

Spring 2011

Prepared Opening Remarks

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Recommended Citation

James Bell, *Prepared Opening Remarks*, 6 Nw. J. L. & Soc. POL'Y. 279 (2011).
<http://scholarlycommons.law.northwestern.edu/njlsp/vol6/iss2/1>

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Symposium: Justice for the Child

Prepared Opening Remarks*

James Bell**

¶1 Good Evening to you all. Please forgive me for this opening cliché, but I am truly humbled to be asked by Bernardine [Dohrn], whom I respect and admire so much, to address you this evening. I am so intimidated by all of you that I have been writing and re-writing this address for over a week and I'm just scared s---less. So I ask your indulgence in advance as I try to rhetorically compliment the significance of this occasion.

¶2 Celebrating twenty years of the Children and Family Justice Center gives us the ability to look back and reflect on our work in the [juvenile justice] movement to bring humanity to children in trouble with the law. Those of you that know me are aware that I was born and reared in segregation and heavily influenced by Dr. [Martin Luther] King. The notions of affirmation and critique were one of the hallmarks of his leadership. Thus I can think of no better approach to this celebration. We have much to affirm, and knowing Bernardine as I do, we ain't too d--- far from critique.

¶3 The Children and Family Justice Center was born at the right time in history with the right leader. Let me take you back for a moment. 1990 was one year after what I believe was a pivotal event in the annals of juvenile justice—the Central Park Jogger case. The hysteria generated by this crime was seismic in scope. It created fertile soil for the acceptance of the inane theory of “superpredators,” which led to legislation to lower the age of responsibility, which then led to the notion that children of color were feral packs of unfeeling animals that needed to be caged. We are still feeling the impact. Critique.

¶4 Affirmation. The Center was born with Bernardine Dohrn as its leader. She was the embodiment of the credo that in recognizing the humanity of our fellow beings, we pay ourselves the highest tribute. She is fierce and unapologetic in her advocacy. Her eyes spark and flash. As Adrienne Rich tells us, Bernardine Dohrn longs to create something that can't be used to keep us passive. She and the Center are what we needed to battle this tsunami of twisted logic and inhumanity.

¶5 More affirmation. Nelson Mandela walks out of jail. More affirmation, closer to home. The Juvenile Detention Alternatives Initiative began to change the conversation about youth incarceration.

¶6 Bernardine Dohrn brings all these dynamics to the Center. She and her colleagues engage the issue of the age of responsibility. They engage the use of forced confessions

* Presented at Northwestern University School of Law, Children and Family Justice Center's 20th Anniversary Symposium, “Seize the Moment: Justice for the Child,” presented in partnership with the *Northwestern Journal of Law and Social Policy*, October 7–8, 2010.

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and coercive interviews. They started a project for girls in the Audy Home.¹ They were clairvoyant in their efforts to deal with mental health and detention. They brought advocacy to the courts in a major way and challenged legislation from Springfield [, Illinois]. The Center was and is building a cadre of talented young folks to do great work. Imagine legal advocacy for youth in Chicago without them being here. Indeed, the ground breaking advocacy for children with mental health issues and in juvenile hall not only benefited youth in Chicago, but all over the country. The Center set a model for all youth advocates to fight the scourge of incarceration that was exploding in the 1990s.

¶7 As everyone in this room knows, we as a country are addicted to incarceration as the primary instrument of social control. We all know that the United States incarcerates more young people than any other country.² We also know that this addiction is costing us tremendously as a society, but while that is of interest to the Center, this institution we are celebrating tonight cares more about the human toll.

¶8 Every day, youth across the country who are incarcerated find themselves facing harms ranging from mental, emotional, physical and sexual abuse, to a lack of nutritious food, and basic necessities including clean undergarments and adequate bathing supplies, and a lack of education and future opportunities. The majority are denied their liberty for minor offenses, and are placed at the mercy of a system that has been proven broken and in need of a serious and immediate overhaul.

¶9 In 2009, the U.S. Department of Justice released a report graphically documenting the persistent brutality and routine neglect of youth of color with mental health issues.³ The report summarized the results of a two-year investigation and highlighted numerous abuses, including a 300-pound guard forcing a girl to the ground so violently (she had threatened to urinate on the floor) that the girl suffered a concussion. Another girl with mental health issues was placed in isolation for three months without treatment. She apparently deteriorated in the process, never changed out of her pajamas, and was forcibly restrained at least fifteen times.

¶10 In 2008, *The New York Times* reported that the Louisiana state legislature voted to close the Jetson Center, a large prison-style facility near Baton Rouge plagued by fights and reports of sexual violence.⁴ A young man reported being locked in a cell for about seven weeks: “This is where the guards beat, kick, stomp and punch you. I was beaten so badly in there by a guard that he broke my eardrum. The sex in there is horrible. The female guards, and even some male guards, were having sex with the kids And there were rapes, but they weren’t reported very often. If a kid was raped on a guard’s

¹ The Audy Home, also more formally known as the Juvenile Temporary Detention Center, is the local juvenile detention center in Chicago. *Audy Home*, ENCYCLOPEDIA OF CHI., <http://encyclopedia.chicagohistory.org/pages/90.html>.

² THE PEW CTR. ON THE STATES, ONE IN 31: THE LONG REACH OF AMERICAN CORRECTIONS (2009), available at http://www.pewcenteronthestates.org/uploadedFiles/PSPP_1in31_report_FINAL_WEB_3-26-09.pdf.

³ Letter from Dep’t of Justice Civil Rights Div. to David A. Paterson, Gov., N.Y. (Aug. 14, 2009) (reporting on the findings of an investigation of four Office of Children and Family Services facilities, Lansing Residential Center, Louis Gossett, Jr. Residential Center, Tryon Residential Center, and Tryon Girls Center, in New York State), available at http://www.justice.gov/crt/about/spl/documents/NY_juvenile_facilities_findlet_08-14-2009.pdf.

⁴ Editorial Writers of the N.Y. Times, *Louisiana: Closing an Abusive “Center for Youth,”* N.Y. TIMES (June 18, 2008, 3:05 PM), <http://theboard.blogs.nytimes.com/2008/06/18/louisiana-closing-an-abusive-center-for-youth/>.

watch, the guard would get fired and the other guards were going to make sure the kid paid for telling.”

¶11 In 2007, reporters in Texas found that more than 750 juvenile detainees across the state had alleged sexual abuse by staff over the previous six years.⁵ Officials in Austin ignored what they heard, and in rare cases where staff members were fired and their cases referred to local prosecutors, the prosecutors typically refused to act. “Not one employee of the Texas Youth Commission during that six-year period was sent to prison for raping the children in his or her care.”⁶

¶12 In 2006, Martin Lee Anderson didn’t make it past his first day at the Bay County Juvenile Boot Camp before he was abused to death. After “drill instructors” at this youth boot camp facility forced him do a fitness run with a twenty-minute confrontation, Martin collapsed and died as a result of complications from a sickle cell trait.⁷

¶13 It’s not just physical abuse and violence but corruption and graft. In Luzerne County, Pennsylvania, judges were sending young people to facilities for long periods and getting “kickbacks” for the placements.⁸ In New York the interests are so powerful in the prison industrial complex that a facility with six youth is being staffed by 106 guards.

¶14 Bernardine Dohrn reflected that these facts were a savage indictment of most of our failure to hear the cries of children behind bars or recognize the consequences of our denial of their full humanity. Critique.

¶15 The use and acceptance of structural violence as a key component of social control is risky, dangerous and harmful to civil society and must be resisted.

¶16 In engaging the full humanity of our young people, the Center has not shied away from the issue most disturbing in our times: the disproportionate impact of these policies on young people of color. The Center has always been upfront and clear about the impact of legislative feeding frenzies on children, families, and communities of color. They have always advocated being “smart on crime.”

¶17 I, for one, hope that the Center continues to advocate for smart policies, especially in these times. We are in a significant period of transition as a nation. Economic hard times are arriving more often and more virulently.

¶18 Demographers have estimated that within two decades communities of color will be the majority population. In California this has happened already. Unfortunately, for too many white folks this reality fills them with fear and anxiety. They feel like not only is there an economic recession there is a recession in white privilege as well. There is a white privilege deficit that does not make them happy.

¶19 They want their country back with the privilege that whiteness has granted since the Founding Fathers simultaneously created a nation and a racial identity. The nation

⁵ ToySoldier, *Sexual-abuse Scandal Rocks Texas Juvenile Prison System*, TOY SOLDIERS (Mar. 7, 2007), <http://toysoldier.wordpress.com/2007/03/07/sexual-abuse-scandal-rocks-texas-juvenile-prison-system/>.

⁶ David Kaiser & Lovisa Stannow, *The Crisis of Juvenile Prison Rape: A New Report*, NYR BLOG (Jan. 7, 2010, 10:21 AM), <http://www.nybooks.com/blogs/nyrblog/2010/jan/07/the-crisis-of-juvenile-prison-rape-a-new-report/>.

⁷ Jim Avila & Sarah Koch, *Boot Camp Death—Caught on Tape*, ABC, Feb. 7, 2007, <http://abcnews.go.com/2020/story?id=2751785&page=1>.

⁸ Stephanie Chen, *Pennsylvania Rocked by Jailing Kids for Cash’ Scandal*, CNN, Feb. 23, 2009, http://articles.cnn.com/2009-02-23/justice/pennsylvania.corrupt.judges_1_detention-judges-number-of-juvenile-offenders?_s=PM:CRIME.

was committed to the idea of freedom while the racial identity was a formula for power and exclusion. Its goal was to make whiteness itself a source of power and we know that power cedes nothing easily.

¶20 However, the Center understands that the success of the entire nation's economy and civic life depends not on white privilege but on the successful transition into adulthood of those people living in neighborhoods of concentrated poverty. We simply cannot afford structural unfairness that rewards skin color, place of residence and income as social determinants of success.

¶21 So how do we do this? I offer a few suggestions. Now is the time to be bold and fierce in our analysis and advocacy. The current system is unsustainable and now is the moment for ideas that restructure this irrational and ineffective system. The Center should focus the next twenty years on dismantling the pillars of our current model and suggest effective and humane alternatives.

¶22 The Center is already taking ideas from other countries. We know that in other places, incarceration is truly the last resort rather than the first resort, as in our country. I want to steal an idea that Bart Lubow, architect of the Juvenile Detention Alternatives Initiative, is exploring that institutes severe restrictions on the use of incarceration—forcing local jurisdictions to come up with more innovative and creative approaches to long term care.

¶23 We must continue to challenge the way probation services are structured for delivery. We need to have a new vision of which children should never be in the system and how we serve them outside the judicial concept. We have a model. It's called "how do we deliver justice for rich folks?" Very well, thank you very much. We keep them out of the system and get them services that are family focused. We know what to do—we all need to work together to make it happen for all children.

¶24 We must continue to take the brain development science and make it work in the courtroom for our children and families. We must make it work through the delivery of services that are culturally and linguistically appropriate. This means being in touch and utilizing the work of John Rich and others regarding the impact of trauma on young people living in communities of concentrated poverty.

¶25 We must work hard to stop the justice system from being the dumping ground for other failed systems. We must try to bring sanity to the mental health system that is non-existent or failing our children.

¶26 We must keep working on the question "why are more and more young people of color given the universal passport to criminality, the Diagnostic and Statistical Model IV diagnosis of "conduct disorders" than their Anglo counterparts?" What are the behavioral normative assumptions being used by developmental psychologists for a recent immigrant from Central America or Korea-town? Keep questioning what in the hell Mr. Piaget would determine to be the norm today? I am wary of two public systems medicalizing and criminalizing adolescence.

¶27 How are these professionals measuring insight and abstract thinking and at what levels and ages? How do you measure a Latina high school girl's need for connectivity and her ability to have a baby at fourteen or join a gang? How do you measure risky behavior for neighborhoods where unemployment is over 40 percent?

¶28 How is the mental health discipline establishing norms and in what context? What is normal when we have people humiliating themselves before millions of people by

picking spouses, competing to see who can be the most grotesque, swapping parents, and conducting paternity tests, all in a couple nights on primetime television? Now you tell me what is normal in a celebrity obsessed, consumer culture of brand-name-dropping excess.

¶29 We must continue to fight the complicated issues around education. If one were to examine indicators of the ability to compete educationally in this era, important ones for our purposes would be high school completion, school suspensions, and grade retention.

¶30 The Rand Corporation's recent study found that full time workers with a college degree earned approximately seventy thousand dollars annually, while those that finished high school earned 40K and those not finishing high school earned thirty thousand.⁹ In California, Latinos are currently almost seven times more likely not to finish high school.¹⁰

¶31 Similarly, school suspension and grade retention rates are directly related to drop-out rates. Rand's analysis found differences because of race, ethnicity, and class. What is happening at the nexus of juvenile justice and education?

¶32 "Zero-tolerance" logic and policies have in some instances made it too easy for educators to forfeit their authority to law enforcement. One apparent result has been an increase in the number of students now being referred to the nation's juvenile courts for various forms of school conduct violations and other conflicts once addressed within the school environment.

¶33 The situation is truly ironic. The argument for retaining ungovernable and truancy jurisdiction by the juvenile court is that juvenile courts have to act in such cases because "if we don't act, no one else will." I submit that precisely the opposite is the case: because the courts act in the way they do, no one else does.

¶34 So this is just a short list of the reasons why we need the Center to be all that it is and more. Our young people need you. As some of you in the room know, I have been quoting my friend and colleague Paul Farmer this year—mostly because of his work in Haiti but also because I believe it is highly relevant to our work. Paul says that rights violations are not accidents, they are not random in distribution or effect. Rather they reflect symptoms of deeper pathologies of power and are intimately linked to the social conditions that so often determine who will suffer abuse and who will be shielded from harm.

¶35 The Center is so necessary to help shield us from harm. Bernardine Dohrn carried that shield for almost twenty years and she has passed it on to Julie Biehl's most capable hands. I know you all join me in wishing that she use all her skills to navigate these treacherous and exciting times. Affirmation and Critique.

Often the voice of conscience whispers
Often we silence it

⁹ Silvia Montoya, *Exploring Family, Neighborhood and School Factors in Racial Achievement Gap* (Feb, 2010) (Ph.D. dissertation, Pardee Rand Graduate School), *available at* http://www.rand.org/content/dam/rand/pubs/rgs_dissertations/2010/RAND_RGSD259.pdf.

¹⁰ *Id.*

Always we will have to pay¹¹

¶36 There are many things that Julie Biehl is, but silent ain't one of them! So I close tonight with a few last thoughts and good wishes for the Center. The first comes from Paul Tillich: "unselfish and noble acts are the most radiant epochs in the biography of souls." Let us therefore always be guided by compassion.

¶37 Also, let us keep close to our work the words of Vincent Harding, who reminds us that we must never cease to be amazed by unexpected revelations of the great, still largely untapped human potential for resistance and hope, for compassion and grandeur, for courage and visionary self transcendence—even when pressed against all the walls that oppression has created. Thus we will be guided by endurance.

¶38 Finally in the tradition of Bernardine Dohrn:

¶39 Keep your eyes sharp for all things great and small to bring fairness to those marginalized.

¶40 Keep your mouths at the ready to challenge powerful people when they are wrong and oppressive.

¶41 And keep your minds cocked and fully loaded to do all in our power for our orphans of opportunity.

¶42 Thank you people of the Northwestern Children and Family Justice Center. Thank you so so much.

¹¹ Cletus Nelson Nwadike, *A Short Black Poem #6*, AFRICANWRITER.COM, June 17, 2009, <http://www.africanwriter.com/articles/370/1/A-Short-Black-Poem---Poems-by-Cletus-Nelson-Nwadike/Page1.html>.