INTRODUCTION

Thanks

Truly an Honor:

- Understand Judge Bell committed in teaching here to encouraging students to think about “the ethical, social, and historical issues related to law and justice.”
- Understand also your purpose I lectureship: engage all on legal issue with “broad implications for society,” and address role “honesty, fairness, and justice play in the legal system.”
- Important, and related to My Topic:
  - Child Welfare: my concern that Adults make the rules for themselves more than Children
  - Justice for Children a hard challenge: Children the ultimate Disempowered Group
  - Key to society: how treat Children key to:
    - Decency of our society
    - All our future
  - Honesty, Fairness, Justice: will talk of dishonesty, unfairness, injustice
Glad for chance to speak to broad, general audience: Child Welfare needs transformational change – for this need change in broad societal mindset/culture

MY TOPIC:

■ “Creating a Child-Friendly Child Welfare System”: Deliberately provocative
  o System claims to be child-friendly, that BIC guiding principle
  o But actually regularly values Adult Rights over Child

■ Role of Research:
  o Striking Amount of Research
  o Striking potential to inform Policy
  o But generally biased; serving Fam Pres, Adult-oriented Agenda, not BIC

■ Why?? Dominant “Child Welfare” Position often, in my view, Anti-Child, and it shapes both Policy and Research
  o Why would it be anti-child??
  o Bc pro-Adult: poor adults, minority and developing world adults

POLICY: See NOBODY’S CHILDREN

Child Maltreatment a major problem; ramifications for kids are lifelong emotional and physical

Good interventions

■ Anti-poverty
■ Early targeted support (eg HV, David Olds Nurse Practitioner model)
■ Coercive intervention once serious CAN: earlier, more definitive, more TPR & Adoption: specifically, e.g.:
  o Earlier, more definitive: Kids born drug/alcohol affected: SEI infants:
- Now typically send home with little/no supervision unless multiple repeat SEI births; prescription for disaster
- EB: Family Drug Court intervention at birth
  - Move on to TPR & Adoption more frequently
- Now typically: if remove, then Reunification Services and most often Reunification; 1/3-1/2 of those Reunified re-Removed; ½-2/3 of those Reunified re-Maltreated
- ASFA 1997 allowed for Reunification bypass in Torture, Sibling Murder, but only a few states use bypass permit

Problematic Policy: Dominant Family Preservation Priority in face of serious CAN: Doesn’t work well for Kids
- Adult-oriented: Parent Rights regime
- Compare Domestic Violence where Adult Victims:
  - have rejected Family Preservation as dominant ideology,
  - now do Family Breakup

Again see NC; a huge topic; can talk Q&A

RESEARCH: See P&P article sent to Wooster; some of you have seen

GOOD RESEARCH IGNORED: IA example

Policy Makers:
- Fast eliminating IA based significantly on claims re BIC: Heritage rights, alleged BIC benefits of In-Country Adoption, Foster Care
- See UNICEF position & other Child Human Rights orgs
- See CRC, supposed Child Rights Manifesto: gives countries Right to deny IA regardless of ability to care for Kids; prefers in-country options including Foster Care
- IA CHART: See Appendix 1
o in US 2013 will be 1/3 of 2004
o Also those kids placed older – 2-3 yrs plus

Research:

■ Institutions – the reality for IA kids -- don’t work
■ Foster care doesn’t exist, won’t soon, and doesn’t work
■ Adoption works really well, including IA
■ Works best if placed early
■ IA is only real adoption option:
  o Domestic ltd now & future most countries;
  o So many kids that need all options

IA Policy: Ignores the Research bc no concern with BIC: Russia at least
Refreshing Honesty – Shutdown of IA had nothing to do with BIC, pure Power
Politics with Kids as Pawns

BAD RESEARCH PROMULGATED & USED TO INFLUENCE POLICY

“Bad Research”

■ Research that doesn’t evaluate BIC; claims BIC counts but ignores it
■ Research that simply serves predetermined Family Preservation Policy
  Agenda
  o Designed to Vindicate that Agenda
  o Rather than genuinely Evaluate it
■ Research that asks Narrow Qs, Wrong Qs, EG:
  o How does this further Fam Pres?
  o As vs How does this serve BIC? Does more FP actually
    serve/disserve BIC?
  o Research that gives Misleading, even Dishonest Answers

BAD RESEARCH EXAMPLES
IFPS the most famous example: Narrow Questions & Misleading Answers

IFPS the Darling of the Ch Welfare Establishmt in 70s-90s; esp promoted by Edna McConnell Clark Fnd; 6 weeks intensive FP

- Narrow Question: Does this Fam Pres program succeed in Fam Pres? As vs BIC
- Misleading Answers: Yes when really No persuasive evidence
- But Narrow Q the bigger problem; Define Kids “at risk of placement” when placement may be needed to protect
- Amy Heneghan 1996 thorough review of the IFPS research provided a devastating critique;
  - one among many to finally note what now recognized as Research Scandal;
  - she concluded: IFPS may be “placing children at risk”
- NET: Many ready now to conclude: IFPS Research a disgrace; But exact same types of problems continue: 2 Examples:

RACIAL DISPROPORTIONALITY MOVEMENT – Perhaps most significant recent example of Egregious Research Misuse, in service of one of latest iterations of Fam Pres Agenda:

- EB work: Article, RD Conference; Article title – The RD Movement: False Fact & Dangerous Directions
- Huge recent Mvmt promoted by “Casey Alliance” & most of Child Welfare Establishment (CWLA, ABA Center Children&Law)
- Systematic indoctrination of Media part of Mvmt Strategy, with significant success: many articles adopting the RD Mvmt “racial discrimination” line
- Goal: Reduce Removal of Black Kids to Population %
- Based on Claim: Removal constitutes Race Discrim vs Parents bc CAN black and white rates the same
- Disc Claim based primarily on One Research Report: NIS-3
NIS-3 did indeed make this claim: CAN rates the Same, therefore Disc by System likely; by time of later NIS-4 admitted that Rates different, no evidence of Racial Bias – but acted as if earlier reports valid research

BUT the claim WAS NOT TRUE at time of NIS-3; NIS-3 authors had no evidence rates the same

Enterprising Social Scientist Brett Drake dug out the facts hidden in enormous Appendix by time of our RD Conference:
  - See Appendix 2-4.
  - NIS-2, NIS-3:
    - Rates not the same, but different by factor similar to official rates
    - Just not big enough sample for Stat Sig difference finding

BUT NIS-3 said the same, no difference, & thus Disc; didn’t say no sig difference; no fn, no Appendix till later; absence of stat sig provides no basis for claiming No Difference and thus Disc

NET:
  - Deliberate Dishonesty?
  - At minimum: Sophisticated social scientists put out grossly misleading NIS-3, which sophisticated policy-makers used for many years to promote policy based on claim of Same Malt Rates
  - While ignoring lots of other evidence that Black Malt Rates likely Higher than White

Mvmt succeeded in misleading Policy Makers & Press & through Press the Public to significant degree

To date the Mvmt, despite even their own NIS-4 hasn’t backed off

EARLY PREVENTION & PROTECTION: POLICIES & RESEARCH

Net for me of RD Debate, my work/article, & our RD Conference: Recognize too much CAN and try to address Early:

- Supportive Prevention
- Coercive Intervention
P&P Workshop held Spring 2012: NET:

- Many exciting Initiatives BUT ALSO
- Fam Pres Ideology – Parental Autonomy -- dominates both Policy & Research, limits Reform Potential

Positive:

- Exciting Program Initiatives:
  - Public Health Approach: Early Universal Support for Parents, with more Targeted for most at-risk: e.g.:
    - Durham Connects in Durham Co, NC: univ Assessment & HV at cost of only $500/family bc extra services only for targeted
  - Family Drug Courts that reach Substance-Exposed Infants (SEI) (Sacramento CA program)

- Exciting Research: Emily Putnam-Hornstein & Barbara Needell of USC & UC Berkeley:
  - Predictive Capacity
  - Failure of Current Protective
  - See Appendix 6-7

Negative: How Family Pres Ideology limits Reform Potential; Some Specifics:

- Early HV: YES POTENTIAL BUT: Only reaches roughly 2/3; no real research on risky 1/3; no thought re Mandatory; but see visionary Henry Kempe 1976 calling for Mandatory like Compulsory Education

- Family Drug Courts: YES POTENTIAL BUT
  - Over time the dual promise (Parents & Kids) became one: Parents & Family Preservation
  - Almost no reach to SEI, the infants: And when focus: Sacramento Program:
    - Policy emphasis: keeping all at home;
    - Research focus: Fam Pres success; BIC??
CONCLUSION:

- Policy shld move in more child-friendly direction
- Research also: so illuminates issues RELEVANT to BIC for Policy Makers
- WATCH FOR FUTURE: DR (Differential Response) big now and likely bigger if RD defeated:
  - No evidence better for Kids than Services within Coercive CPS system;
  - No research being done to tell us

CLOSE WITH HENRY KEMPE:

Visionary in his time, Famous for 1962 Battered Child Syndrome: helped propel child protection forward: nation-wide reporting system

Another groundbreaking article largely ignored, his 1976 Approaches to Preventing Child Abuse: See Appendix 7

STILL RIGHT ON; I AGREE
INTERNATIONAL ADOPTION TREND 1944-2013:
United States Immigrant Orphan Statistics

Dr. Brett Drake, Professor at Brown School of Social Work at Washington University in St. Louis.

Presentation at Conference:
Race & Child Welfare: Disproportionality, Disparity, Discrimination: Re-Assessing the Facts, Re-Thinking the Policy Options

co-sponsored by
Harvard Law School Child Advocacy Program and Chapin Hall at the University of Chicago

Cambridge, MA., January 28-29, 2011

Appendix 2
But did their best estimate of actual disproportional ity change? Not really.
How do the NIS disproportionality rates compare to the known disproportionalities in reports?

B/W Disproportionality: NIS and Official Reports

NIS estimates of Actual Maltreatment

Known rates of National Reporting

- NIS-2 (1986)
- NIS-3 (1993)
- NCANDS (2006)
Based on a study of the entire 2002 California birth cohort, Emily Putnam-Hornstein and Barbara Needell found that, looking at risk factors available in infant birth records, they could predict with great accuracy which children will be reported for maltreatment before their fifth birthday. Looking at children with three risk factors they found they could identify 50% of the children reported for maltreatment before the age of five. They were able to predict that a child characterized by seven risk factors has an 89% likelihood of being reported for maltreatment before the age of five.

Emily Putnam-Hornstein found that of the California 2006 birth cohort, some 5.3% were referred for maltreatment before their first birthday. Out of these, 82% remained in the home, and among those kept at home, 56% were referred again before the age of five.

Out of those remaining home following substantiation of the initial maltreatment allegation, 58% of those who received no formal services were re-referred, and 65% of those receiving such services were re-referred, by the age of five.
We must now insist that each child is entitled to effective comprehensive health care, and that when parents are not motivated to seek it, society, on behalf of the child, must compel it. It seems incomprehensible that we have compulsory education, with truancy laws to enforce attendance and, I might add, imprisonment of parents who deny their child an education, and yet we do not establish similar safeguards for the child’s very survival between birth and age 6.

We must [work with problem families] first by persuasion and education and trying to be as helpful as we can, but if that fails, we must initiate active intervention through child protection services....

When marriages fail, we have an institution called divorce, but between parent and child, divorce is not yet socially sanctioned. I suggest that voluntary relinquishment should be put forth as a desirable social act - to be encouraged for many of these families.

When that fails, legal termination of parental rights should be attempted. However, such termination is a difficult thing to achieve in our country.... But each child is on a schedule of his own emotional development.... He needs loving parents right now, and the same parents, not a series of ten foster homes. For 20 years, courts have lectured me on the rights of parents, but only two judges in my state have spoken effectively on the rights of children....

The really first-rate attention paid to the health of all children in less free societies makes you wonder whether one of our cherished democratic freedoms is the right to maim our own children. When I brought this question to the attention of one of our judges, he said, “That may be the price we have to pay.” Who pays the price? Nobody has asked the child....

Let us now resolve to fight for [our children’s] total civil rights. Let us not, I beg of you, settle for anything less.