawyers have a lot of clients [...] the dockets always running behind. (Attorney Amanda)

I think one of the barriers in [County Name] is the number of cases because it's, I don't know, I want to say, assembly line-like. It's just to come in and kinda cookie cut things because they have twenty more that day or thirty more that day. (CPS worker Bill)

When I came in we had maybe 10 cases set at 8:30 in the morning and then you've got hearings set at 9:00 and you are rushed trying to get cases done. (Judge Sabrina)

If the communication in the courtroom is five minutes long per case, it's gonna be brief, it's gonna be legalese, and it's gonna push the case in and out the door. (Attorney Gordon)

A third contextual factor identified as affecting communication was the perception that the communicative process is contrived. Some study respondents, all attorneys, referenced a perception among respondent parents that the decision-makers are aligned with one another against the parent. The following are responses that expound upon this point:

I think there's a perception quite often on the part of the parents that everybody's kind of in cahoots. (Attorney Amanda)

The judge usually is a lawyer. The attorney for the DHS, the county attorney, is a lawyer. The respondent counsel is a lawyer; the other parent's lawyer and he respects all lawyers, and they are nice, smiling and talking and exchanging information and patting each other and talking nicely. 'They're conspiring against me.' (Attorney Craig)

The caseworkers [CPS workers], the therapists and the judges pretty much all agree with each other. We're the ones on the outs [respondent parent and his or her attorney]. We're the ones disagreeing and objecting. And the system doesn't tolerate it very well – doesn't tolerate it from the parent's attorney because we don't have much time for that kind of monkey business. We need to just get along with things and do what we're told. (Attorney Gordon)

A fourth contextual factor identified from the findings that may affect communication is that operations are enacted that hold the parent up for exhibition. This finding was revealed through study participants' responses and through the researcher's participant observation. An example of the respondent parent being placed for exhibit was found in the absence of private spaces made available for a respondent parent to communicate within the court setting with attorneys, CPS workers, service providers, etc. about his or her situations. Thus, conversations occur about intimate and personal matters while a respondent parent sits or stands in hallways before or after appearing before the judge. The following response illustrates this point:

It's a bad atmosphere. You don't have private rooms that you can go into and sit down with people. [...] You're standing half the time; you're out in full view, everybody's there trying to talk. So, I think that's um, it's a bad atmosphere for communication. (Attorney Amanda)

There were also two factors noted during participant observations that may affect communication. The first involved the practice of allowing onlookers, individuals who are unrelated to the case, into the courtroom while a respondent parent's case is being discussed. This practice created an audience of those who are waiting for their case to be

heard by the judge (i.e., foster parents, school personnel, and individuals like me who simply want to observe the proceedings). The audience was permitted to hear for instance, about a parent who had relapsed in his or her drug treatment program or how doctors are having difficulty regulating a parents' medication needed to manage his or her mental illness. This and other personal information is reported openly in court unless the particulars of a situation are identified as so sensitive (i.e., a parent or child is HIV positive) that the judge orders a closed or restricted courtroom. In the researcher's experience, such an order is the exception rather than the rule.

Another contextual factor noted as a participant observer was the practice of maintaining a list of the day's cases publicly displayed at the entrance of each courtroom. The information included the first and last names of the respondent parents along with a notation identifying the purpose of each hearing (i.e., Temporary Custody Hearing, Permanency Planning Hearing, and Termination Hearing). Presumably, the purpose of this practice is to inform those involved in a child protection case about the day's schedule. However, it in fact places the parent and his or her situation on public display thereby subjecting him/her to potential public shame, admonishment, and subjugation.

Finally as it relates to context, the communicative process was characterized as emotionally laden, rushed, and focused on the needs and limitations of system representatives rather than a focus on what is needed to promote effective communication. In response to a question on the interview guide, "What words would you use to describe the process used for parents to communicate with attorneys, caseworkers and judges when in the child protection juvenile court system?" 14 of the 17

participants used some form of the following words to describe the process: intimidating, confusing, frustrating, difficult, and rushed.

### Race Matters

The second research question sought to ascertain whether racial dynamics emerge during the communicative events that occur during the child protection juvenile court process. The findings indicate an overwhelming affirmative response to the question. The vast majority of study participants (13 of 17) reported that racial dynamics do emerge either directly or indirectly during communication encounters. Three respondents indicated that they did not believe race was a factor and one participant, the respondent parent stated an inability to recall: "It's been a while. I don't remember who I talked to." All of the study participants who indicated that race failed to surface during communicative events identified themselves as Caucasian/White.

Indeed, the findings suggest that race emerges in ways that are more insidious than the blatant and egregious acts of the past. Descriptions indicate that a communicator's knowledge or lack of knowledge, experience or inexperience with individuals whose race or ethnicity differs from that of the communicator emerges to impact perceptions, interpretations and resulting behaviors. The following comments describe this phenomenon:

There are cultural differences that the white system has trouble dealing with. I think that as a general rule Black women are more stern disciplinarians than white middle class women and I think there's a reason for it. Part of it is we live in a system that punishes Black boys harshly for their behavior. So the Black mom needs to get their son under control because he's gonna pay the price three times that of a white boy. As a result, they're more strict disciplinarians and of course the system has no tolerance for strict disciplinarians. I mean there's just a complete disconnect [...] Moving along the cultural differences probably next to the Spanish speakers, the person who gets the second most inadequate

communication is Black males; Blacks in general but Black males way ahead of Black females. And I think that has to do with fear (Attorney Gordon).

I'd like to say none [significance that race plays]. I would love to say that and I can't speak to anything other than that. I have my own suspicions of what occurs. I've had my own observations of things that have occurred. Does it happen across the board? No. I can speak from the African American standpoint of some of the mannerisms, some of the subtle nuances that kind of come with our culture, language, stance, tone of voice. Those things that are often times misconstrued as hostile resistance. (Supervisor Beth)

Sometimes people interpret things that might come from an African American client as something that maybe it's not. Or depending on how it's expressed I think a lot of times people tend to be threatened by African American clients; they tend to feel more threatened even if that's not necessarily the intention. I don't know if it's part of our culture or if it's just my family but I have a very loud voice. And so I think sometimes, people, like if I talk too loud, it may sound forceful and I think people get the wrong idea from that. So I really have to think about what I'm saying because I don't want people to take me the wrong way. (CPS worker Molly)

And it's not necessarily vitriolic racism it's – I like that – “It's hopeless. Why bother?” It's been hopeless for the past hundred and fifty years and it will be hopeless for the next hundred and fifty years. So let's save it for those families we have confidence in. (Judge Tim)

#### Other-ism

An unexpected theme that emerged was that of “other-ism.” Other-ism is a concept utilized in this study to describe a system that depersonalizes, places the individual in a position of invisibility, and creates distinction between the respondent parent and system representatives. It includes practices, policies, and the utilization of discourse that stigmatize the respondent parent as an incapable and unworthy parent who is inherently different to the system representative. Twelve of the 17 participants offered comments that affirmed an enactment of institutionalized other-ism:

A lot of – and I'll include lawyers into this group too – come into these cases really disliking the people that they're working with [referencing respondent parents]. (Attorney Amanda)

Sometimes they [system representatives] were very impersonal. We were deemed more as a statistic than anything and that really bothered me. (Guardian Glenda)

I think sometimes too, their families are looked over. They're not, they're kind of left out of the loop even though they're supposed to be the ones directly involved with the process. Like attorneys might be talking directly with the judge and not clarifying with their client, things like that. (CPS worker Anna)

The house can be the size of a postage stamp but they will have a television that's huge, it blares. What you or I would consider this escalated way of speaking, everyone's screaming over the television. There's a lot of communication, it's just like little phrases or words and people aren't communicating in full sentences, a lot of yelling that goes on. It's almost like encountering a foreign language and if you're not use to communicating like that because the people you hang out with don't communicate that way, it's very disconcerting. It's almost like encountering a foreign language. (Attorney Amanda)

Arrogance in the sense that – well it speaks for itself. A desire to control, a reluctance to believe [...] It's like “How come you don't recognize what we're doing for you?” Which is – I know there's a word for that too – but that really shuts people down and that's sort of akin to the arrogance of the situation but it's a little more subtle. (Judge Tim)

I think that sometimes we do really overwhelm our clients. So I think it's just being sensitive to what really can a person accomplish. They have to pay for programs sometimes, or do these drug screenings. And I hear ongoing workers talking about, all the time – well people on their jobs, how this is difficult, how they have to take off and go do UA's [urine analysis], or they have to take off and go to visits, or they have to take off and go to court, and you know employers don't really want to put up with that. (CPS worker Kirk)

I also think unrealistic expectations. Well, on the part of all the professionals involved and what they're expecting of parent to do. I mean a lot of times we have parents that, you know they're without employment or just minimal employment and in the process they may be asked to go travel – I mean, if we calculated up the miles – just several miles back and forth...and several hours back and forth during the process of a week in order to complete their treatment plan or be compliant with their treatment plan. And they're held accountable for if there is something that they don't complete on that treatment plan. But a lot of times these treatment plans are made without consideration of the parents and what it is going to take for them to complete it. (CPS worker Anna)

The third research question asks, “What effect do any identified dynamics related to race have on the court process when there is an allegation of child maltreatment?”



The findings indicated that race has adverse effects on what the parent may be required to do so as to demonstrate his or her competence as a parent and ultimately on the amount of time the system remains involved in the life of a family. The following are the affects identified:

The less you understand and the less comfort you have, the more likely you are to be fearful and mistrusting. So, the white person gets their child returned in six months if their skin color was different it'd probably be nine months. (Attorney Gordon)

When you're dealing with a Black man or a Black woman and the initial perception of them is angry. A lot of times that creates barriers between those people that are handling the case. And because of that, you know, you have to call in other agencies, supervisors, sometimes you have to get your caseworker reappointed, getting a new caseworker to someone who is going to understand you, have a better communication. All of this is prolonging the reunification because they're not able to get into the treatment plan that they need to uphold to because we're dealing with this bad communication gap that we have between worker and parent. (CPS worker Kirk)

One thing that I can think of right off the bat is, to me I feel like the prolonged process that it would take an African American family to get their family back home verses Caucasians. I feel like they have to jump through hoops and the process just seems pushed back – I mean if they do one little thing it's pushed back even more and the process can take a year or two. [...] The relationship from day one that the worker and the family have, and it's sad that it has to be that way but – of course the family's going to be upset and if they come across upset and mad at the worker, even though it's nothing to do with her, she's just doing her job, then she takes that and runs with it. And I think that relationship prolongs – I've seen it be prolonged where a family would probably have got their kids back sooner had they started that first initial relationship with them on a positive note verses a negative. And I don't think it has so much to do with the family but just their emotions and what their dealing with – just having their kids taken away. So I think it's sad to say that workers take it personally. (CPS worker Angie)

I'm visualizing one case – White respondents, three good middle-class professional people. Serious child problems – I don't want to get too specific – but very dangerous behavior. Some very hurtful behaviors to a victim. And these people were treated like they expected to be treated with a little more deference than they were treated. They convinced everybody that they had this situation under control when in fact it was clearly out of control. Clearly unprofessional responses. Clearly unprofessional professional help they were paying for to the extent that it was outrageous requests that was very harmful to the children.

Simply because these people walked in and they weren't poor, and they weren't Black, and they weren't Hispanic, and so these kids must be safe. Well they weren't. And I moved 'em. But boy it was a big deal. And it's still going on, it's because of the view of that particular family. If they had been a minority it would have been a different response. They would have been faulted for their poor judgment. I would have been requested to make very serious – which I made anyway – moves for these children; protective orders that were issued, orders to report because some of these were mandatory reporting people that were refusing to report. They had very skewed professional help. And if that had been anybody else the department and the county would have gotten up and said “This is all self-serving nonsense. These people don't know what they're doing – how could they know they're just Hispanics or African Americans. They don't know what they're doing judge. It's up to you to get this straightened out.” That's what the response would have been. (Judge Tim)

A lot of times I've seen a Black man, a strong Black man who has a bold personality, is involved in a scenario with child welfare or with the Department of Human Services. Black men, we are raised in a way where we feel like our responsibility is to provide. And therefore when we're in that situation [child protection allegation] we automatically have some feelings about not being successful, there's something wrong with what we've done. So, some of those frustrations come out immediately in our interactions. But a lot of those times those frustrations are like (first interviewee) said; they're interpreted as not a strong Black man, or a bold Black man, but an angry Black man. (CPS Worker Kirk)

From a fairly maybe courtroom view, African American families aren't given as much credit for the ability to manage their families protectively because they are seen as, what? African American again are poor are uneducated. Or in some sense, whatever it is, if they're in the wrong part of town 'Well they're just drug addicted parents who don't give a damn about their kids.' We don't know any of that but that's the racial view. I mean the overused word of course just profiling, stereotyping, categorizing, so if the family is unable in your view to protect the child why would we expend too many resources trying to get the child back? And if the family is going to resent the intrusion of a basically white institution – at least managed that way – why would we offer them all of these services? Because we deserve their gratitude and not their anger. And if we know that their kids are running around wild and criminally and always exposed to the worse life has to offer, how are we ever going to rehabilitate 'em? In a sense then, they'll never be able to work with their parents. So if the parents weren't able to work with their parents or this system, their children are not going to be able to work with their parents or this system and we're going to go on forever for reasons we don't need to go into but – and that's going to be true through all of our institutions not just the court system or the social welfare system. (Judge Tim)

## Summary

This chapter presented findings and included the identification of the contextual factors that affect the communication that occurs during the child protection juvenile court process. The findings also revealed overwhelming evidence that race emerges during communicative events and that race emerges to affect the child protection case. The following chapter presents a discussion of these findings as well as recommendations and implications for further research.

## Chapter Five: Discussion

This chapter discusses the emergent themes so as to broaden understanding of the potential affect they may have on the disproportionalities and disparities reported for African American children in the child welfare system. Recommendations related to intercultural communication, the limitations of this study, and implications for future research are also discussed.

As lenses to interpret the findings, this study utilizes a communications focus that engages three theoretical perspectives: A Contextual theory of Interethnic Communication, Social Cognition Theory, and Co-Cultural Communication Theory. The primary results of this research are fourfold: context affects the communication that occurs; race emerges during communication events; racial dynamics can have an affect on the child protection case; and finally, other-ism is deeply engrained in the system and enacted through system representatives.

### Context Matters

#### The Physical Environment

According to the findings of this study, contextual factors that occur in the child protection juvenile court process impact communication. One aspect of context that appears to influence communication is the environment. As viewed from a social cognition perspective, the physical environment associated with the child protection juvenile court process may possess physical features (i.e., foreboding physical structure,

frenetic pace in which to communicate, and superficial communication) that predispose communicators to perceive the environment as contentious and threatening.

As system representatives and African American parents interact with one another each is uniquely positioned by such factors as history and personal experiences that result in the likelihood of differing perceptions of what constitutes fact, disagreement in what the facts mean, and a difference concerning how to respond to the facts. These factors converge and may result in miscommunication and tension, particularly between system representatives and the parent. Differing perceptions are less likely to be acknowledged among system representatives as there is strong pressure to conform to established ideologies, values, and standards of behavior in order to be viewed as a competent professional. For instance, in this study, professionals often refer to diagnostic tools (i.e., Diagnostic and Statistical Manual of Mental Disorders IV, legal practice handbooks) to help ensure conformity in perceptions and interpretations. Consequently, systems communicators may respond with such dissociative behaviors as efforts to create physical and communicative distance from the parent, the categorization of stimuli to the point of stereotyping and making errors in attribution related to the behavior. Attribution errors refer to the act of viewing negative behavior in others as caused by the traits and characteristics of the person while attributing positive behaviors to external pressures that forced the person to behave positively (Moskowitz, 2005). Thus, the communication between the African American respondent parent and white system representative may be constrained by the dissociative behavior resulting in self-fulfilling prophecies, which in effect prompt the communicants to see behavior that confirms expectations even when it is absent.

## Hierarchical Structure

A second contextual factor that affects communication is the hierarchical structure reflected in the system. The familiar representation of the white person, whom is typically male, as superior and omniscient may be particularly distressing and inhibiting for an African American parent given the country's racist and patriarchal history. Several participants in this study referenced anger and hostility in the African American parent as a factor that affects the communication occurring in the child protection juvenile court system. Thus, this structure may serve as substantiation for the African American respondent parent that the system is a hierarchical one that has participated in the oppression and discrimination of African American people for hundreds of years.

Conversely, the system representative may anticipate anger and resistance from the parent in response to system intervention and the removal of a child. Social cognition psychologists suggests that both communicants subconsciously engage the cognitive process in which the people and place encountered are simplified, structured, and assigned to a familiar mental category. Thus, the physical structure may serve as a chilling barrier in the effective exchange of information between an African American respondent parent and system representatives.

## Communication is Conducted in a Rushed Manner

A third influential context is that the communication is conducted in a rushed, formal and highly scripted manner. For the most part, there are strict rules as to who is permitted to speak directly to whom. Also the stilted, formal and legal language that is used may seriously constrict the exchange of meanings that occur. According to Orbe (1996),

Groups that function at the top of the society hierarchy determine to a great extent the dominant communication system of the entire society. This process forces persons who are not dominant group members to function within a communication system that is not necessarily representative of their experiences.

In this respect, subordinate groups are made inarticulate. (p. 158)

Thus, the formal structure utilized for system representatives to communicate with a respondent parent may impede the ability for communicators engaged in interethnic communication to comprehend and convey information successfully.

Further, the structure may fail to allow the respondent parent the opportunity to deconstruct and reconstruct his or her communications and include the contextual information needed to ensure that the interpretations constructed by system representatives are as intended. This omission is important because without a structure for promoting “understanding the ways in which persons who are racially marginalized in dominant societal structures communicate in their everyday lives,” (Orbe & Spellers, 2005) misinterpretation may occur. While it is true that an attorney represents the respondent parent and communicates to the court on behalf of the parent, the parent may feel stymied in his or her efforts to communicate effectively within such a rigidly structured system. Orbe (1996) confirms this position saying, “Those experiences unique to subordinate group members often cannot be effectively expressed within the confinements of the dominant communication system” (p. 158).

Further, the physical environment and hierarchical structure may contribute to the respondent parents’ perception that system representatives are in “cahoots” against the respondent parent and as a result injustice is imminent. Indeed, respondent parents may

perceive these contextual factors as blatant Eurocentric markers. Thus, the African American parent reacts with a sense of fear and distrust, doubting that the communication process will be fair. Moreover, these factors are likely to reinforce the power differential that exists between system representatives and the parent to increase tension and again increase stereotyping as an outcome of the process of social cognition.

This reflects a communicative process that privileges the system representative in that it disseminates information as required by policy and law while failing to focus on the need of the respondent parent to comprehend the information since little attention appears to be devoted to determining whether meaning is effectively exchanged. As the exchange of intended meaning is the fundamental goal of communication (Ruben & Stewart, 1998) communicators who must communicate quickly within a tense situational context that involves the intersection of ethnic or racial difference may find this goal illusive or insignificant. For instance as reported in the study, the African American respondent parent as a co-cultural group member may deem the situational context as intimidating, frustrating and confusing and as a result respond with aggressive behaviors including anger, hostility and verbal aggression in an effort to exert personal power. On the other a hand, a respondent parent who is a co-cultural group member whose actions are inhibited and non-confrontational may be one of many parents who, when asked if she or he understands, the parent nods regardless of whether there is actual comprehension. Conversely, the system representative may respond to the contextual situation and perceptions formed with fearful misinterpretations. Thus, according to a contextual theory of interethnic communication, the communication event that is a part



of the child protection juvenile court process consists of several layers of context that affect the communicator.

Indeed, in this study there are several elements of context identified as having an important affect on communicants' perceptions and behaviors. The theory indicates that the contextual elements are functionally interdependent in influencing the messages transmitted and received (Kim, 2005). The aforementioned contextual theory of interethnic communication model is used as a visual of how context affects behaviors and in turn how behavior functions as an associative or dissociative factor during interracial communication events. The model reveals important information for understanding references made in the data that the African American respondent parent is often angry and the system representative is often fearful or resentful of the parent.

Contextual theory of interethnic communication describes a system that is hierarchically organized and arranged in progressive levels of context, each level behaves as a meta-level context for the sublevel(s). The communicator is centrally located in this model and engages in intrapersonal communication. During an interethnic interaction with another, stimuli in the form of a message is encoded and transmitted to a receiver who attends to both the message and the messenger to form a perception. The information is then decoding and converted into a reaction message (Kim, 2005). According to the contextual theory of interethnic communication, each communicator is also influenced by such factors as culture, communication skills, past experiences and attitudes. This study extends the model to include the influence of not only culture, but the reality of race as a factor that influences the interpretations reached when a system representative interacts with a respondent parent. Social cognition theorists contend that

physical features such as skin color are attended to and are a feature that begins the process of categorizing people. Moskowitz (2005) supports this position contending, “People detect features of others as revealed by their looks, posture, and gestures, and they make inferences and form impressions about those others based on those features, even in the absence of any interaction with such others” (p. 73). Thus, as depicted in Figure 5.1, the findings of this study indicate that interaction that occurs between African American respondent parents and white system representatives may result in anger in the African American parent and fear in the white system representative (See Figure 5.1)

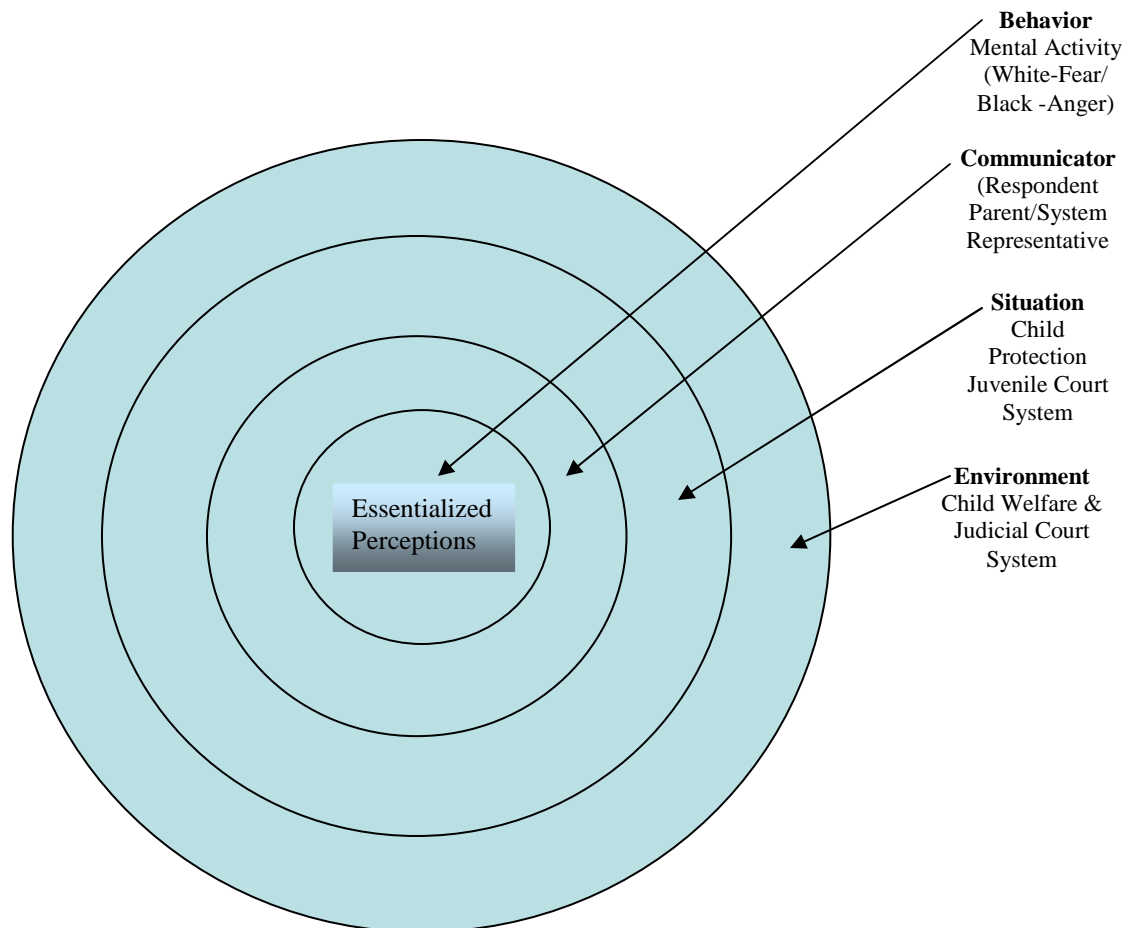


Figure 5.1

## Race Matters

A definitive finding of this study is that racial dynamics do emerge during the communication events occurring during the child protection juvenile court process. While race does not reveal itself as the blatant and “vitriolic” actions and operations that have characterized racism in the past, it does operate nonetheless. Indeed, the racism of today is far more subtle, perhaps even more harmful, and is reflected in “the combination of policies, practices, or procedures embedded in bureaucratic structure that systematically lead to unequal outcomes for groups of people” (NASW, 2007).

A review of the mental processes engaged is important to analysis of the affect of race in the communicative events that occur. According to social cognition theory, the issue of one’s race is attended to very early in the mental process that is engaged when a human being is forming a perception of a person. During the communicative event, the system representative is bombarded with sensory stimuli as she or he mentally begins to gather information in response to the communication. However, only some aspects of the entire field stand out to capture the communicator’s attention while the rest of the situation fades into the background.

Additionally, individuals may notice different features and properties of the same stimulus so that the information is interpreted differently from one person to another. Again, influencing this process are the perceiver’s cultural context, experiences, and mental functioning. The pieces of information that draws our attention are connected to form a coherent unit (Moskowitz, 2005). The system strives toward a structured and coherent organization, and when this is not achieved the mind works to produce coherency by drawing inferences. This occurs in the brain’s subconscious after which

the information is then interpreted. It is important to note that through this mental process we tend to base our categorizations of strangers on their skin color, dress, accents and so forth (Moskowitz, 2005). Thus, the drive to experience coherence may lead the brain's mental system to make inferences erroneously.

We see from this examination of the primary mental processes engaged in the formation of perception that many versions of "reality" can emerge from an interpretation of the "facts." Forces that shape perception formation include one's personal perceptual abilities, cultural perspective/positionality, and previous experiences that create expectancies related to what one expects to see. Yet, within the child protection juvenile court process, "the steadfast belief that one's actions and perception are based on the qualities of the stimulus alone, unaltered by the context it appears in (or by one's own personal biases)" (Moskowitz, 2005, p. 29) persists. The belief that perceptions reflect transcriptions of facts and thus produce decisions that are just, is maintained in spite of the work conducted by social cognition scholars which refute the notion (Banks, Eberhardt, & Ross, 2006; Kang, 2003; Steele & Morawski, 2002).

The findings, which connect an African American person to anger and elicit fear and discomfort in a white person, has emerged in other studies as well. In a study that examined (among other issues) race in relation to the restraining order courtroom, the power associated with anger in a African American person was described as, "I think in this society the Boogie person is a really angry, large, Black person" (Myers, 2002, p. 142). This is a comment that relates to the socialized construction of race. This refers back to the process of social cognition in which the color "black" marks an individual triggering an affective response in the perceiver that in this case illicit a fear response.

This notion of the Black person as a “Boogie person” is profoundly important in understanding why African Americans may suffer the disproportionalities and disparities reported in the Child Welfare system. The system representatives who have little direct knowledge and experience on which to base impressions of African Americans may rely on distorted caricatures from television and films to base their categorizations of the African American respondent parent. Thus, this researcher posits that these external influences combined with an angry African American parent’s dark skin color act as a powerful trigger in what the system representative expects and therefore sees when forming a perception of the parent. For the white system representative, an angry black parent is a dangerous parent that requires system intervention to ensure that the child is safe. The system representative can encounter countless factors that reinforce essentialized representations of the African American in American society.

According to Orbe, Warren, and Cornwell (1994), African American men are generally represented as “inherently angry, physically threatening, and sexually aggressive” (p. 104). And African American woman are depicted in ways that are equally negative. According to Freydborg (1995) “African American women are represented as sexually promiscuous, aggressive, hostile, and razor-tongued” (p. 222). Hughes and Baldwin (2002) contend that media stereotypes of African Americans are neither natural nor harmless products but typically are socially constructed images that are selective, partial, one-dimensional, and distorted in their portrayal of African Americans.

Further, it is also important to note that the language communicants are exposed to and ultimately use may play an important role in the objectification of the African American respondent parent. Language shapes our perspectives and is used to construct

identity. In American society, words that demean blackness permeate the language. They include negative references to “blackness” such as: “black hearted (malevolent),” “black outlook (pessimistic),” “black mark (detrimental fact),” “black list (a list of undesirables),” “black cat (bad luck),” and “black balled (ostracized)” (Moore, 2006, p. 474). These externalized notions of blackness take on a reality of their own as a representation of black as bad and maybe unconsciously internalized as “truth.” These truths may unconsciously influence the perceptions system representatives’ form of the African American respondent parent.

Thus, certain terms used by system representatives to reference the parent may impose a compounding affect directing the brain’s access to stereotypical information stored which characterizes the category. People’s use of words like “abusive parent,” “perpetrator,” and “unfit parent”, according to Malcus and Kline (2001), “can trick or lull them into limited, stereotypical, and unreflective understanding” (p. 189) of an African American parent rather than seeing him or her as a human with unique characteristics and circumstances.

The aforementioned factors may affect what the system representative expects and therefore sees in the behavior of the parent. According to Moskowitz (2005),

Expectancies can range from specific information we know about (or think we know about) an individual, based on prior experience or hearsay about that individual, to more general types of information associated with the group or category to which that individual belongs. (p. 438)

Thus, the physical marking of race may trigger perceptions of the African American parent that says more about the perceiver than the perceived.

## Other-ism

Initial references to the “other,” are attributed to the work of philosopher and scholar Emmanuel Levinas. Levinas focused his attention on human relationships examining what constitutes moral conduct as human beings encounter, respond to, and show care for “other” human beings. Contemporary scholars however, use the term “othering.” According to Johnson, Bottorff, Browne, Grewal, Hilton, and Clarke (2004) othering is a process by which individuals are constructed as different either from oneself or from the mainstream and it can reinforce and reproduce positions of domination and subordination. Thus, other-ism operates to situate the respondent parent as helpless, hopeless, and therefore worthy of disdain.

System representatives assume a position of power and privilege in judging whether the parent meets “the standard” for being a “fit” parent as well as the standard to define what is good and right. The decision of “fit-ness” to be a parent is not merely a technical question for determining whether a parent meets a particular standard but is also a moral assessment of the parent’s deservingness to be a parent, including whether he or she is committed to and able to operationalize the family values of the mainstream (Hasenfeld, 2000). Thus, a person who is indigent and who is perceived by system representatives as unrepentant and ungrateful may be particularly susceptible to being ascribed the identity of unfit parent. This is supported by Miller and Gaston (2003), who contend:

[The child welfare system] has its cultural roots in the European worldview. At least three factors, rooted in Anglo-Saxon Protestant ideas, have laid the philosophical foundation for the American child welfare system. The first factor

was the conviction among Anglo-Saxon colonists that poverty, as an indicator of deficient character, was evidence of laziness and immorality. Thus, an inherent assumption is that causes of poverty lie within the person, not society. (p. 2)

#### Racial Dynamics of the Case

On a personal note, during a course I taught at a local University a student and CPS worker commented, “I believe there is something fundamentally different about myself, and people who commit child abuse,” (Comment from a graduate social work student, 2006). This comment suggests a belief that the respondent parent is certainly pathologically but perhaps genetically different from other “good” people. The marker of dark skin color when combined with angry behavior may accentuate the notion of the African American parent as being different, perhaps even defective. Thus, the African American parent who fails to profess and demonstrate submission to the values and behavioral standards dictated by the majoritized system may contribute to the construction of the parent as unacceptable. This may have a profound impact on what the system representative expects to see, the perceptions formed and potentially on the case outcomes that result.

Further, while facilitating a training attended by CPS workers, a CPS worker made a comment in which she referenced, “These people...” However, even before completing her statement she added, “I’m sorry; I don’t mean it like that.” She then continued making her point with a rephrase that did not include the words, “these people.” I later asked her what the phrase “these people” meant to her and why she apologized and then retracted the words. Her response was illuminating: “I’m from a privileged family in the South and went to private schools and everything. My parents



would say, pointing out certain people like Black people, ‘You don’t want to be like these people do you?’”

The aforementioned responses provide examples of how other-ism may interface with race while operating within the child protection juvenile court process to construct the respondent parent, particularly the African American parent as different in a deficient way thereby maintaining existing social inequalities. Language, attitudes, and institutional structures and processes including: the structure used for managing child protection cases; the practice of holding unrealistic expectations; and overwhelming respondent parents converge in the child protection juvenile court system to oppress those who are perceived as too worthless, hopeless, and dangerous to parent a child.

Additionally, there are contextual factors that reflect the operation of other-ism. For example, the practice of allowing a list of the day’s cases including identifying information to be publicly displayed at the entrance of each courtroom can be perceived as a way to place the parent on display as an unacceptable parent. Presumably, the purpose of this practice is to inform those involved in a child protection case about the day’s schedule. However, it also places the parent and his or her situation up for public exhibition thereby subjecting him or her to public shame, admonishment and subjugation.

Further, the absence of private spaces made available for parents to communicate within the court setting with attorneys, CPS workers, service providers, etc. about their situations and permitting uninvolved individuals to be present when a case is being discussed appears to have a similar discounting and disrespectful affect. Indeed, discussing such personal information likely places a parent in a very vulnerable position and to do so in such a public forum may leave the parent feeling a heightened sense

of anger and distrust toward CPS workers and the legal professionals. This again may prove particularly destructive in efforts to communicate effectively when the communicants are ethnically/racially different from one another. Indeed, this may inhibit the focused attention needed to listen carefully and to reconcile any cognitive dissonance or points of confusion that exist for the communicators.

These practices and operations have a historical basis in which those who are indigent are viewed as responsible for their circumstance and therefore worthy of castigation. Thus, the meager resources applied to the support of the indigent parent and his or her at risk child has societal support that is deeply rooted in this country's culture. According to Goodman (2001), the dominant culture and societal norms are based on the characteristics of the privileged group. Thus, the dominant group becomes the point of reference against which other groups are judged. It becomes normal and is utilized as the standard to define not only what is good and right but becomes perceived as better. As a result of the parent's struggle to meet the expected standard or "norm," feelings of resentment toward the system representative and social pressure for the respondent parent result in perceptions of the other as essentially different.

Further, certain terms used by system insiders to reference the parent may impose an objectifying influence. People's use of words like "abusive parent," "perpetrator," and "unfit parent" "can trick or lull them into limited, stereotypical, and unreflective understanding" (Malcus & Kline, 2001, p. 189) of the respondent parents as humans with individual characteristics. As a system representative listens to a parent's account of the event of his or her situation and makes an assessment regarding the parents' behavior, the

system representative may reduce or essentialize the parent to an instance of a diagnosis of “druggie” or “sicko” rather than an individual with unique attributes and concerns.

Figure 5.2 provides a visual depiction of the elements of context that affect the respondent parent.

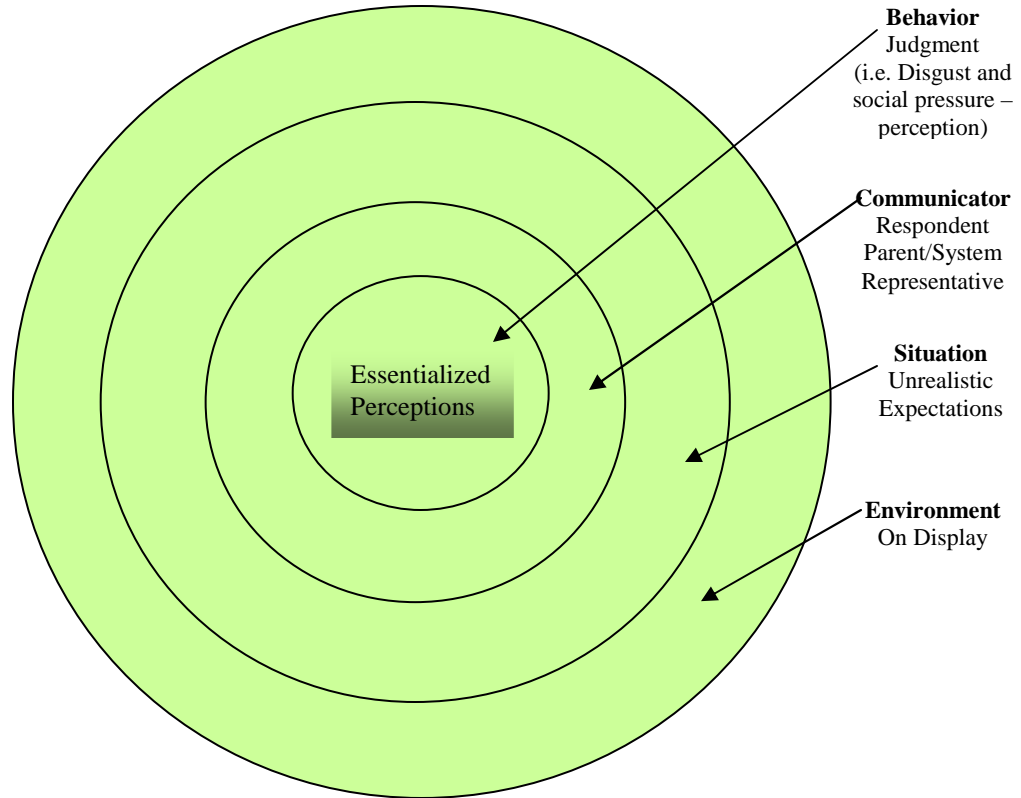


Figure 5.2

The third research question sought to identify the affect racial dynamics has on the child protection process. Findings of this study reveal that anger expressed by an African American respondent parent and resulting in the system representative experiencing feelings of fear or anger resulted in negative case consequences for the parent. Consequences included being required to make additional or different efforts to demonstrate competence and worthiness as a parent. An additional effect was that the length of time the respondent parent remained involved in the system was extended.

These findings are consistent with the researcher's personal experience with the system and with aforementioned studies, which report that African American children remain in the foster care system longer than children of other racial groups.

### Summary

This research finds that within the context of the child protection juvenile court process, when the respondent parent and system representative interact, racial dynamics emerge to affect the child protection process. Further, contextual factors were determined to affect the communicative process including the perceptions formed and behaviors that result. Communication involving a white system representative who is fearful and an African American respondent parent who is angry can result in the parent being perceived by the system representative as a danger to the respondent parent's child; an interpretation that may reflect distortion and misperception. The consequence for the parent is more intensive involvement as well as an extended amount of time being involved in the child protection system. This may ultimately result in fewer African American children being reunited with their parent(s).

In the researcher's experience, a failure to provide the child with a safe and successful reunification with his or her parent can have profound consequences for the child. Even in situations where the child is placed in the care of a loving and responsive substitute family, the child may struggle with a yearning to be reunified with the biological parent. This is not surprising as it is the substitute caregiver (i.e., kinship provider, adoptive parent) who is creating daily structure that is often unappreciated (due to a child's typical developmental progression) by the child. This occurs through the enforcement of limits, administering discipline and various additional parenting

responsibilities that construct the substitute parent as unpopular in the child's perspective. Thus, the result of parenting that appropriately responds to a child's developmental needs by including structure and discipline is very similar to that described by mothers who complain about the "Disney dad" who gets the child's glory but, from the mother's perspective, undeservedly so. For the child who is involved in the child protective juvenile court process, a deep desire to be with the parent is often overwhelming. As a CPS worker, I often had young children who were placed in loving foster homes ask, "Can my mommy come and live with me?" The implication was, "This is nice but having my mommy here with me would make it great." Often, even in cases of serious abuse or neglect, the child simply wanted me to change the parent's abusive behavior not remove him or her from the parent's care. Thus, a major learning for this researcher was that children are best served when every effort possible is made to support the biological parent's ability to provide the child with safe and nurturing care.

#### Recommendations

Several important recommendations surface from this study. First, a careful and critical examination is needed of the child protection juvenile court process to identify structures, policies, operations and practices that are in need of reform. This examination must occur with a focus on the change needed to promote effective interethnic communication. One change needed is to eliminate structures and operations that reinforce status and positional differentials of "us" and "them." For example, the court building typically used in which to conduct child protection communicative events may occur more successfully if held within physical structures that have a more positive connotation for the respondent parent. This might include such structures as mosques,

temples, churches and other institutional settings families turn to for comfort, encouragement and healing as opposed to traditional court buildings where families often experience the justice system to be unjust. Such a change in venue would help level the stage by making it necessary for the system representative to navigate within an environment that is unfamiliar while the parent is both accustomed to and comfortable in the space.

Further, the communication that occurs would take place exclusive of the hierarchical and adversarial structure that is evident in the present system. Instead, communicative events will include those who identify with the same co-cultural group as the respondent parent and are willing to serve as cultural navigators. Cultural navigators will be included in the privately held communicative event held at the round dialogue table. The discussions will involve actual dialogues that include other partners in the case (i.e., CPS worker, attorney, drug treatment service provider) to construct as broad and accurate a picture as possible that reflects the parent and child's situational context related to the child's safety and well-being. It will include taking the time needed to engage in effective interethnic communication. A decision will then be made as to whether a child protection issue exists and if so what culturally consistent interventions are appropriate for sustaining the parent's ability to successfully raise the child. The round table concept suggests that the respondent parent, cultural navigator and other potential resource providers, including the judge, will meet as equal partners to determine with the parent what supports, if any, are needed in response to the referral. The judge will be present to exercise her or his area of expertise, which for most will be limited to the area of law. Thus the judge maintains the role of the overseer of the legal process but

will not be presumed to have a more empirically valid perception than any other person at the table. In fact, it will be accepted that each partner comes to the table with certain areas of expertise and resources important for resolving any identified child protection issues.

One purpose for the cultural navigator is to help system representatives attend to stimuli that contributes to a formation of perceptions of the parent that are more robust and less susceptible to distortion. For example, one may observe a child who addresses the parent and other adults using “ma’am” and “sir” and who responds promptly to directives given by the parent and conclude that the home environment is rigid and constrictive; a potential risk to the child. However, the child’s behavior may reflect early training that emphasizes the need to demonstrate respect and regard to those in authority. The underlying goal may be to equip the child with a tool needed to manage life in a society that often requires a nonassertive accommodation style, which reflects a constrained and nonconfrontational manner of communicating with authority figures.

An additional purpose of the cultural navigator will be to assist the parent in the effective exchange and interpretation of meanings with system representatives. The cultural navigator is a person who is a member of the same co-cultural group that the parent identifies with (i.e., African American, Latino, Native American). Indeed, the navigator, due to lived experience, will possess knowledge about aspects of the parent’s cultural context that may be unfamiliar to system representatives for the purpose of promoting understanding among system representatives. The cultural navigator will provide system representatives with alternative realities that challenge dominant perceptions based on a middle-class whiteness standard that is presently positioned as the

norm in the child protection juvenile court system. This would broaden possible interpretations of perceptions as well as increase potential interventions that may be utilized.

A second recommendation is directed at the level of work attorneys provide. The system of compensation is identified as something that discourages effective communication with respondent parents. Thus, reform is needed in the area of caseload size and the structure used for paying attorneys to encourage meaningful and productive communicative exchanges between the parent and legal representative to promote and support the parent's ability to parent their child(ren) successfully.

A third recommendation relates to the CPS workers and similarly is focused on the size of caseloads that appear to inhibit effective interethnic communication. A redistribution of resources is needed; a change that has community support in order to allow the CPS worker the time needed to collect the information that serves as the basis for the formation of perceptions.

In addition, the expectation that the CPS worker fulfill the role of case manager and parent advocate simultaneously is daunting and unrealistic. The respondent parent needs a worker who, without ambivalence, can advocate and support the parent's efforts to successfully parent his or her child(ren). The current systemic structure fails to provide for the CPS worker clarity with respect to role. On the one hand the parent is encouraged to communicate honestly and openly with the CPS worker. However, a parent's disclosure of certain kinds of information to the CPS worker may result in negative consequences for the parent. For example, if a parent were to say to the CPS worker, "I wanted to break her neck last night when she (14 year old daughter) ran out of here and



slammed that door.” Such a statement may sound serious resulting in a report being made to the judge and ultimately more intense scrutiny by system representatives. However, it is also the kind of statement that one might hear from an African American parent that does not at all suggest that the child is at risk of being injured by the parent but rather indicative of the egregious behavior by the child. Thus, the CPS worker is not well positioned to be an effective advocate for the respondent parent.

Further, the supervisors of CPS workers need the education, training and a limited number of supervisees that allows for the time to provide adequate supervision (i.e., time to observe the interethnic communications CPS workers engage in and provide coaching and feedback, time to engage in regular and frequent sessions to provide direct guidance and oversight of the work of CPS workers.)

The fourth recommendation is focused on the respondent parent. It involves the need to educate the African American respondent parent, perhaps through the use of an advocate to help the parent more successfully navigate the child protection juvenile court process. The education referred to would be similar to that a young African American youngster receives in order to prepare him or her for life in a racist society. For example, the instructions an African American parent gives her or his child to be respectful, compliant and to immediately call the parent when stopped by a police officer is similar in nature to the kind of information a respondent parent needs to support his or her ability to successfully navigate the child protection juvenile court system. Information should include the need to stay calm and to make every effort to utilize what Orbe (1996) refers to as a nonassertive assimilation orientation, that is, censoring ones self, avoiding expressions of anger and emphasizing similarities with the dominant group. This can

be achieved for example by appearing in court dressed in a style that is more characteristic of that seen among system representatives than a generational style of dress reflected in pants that fall below the waistline for instance.

Finally, education is needed to help professionals develop knowledge and skill interacting with diverse people. Bachelor and graduate level education programs must include immersion programs in which workers spend several months living among different ethnic groups that are marginalized in this country. This would be much like current programs in which students travel abroad to other countries to gain a first hand experience of the lived experiences that shape the thinking and behaviors of other groups of people. This would allow those who work in the child welfare system (including judges) an opportunity to experience the exposure to different worldviews and time to get support and guidance processing the reaction to such differences.

Education of professionals in the social services, education, and judicial fields must also include information about the cognitive processes involved in the process of communication that occurs. The goal is to enable system representatives to better understand what impact social cognition may have on the intra- and interpersonal communication that is the basis for interactions that occur.

#### Limitations and Implications

The strength of this study is it explores race and communication; two elements related to the child protection juvenile court process, which when combined have received little attention from researchers. A second strength is it utilized a research method that resulted in a more in-depth examination and understanding of the phenomenon. A third and extremely important strength of this study is that the findings

reflect very poignant explanations and descriptions of the intersection of race that emerges during the child protection juvenile court process; these accounts are provided by individuals who were not African American respondent parents and in many instances were not African American. This fact refutes the claim that only African Americans who feel victimized criticize the injustices of the system; indeed, the accounts underscore the power of the operation of race during communicative events as they relate to the system's unjust underpinnings.

A limitation associated with this study is the lack of respondent parent participants; particularly African American parent participants to gain first hand information about their experience of the phenomenon. A second limitation is the fact that this study was focused on the experiences of one group of people. Future studies will find it worthwhile to focus on other marginal or co-cultural groups to determine their perceptions and examine through in-depth analysis, the experiences of other populations again using a communication perspective. Finally, this study is limited to a small geographic range. Indeed, the focus could be broadened in future research to include findings across regions as well as to include an examination of small and rural counties.

While small in scope, this exploratory study represents an important step in the use of a communications perspective to better understand what impact interracial communication may have on the disproportionalities and disparities reported for African American children and their families involved in the child welfare system. The findings of this research not only have implications for the field of communication but for social work, education, and the judicial disciplines as well.

Further, a number of areas of future research emerged from this study. The first is the need for additional study to understand the experience of the African American respondent parent first hand. Another important area of study is that which examines the experiences of other co-cultural groups to identify what dynamics emerge that may have adverse affects on the child protection case for other groups.

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## APPENDICES

## Appendix A

### Request for Participation Letter

My name is Debra Mixon Mitchell and I am a graduate student in the department of Human Communication at the University of Denver. You are invited to participate in a study that will explore the communication that occurs when parents interact in the child protection juvenile court system with attorneys, caseworkers, and judges. This study is being conducted to fulfill the requirements for a PhD degree.

Communication plays an important role in the recommendations and decisions that are made in child protection juvenile court. Therefore, it is important that the communication be effective.

The parents who were once involved in the child protection juvenile court system are rarely given the opportunity to report what happens in the system that supports or frustrates effective communication. This study gives parents a chance to help judges, attorneys, and caseworkers understand how to communicate in ways that lead to fair decision-making. Ultimately, my goal with this study is to benefit children and their families by identifying what needs to be done to ensure that court decisions are based on the most effective communication possible.

Please contact me, Debra Mixon Mitchell, at 303-871-2445 if you are a parent who is willing to discuss your opinions about the system of communication you experienced in the child protection court system. Your child protection case must be closed for at least two years to participate in this study. To protect your confidentiality, your responses will be identified by code number only and you will receive a \$15.00 gift card as an expression of my appreciation.

Respectfully,

*Debra Mixon Mitchell*

Debra Mixon Mitchell

# Appendix B

## INFORMED CONSENT FORM

### DISSERTATION RESEARCH

Communication and the Child Protection Juvenile Court System

You are invited to participate in a study that will explore the communication encounters in the child protection juvenile court system. In addition, this study is being conducted to fulfill the requirements for a PhD degree. The study is conducted by Debra Mixon Mitchell. Results will be used to help judges, attorneys, and caseworkers better understand what impact the communication that occurs may have on case outcomes and to complete doctoral studies. Debra Mixon Mitchell can be reached at 303-871-2445, dmixon6@aol.com. This project is supervised by the committee chair, Dr. Roy Wood, Department of Human Communication, University of Denver, Denver, CO 80208, 303-871-871-4325, rvwood@du.edu.

Participation in this study should take about 60 minutes of your time. Participation will involve responding to seven questions about the communication that occurs in the child protection juvenile court system. Participation in this project is strictly voluntary and will include a \$15.00 gift card as a token of the researcher's appreciation. The risks associated with this project are minimal. If, however, you experience discomfort you may discontinue the interview at any time. We respect your right to choose not to answer any questions that may make you feel uncomfortable. Refusal to participate or withdrawal from participation will involve no penalty or loss of benefits to which you are otherwise entitled.

Your responses will be identified by code number only and will be kept separate from information that could identify you. This is done to protect the confidentiality of your responses. Only the researcher will have access to your individual data and any reports generated as a result of this study will use only group averages and paraphrased wording. However, should any information contained in this study be the subject of a court order or lawful subpoena, the University of Denver might not be able to avoid compliance with the order or subpoena. Although no questions in this interview address it, we are required by law to tell you that if information is revealed concerning suicide, homicide, or child abuse and neglect, it is required by law that this be reported to the proper authorities. More specifically, if during the course of this discussion a participant makes a disclosure of abuse or neglect, a referral to the Department of Human Services will be made.

If you have any concerns or complaints about how you were treated during the interview, please contact Dr. Susan Sadler, Chair, Institutional Review Board for the Protection of Human Subjects, at 303-871-3454, or Sylk Sotto-Santiago, Office of Sponsored Programs at 303-871-4052 or write to either at the University of Denver, Office of Sponsored Programs, 2199 S. University Blvd., Denver, CO 80208-2121.

You may keep this page for your records. Please sign the next page if you understand and agree to the above. If you do not understand any part of the above statement, please ask the researcher any questions you have.

I have read and understood the foregoing descriptions of the study called, Communication and the Child Protection Juvenile Court System. I have asked for and received a satisfactory explanation of any language that I did not fully understand. I agree to participate in this study, and I understand that I may withdraw my consent at any time. I have received a copy of this consent form.

Signature \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_ I agree to be audio taped.



\_\_\_ I do not agree to be audio taped.

Signature \_\_\_\_\_ Date \_\_\_\_\_

\_\_\_\_\_ I would like a summary of the results of this study to be mailed to me at the following postal or e-mail address:

## Appendix C

### Interview Guide

1. Tell me what happens in the child protection juvenile court system to ensure that the communication which occurs with parents is effective.
2. What words would you use to describe the process used for parents to communicate with attorneys, caseworkers and judges when in the child protection juvenile court system?
3. When parents interact with caseworkers, attorneys, judges and other court officials what parent behaviors can obstruct effective communication?
4. When judges, caseworkers, attorneys, or other officials interact with parents what behaviors on the part of officials can obstruct effective communication?
5. Do you think there is a difference when the interaction is cross-racial (i.e., a Black person interacts with a White person)?
  - a. **Probe:** If “yes,” please explain.
  - b. Can you offer a specific example?
  - c. **Probe:** If “no,” please explain.
  - d. Please describe what strategies/techniques you use during cross-cultural interactions with parents that promote effective communication.
  - e. Can you offer a specific example?
6. According to Hill (2006), “African American children represent about 15 percent of the children in this country but about 37 percent of the children in the child welfare system. In contrast, “white children represent about 61 percent of America’s children and about 46 percent of the children in the child welfare system. Studies also indicate that Black children are four times less likely to be reunified with their families than White children. What factors (actions or processes) operate in the court system that might contribute to these disparate conditions? Please explain.
7. What significance do you think race plays when decisions are made in the court system that might contribute to these disparate conditions? (You might consider, for example, the language used to communicate something about a parent, the actions or operations engaged to decide if the parent is unable to meet the child’s need for safety and well-being, do stereotypes operate and impact decisions?)
8. What recommendations would you offer to make interracial communication occur more effectively in the child protection juvenile court system?

## Appendix D

### Parent Interview Guide

9. Please tell me what happens in the child protection juvenile court system to make sure that the communication that occurs with parents is effective (mutually understandable).
10. What words would you use to describe the process used for parents to communicate with attorneys, caseworkers and judges when in the child protection juvenile court system?
11. What happens in the child protection court system that may promote misunderstanding between parents and attorneys, caseworkers, judges, or other officials?
12. When attorneys, caseworkers, judges, or other officials interact with parents what behaviors on the part of officials can get in the way of effective communication?
13. Do you think there is a difference when the interaction is cross-cultural (i.e., a Black person interacts with a White person)?
  - a. **Probe:** If “yes,” please explain.
  - b. Can you offer a specific example?
  - c. **Probe:** If “no,” please explain.
  - d. Can you offer a specific example?
14. According to Hill (2006), “African American children represent about 15 percent of the children in this country but about 37 percent of the children in the child welfare system. In contrast, “white children represent about 61 percent of America’s children and about 46 percent of the children in the child welfare system. Studies also indicate that Black children are four times less likely to be reunified with their families than White children. What factors (actions or processes) operate in the court system that might contribute to these disparate conditions? Please explain.
15. What importance do you think race plays when decisions are made in the court system that might contribute to these unequal conditions? (You might consider, the language used to communicate, the actions or how the system operates to decide if the parent is unable to meet the child’s need for safety and well-being, do stereotypes operate and impact decisions?)
16. What recommendations would you offer to make interracial communication occur more effectively in the child protection juvenile court system?

Appendix E  
Demographic Questionnaire

Current Profession: (Circle)   Attorney   Caseworker   Judge   Supervisor

Age: \_\_\_\_\_

Gender: \_\_\_\_\_

Ethnicity/Race: Asian/Asian American \_\_\_\_\_

Black/African American \_\_\_\_\_

Latino(a) \_\_\_\_\_

Multi-racial \_\_\_\_\_

Native American \_\_\_\_\_

Pacific Islander \_\_\_\_\_

White/Caucasian \_\_\_\_\_

Other: \_\_\_\_\_

Years of Education Completed:   12   13   14   15   16   17   18   19   20

Identify Degree(s) Earned: \_\_\_\_\_

Professional Certificates/Licenses Earned: \_\_\_\_\_

Years of Experience as an attorney, caseworker, judge, supervisor: \_\_\_\_\_

Appendix F  
Demographic Questionnaire  
Parent

Age: \_\_\_\_\_

Gender: \_\_\_\_\_

Ethnicity/Race: Asian/Asian American \_\_\_\_\_

Black/African American \_\_\_\_\_

Latino(a) \_\_\_\_\_

Multi-racial \_\_\_\_\_

Native American \_\_\_\_\_

Pacific Islander \_\_\_\_\_

White/Caucasian \_\_\_\_\_

Other: \_\_\_\_\_

Years of Education Completed: \_\_\_\_\_

My child protection case was closed two or more years ago. Yes \_\_\_\_\_ No \_\_\_\_\_