



**AMERICAN UNIVERSITY**  
W A S H I N G T O N , D C

**Department of Economics**  
**Working Paper Series**

**Transracial Adoption of Black Children:  
An Economic Analysis**

by

Mary Eschelbach Hansen  
Daniel Pollack

No. 2007-1  
January 2007

**[http://www.american.edu/academic.depts/cas/econ/  
workingpapers/workpap.htm](http://www.american.edu/academic.depts/cas/econ/workingpapers/workpap.htm)**

Copyright © 2007 by Mary Eschelbach Hansen. All rights reserved. Readers may make verbatim copies of this document for non-commercial purposes by any means, provided that this copyright notice appears on all such copies.

# Transracial Adoption of Black Children: An Economic Analysis <sup>\*</sup>

Mary Eschelbach Hansen <sup>\*\*</sup>  
Daniel Pollack <sup>\*\*\*</sup>

## Abstract

The anti-discrimination law governing placement of children in foster care and adoption was intended to speed the adoption of Black children who could not be reunited with their families of origin. Only recently have two states been fined for violating this decade-old law. Based on our analysis of administrative data collected by the Children's Bureau of the U.S. Department of Health and Human Services, we conclude that more vigorous enforcement of the anti-discrimination law in adoption could result in significant gains to Black children. We find that Black children spend more time as legal orphans than children of other races and that transracial placement speeds their adoptions.

**Key words:** adoption, anti-discrimination, foster care, policy, transracial adoption

**JEL classification:** J78, J15, J13

---

<sup>\*</sup> The data used here were made available by the National Data Archive on Child Abuse and Neglect, Cornell University, Ithaca, NY, and have been used with permission. Data from the AFCARS were collected by the Children's Bureau. Funding for AFCARS was provided by the Children's Bureau, Administration on Children, Youth and Families, Administration for Children and Families, U.S. Department of Health and Human Services. The collector of the original data, the funder, the Archive, Cornell University and their agents or employees bear no responsibility for the analysis or interpretation presented here.

Financial support for this research was provided through the NIH/NICHD/Demographic and Behavioral Branch (R03-HD045342-01), through the Mellon Fund at the College of Arts and Sciences of American University, and through the Summer Research Institute at the National Data Archive on Child Abuse and Neglect at the New York State College of Human Ecology at Cornell University. The authors thank the staff at NDACAN for their assistance.

Research assistance was provided by Renata Kochut.

<sup>\*\*</sup> Department of Economics, American University. Contact: Mary Eschelbach Hansen, Department of Economics, American University, 4400 Massachusetts Avenue, NW, Washington, DC 20016-8029. Email: mhansen@american.edu.

<sup>\*\*\*</sup> Wurzweiler School of Social Work, Yeshiva University, 500 W. 185<sup>th</sup> Street, New York, NY 10033, dpollack@yu.edu

*There may be reasons why a difference in race...may have relevance in adoption proceedings. But that factor alone cannot be decisive in determining the child's welfare.*

Judge David L. Bazelon, United States Court of Appeals, District of Columbia Circuit

*(In re adoption of a minor, 228 F.2d 446 (1955)).*

Recent work by James Heckman and his co-authors stresses the relative efficacy of investing in the human and social capital of young children and adolescents (Carniero and Heckman 2003, Heckman and Lochner 2000). Among the vulnerable young people who would benefit from targeted investment is one easily identifiable group—the 114,000 children in foster care who cannot be reunited with their birth parents. At least 36 percent of children waiting in foster care are Black or have multiracial heritage (US DHHS 2006).

Federal law considers adoption the preferred alternative for providing permanency for waiting children. Notwithstanding the 1955 opinion of Judge Bazelon, the role of race in determining the investments we make in the adoption of Black children is still a contentious issue. It is argued that transracial adoption inflicts group harm on the Black community (Roby and Shaw 2006). A similar group harm argument is made by those seeking to limit international adoption (Roby and Shaw 2006). Mary Hansen and Daniel Pollack (2006) argue that banning international adoptions is inefficient. In this paper we extend their argument to transracial adoption. We provide a brief history of transracial adoption and anti-discrimination law in adoption, and we use administrative data compiled by the Children's Bureau to describe the length of time Black children spend as legal orphans before they are adopted.

We show that adoptions, including adoptions of Black children and other children of Color, have increased since the 1990s. Transracial adoptions have increased as well, yet

Black children continue to experience delays in adoptive placement relative to children of other races. Since a child adopted transracially spends less time as a legal orphan than the average adopted Black child, we conclude that greater emphasis on transracial placement is warranted and more vigorous enforcement of the anti-discrimination law in child welfare would result in gains for Black children.

### **Race and Anti-discrimination Law in Adoption**

In the mid-1950s, the Child Welfare League of America reported that Black children were the largest group of children in need of adoption (Simon, Alstein, and Melli 1994). Between 1958 and 1962, adoptions of Black children increased, but the number of Black children in need of adoptive families remained large. Agencies stepped up efforts to place Black children. Many agencies revisited the way prospective adoptive families were screened, and opted to include more kin, single women, and foster parents in the pool of prospective adoptive parents. The most controversial alternative for adoptive placement was transracial placement.

Racial matching—coordinating placements in foster care and adoption so that the parents and children are of the same race—was one of many matching criteria considered to be good social work practice and in the best interest of children. In general, social workers desired to place children where they would blend in. Children and families were therefore matched on physical characteristics, including skin color, as well as expected intellectual ability, social status and religious heritage. While these other matching criteria were abandoned in the 1970s and 1980s in favor of matching criteria that emphasized the ability of families to parent children with specific needs, racial matching remained an oft-used criteria.

Transracial placement was seen as a last resort, to be used only when a same-race placement could not be made. From 1990 to 1995, for instance, many states included a rank-ordering of placement preferences for adoption that included race as a primary factor. The first preference was for placement with a relative, who was usually of the same race as the child (Hollinger and ABA Center on Children and the Law National Resource Center on Legal and Courts Issues 1998). If no relative was available or placement with a relative was not in the child's best interest, the second-best preference was for placement with an adoptive family of the same racial or ethnic background as the child. The ordering of placement preferences in California law applied until 90 days after a child was relinquished or parental rights were terminated. If a preferred placement was not arranged during the 90-day period, the child could be placed transracially.

In the early 1980s at least six states still permitted race to be a relevant factor in adoption (ARIZ. REV. STAT. ANN. § 8-105.C.1,D.4 (1974 & Supp. 1982-83); COLO. REV. STAT. § 19-4-110(2)(a) (1973 & Supp. 1982); OKLA. STAT. ANN. Tit. 10, § 60.12(1)(c) (West 1966); PA. STAT. ANN. Tit. 1, § 1 (Purdon Supp. 1982-83) S.D. CODIFIED LAWS ANN. § 25-6-13 (1976); WASH. REV. CODE ANN. § 26.32.060 (1961 & Supp. 1983)). These states believed that race was important enough in adoptive placement that the race of at least one part of the adoption triad (child, birth parents, and adoptive parents) must be included in the petition for adoption or reported as part of the finding in a court-ordered or statute-mandated investigation. Adoption law in the remaining states prohibited the use of race to deny an adoptive placement.

Leslie Hollingsworth (1990) began her review of the literature on transracial adoption with a tremendous understatement that bears repeating: "The topic of transracial adoption is of special interest, at least in part because of the emotional discourse associated

with it.” A long list of normative questions surrounds the issues of where children, especially Black children, belong. The questions became heated after the members of the National Association of Black Social Workers resolved to oppose transracial adoption as a matter of policy and practice. In its position paper of 1972 the Association called transracial adoption “a blatant form of racial and cultural genocide” (NABSW 1972). In the late 1970s and 1980s there emerged a counter-movement that sought to remove race and ethnicity from consideration in adoptive placement. By 1994 NABSW had softened its position to some extent: transracial adoptions should be a last resort only after a documented failure to find a home with Black parents (NABSW 1994).

But the controversy over transracial adoption has never been fully resolved. There are several strands of argument. One strand is about whether transracially adopted children develop healthily, that is, whether they exhibit normal social and psychological development (Simon, Alstein, and Melli 1994). Opponents of transracial placements are concerned that removing the preference for in-racial placement from policy would lead social workers, families, and the public to discount the importance that race and culture play in a child’s life. A second strand of argument is about whether allowing transracial placement allows child welfare service providers to avoid equal treatment of Blacks (Bartholet 1999). Opponents of transracial adoption are concerned that removing preferences for in-racial placement would reduce efforts to recruit persons of Color to be foster and adoptive parents. A third strand of argument is that preferring in-racial placements results in unnecessary delays or denials of otherwise appropriate placements; delay or denial of adoption clearly harms children.

The debate over transracial adoption is also part of a larger debate between the advocates of “colorblind” social policy and so-called racial “separatists,” Black and White. After *Loving v. Virginia* (1967), the United States Supreme Court case that declared

unconstitutional the state and local laws prohibiting interracial marriage, some states continued to ban transracial adoptions. The separatists maintained that people of Color belong to social groups separated from White society by current and historical discrimination, and that interracial family-making — including transracial adoption—caused harm to groups and individuals of Color. The advocates of colorblindness maintained that making race a factor in social policy perpetuates racism. Removing race from rules on adoptive placement, they argued, created benefit for both society and specific children.

Senator Howard Metzenbaum advocated colorblind social policy. In 1993, Senator Metzenbaum introduced the original Multiethnic Placement Act (MEPA), which was intended to eliminate the use of racial matching practices in adoptive and foster care placement. Moved by the stories of White foster parents who were prevented from adopting their non-white foster children, the proponents of the MEPA envisioned an increase in transracial adoption after the Act was passed. However, the version of the MEPA that was signed by President Clinton in 1994 was not a call for colorblind social work practice. The MEPA (P.L. 103-382) specifically directed states to recruit of a pool of foster and adoptive families that would reflect the demographics of the population of children in need of care. The final form of the MEPA also contained the stipulation that racial and ethnic background could still be considered in making a placement, if it was only one among many factors used in the placement decision.

In 1996, Congress passed and President Clinton signed the so-called Interethnic Adoption Provisions (P.L. 104-188 Section 1808, also known as MEPA II), which were intended to strengthen the MEPA. MEPA II amended the language of the original MEPA to prohibit discrimination on the basis of race in placement. Race was to be excluded from placement guidelines. Race is to be “harmless” in adoptive placement just as race is to be

harmless in employment and mortgage lending. Under MEPA II, race may only enter decision-making in placement when issues of race are matters of the best interest of a *particular* child. MEPA II also empowered the Department of Health and Human Services to enforce the law through fiscal sanctions, and it empowered individuals to sue in federal court if they have been harmed by violation of the law. MEPA II did not change the language of the original MEPA on recruitment of a racially representative pool of prospective parents.

After ten years of social work practice under MEPA, tension still exists in social work practice between the right of the child to a culturally sensitive adoptive placement and the right of a child to a speedy placement regardless of race. The Office for Civil Rights has conducted over 130 investigations of race discrimination in child welfare practice, but the workaday tradeoffs made in social work practice are mostly shielded from direct observation. Consider the case of foster and adoptive parent training in San Jose, California, as described in a paper summarizing the results of a focus group study (Wilson, Katz, and Geen 2005):

...I just envisioned us taking home a Black little boy. After watching the movie, I just thought no...that is the one thing about [the training sessions] that didn't leave a good taste in my mouth. They did a film and it was very powerful to me. I came away with the thought that maybe not [adopt a child of another race].

It is apparent that a local agency or an individual social worker can still subtly propagate the belief that mismatch in ethnic or racial background would, on its own, be a bar to a successful placement.



## The Inefficiency of a Ban on Transracial Adoption

To understand the costs of restricting placements by race, consider figure 1. On the horizontal axis is the number of children in foster care who are waiting to be placed in adoptive families, either transracially or within race. On the left-hand vertical axis is the net benefit from same-race adoption; on the right-hand vertical axis is the net benefit from transracial adoption.<sup>i</sup>

The benefit of same-race adoption may be quite high; if we place especial value on cultural preservation, we could even claim that the marginal benefit of a policy that stresses same-race adoption never declines. Yet, the cost of recruiting same-race adoptive parents rises with the number of waiting children placed. The net benefits of same-race placement must fall as the number of waiting children increases. Recruitment costs that increase in the number of children to be placed also cause declining net marginal benefit of transracial adoption.

If adoption policy aims to maximize social welfare from adoption, then each child should be placed so that the benefit to society from her adoption could not be greater if we changed a child's placement, for example at A.

Suppose that same-race placements can be found for all waiting children if we spend enough money to find them. Because the costs of the first transracial adoptions are small compared to the high cost of the last same-race placements, the cost of the ban is area XYZ in figure 1.

The model pictured in figure 1 ignores the costs of delay. Age at adoption is consistently associated with stability and better outcomes (Barth and Berry 1998), so delay in adoption reduces the net marginal benefits of adoption. The costs of delay are incorporated

into figure 2. Rules requiring or permitting a time period of race preference in adoptive placement slows down adoptions of any race, imposing a cost of  $A+B+C$ .

The psychic cost of delaying or denying a waiting child placement in a permanent family is inestimable. In dollar terms, the cost of imposing or banning transracial adoption or of denying adoption to maintain a policy of racial matching is likely to be substantial. The net benefits to society of adoption from foster care (without regard to race) are estimated to be \$150,000 to \$300,000 per child (Hansen 2006).

Further, facilitating transracial adoption today frees resources that can be used to gain the benefits of adoption in the future. For example, resources used today to house Black children in foster care could be used instead to recruit and train more Black adoptive families, or could be used to fight the underlying problems of poverty and addiction that brings so many children into care.

### **The Number of Transracial Adoptions**

While the controversy over transracial adoption in the 1970s and 1980s filled many books and journals written and read by lawyers, social workers, psychologists, and sociologists, the number of families finalizing adoptions across black-white racial lines has, historically, never been very large. The peak of transracial adoption in the 1944-1975 period occurred in 1971, when adoptions of Black children by white parents numbered 2,574, or about 1.5 to 2 percent of all adoptions (Bartholet 1991; Fogg-Davis 2002; Stolley 1993; Simon, Altstein, and Melli 1994). Other authors date the peak of transracial adoption to about the same time, but claim that about one third of adopted Black children were placed with White families (Madison and Shapiro 1973; McRoy et al 1982; Brooks, James, and Barth 2002). None of the data on adoption prior to the late 1980s contains complete or consistent

data, and none separates transracial adoptions from same-race adoptions, so the actual percentage of placements that were transracial can probably never be known.

The National Center for Health Statistics estimated that one percent of all adopted children in a 1987 survey were Black children adopted by White mothers (Bachrach, London, and Maza 1991). In a 1988-89 survey of 625 white adoptive parents in California, 4.6 percent had adopted Black children and 15.8 percent had adopted children of Hispanic origin (Brooks, James, and Barth 2002). The North American Council on Adoptable Children reported that a 1989-1990 survey of adoption agencies revealed that 22 percent of their placements of Black children were transracial (Gilles and Kroll 1991).

Whether the MEPAs have had any independent effect on adoption and especially on the number of adoptions of Black children waiting in foster care is unknown, and possibly unknowable. No systematic or systemic information on transracial adoption was collected prior to MEPA I, and only one survey of agencies, states, and adoption lawyers has been published since the passage of the MEPAs (Simon 1999). The implementation of the Adoption and Foster Care Analysis and Reporting System (AFCARS) in fiscal year 1995 provides the first opportunity to examine trends in transracial adoption of children across states and over time. The following sections examine recorded races of adoptive children and transracial placement in adoptions with state agency involvement using the AFCARS data for 1996-2003.

#### *Administrative Data on Adoptions from Foster Care*

The Adoption and Safe Families Act (P.L. 105-89) required states to document increases in adoptions in order to qualify for performance bonuses. Effectively this required states to come into compliance with a federal rule issued in December 1993 requiring the submission of data on adoptions with state agency involvement (Maza 2000). The data

collection system is known as the Adoption and Foster Care Analysis and Reporting System (AFCARS). AFCARS reporting rules require states to submit to the Children's Bureau case-level information on all children whose adoptions were finalized after any state agency involvement. The Children's Bureau (US DHHS 2006) publishes tabulations and makes available a public use version of the data.

In addition to data on race, we use data on age of the adopted child, the date of finalization of adoption, and the date of termination of the rights of each birth parent. The date of termination of the birth mother's rights and the date of termination of the birth father's rights are reported separately. The time between termination of parental rights and adoption is calculated using the later of the two recorded termination dates. The analysis of time from termination to finalization in the final section below also uses as controls data on sex of the adopted child, adoptive family structure, prior relationship of the child to the adoptive parents, and the primary special needs basis and recorded disabilities of the child. Finally, although AFCARS contains a few observations of private adoptions, our analysis is limited to cases with state agency involvement.

#### *Limitations of the Data*

The Children's Bureau puts little faith in the AFCARS data for 1995 to 1997.<sup>ii</sup> Relatively few states were in compliance with the federal rules on AFCARS before fiscal year 1998. For example, in 1995 just 31 states submitted some adoption data to AFCARS. Moreover, the data submitted were incomplete: over 35 percent of adoption records (for 5,636 children) for fiscal year 1996 and over 22 percent (for 5,019 children) for 1997 do not include sufficient information to calculate the time between termination of parental rights and adoption.<sup>iii</sup> The completeness of the data improves markedly for fiscal years 1998 and 1999, for which about seven percent of records are incomplete. The data for 2000-2003 are

nearly complete, with less than two percent of records (for fewer than 1,000 children) missing these benchmark dates.

The data on race of the adopted child are relatively complete. Only about five percent of all AFCARS records are missing a code for the child's race or indicate that the child's race is "unable to be determined." The percentage of cases with missing race data is highest in fiscal years 1997-1999, for which 6.7 to 9 percent of records have incomplete data on race.

The data on race of the adoptive parents, however, are not very complete, especially for years before fiscal year 2000. Race of the adoptive mother is missing or "unable to be determined" in 20 to 50 percent of cases before 2000; race of the adoptive father is missing or "unable to be determined" in 43 to 62 percent of cases before 2000.<sup>iv</sup> After 2000, race of the adoptive mother is missing in 13 to 14 percent of cases, and race of adoptive father is missing in 9 to 12 percent of cases. Just over one third of cases are missing race information on one or more members of the adoptive family.

Although the first three years of data are suspect, AFCARS (again) represents the only source of case-level data on adoptions with state agency involvement that is reasonably consistent in format across states and over time. Moreover, at least at the state level, the AFCARS count for FY 1996 is highly correlated with data reported through the Child Welfare League of America's National Data Analysis System and the National Council on Adoption's Adoption Factbook (Hansen and Hansen 2006).

Finally, we note that the AFCARS adoption data are not ideal data for studying the movement of all children through the process of termination of parental rights and adoption. Because the adoption data include those children who were actually adopted, there is an inherent selection problem. There is some evidence of individual selection on the

observables (discussed below), but no good instruments are available in the data set to implement an instrumental variables estimation.

#### *Identifying Transracial Adoptions*

For fiscal years 1996-1999, the race of the child and each adoptive parent is recorded as one of four categories. Categories include White, “Black or African-American”, Asian or Pacific Islander and Native American. A separate field records the Hispanic origin of each adopted child and each adoptive parent. The reporting of race in the AFCARS data changed for fiscal year 2000 to conform to the 2000 Census format allowing for multi-ethnic identification. A separate, binary variable represents races labeled White, Black or Black, Asian and Native American. Under this system, adopted children and their parents can indicate multi-racial heritage. To address the complication of the change in the coding of the race variable, it was necessary to simplify the data so that the recorded race is more comparable across time. We created a dichotomous variable for each person (that is, for each adoptee and each adoptive parent) to represent whether the person is a person of Color. A person is designated *of Color* if he or she is recorded in AFCARS as non-white and not of Hispanic origin.<sup>v</sup>

Table 1 summarizes the AFCARS data on the race of adopted children at the national level by year. In 1995, 51 percent were children of Color. This percentage rose to 60.6 percent in 1998, and then fell slowly to 57 percent in 2003. The proportion of adopted children recorded as Black rose from 37.6 percent of valid observations for fiscal year 1996 to 46.8 percent of valid observations for 1999. Thereafter the proportion of adopted children who were Black fell to 38.3 percent.

The percentage of adoptive parents who are of Color is lower than the percentage of adopted children who are of Color; transracial adoptions of children of Color occur

regularly. Transracial adoption (TRA) is defined here as the adoption of a child of Color by White, non-Hispanic parent(s) only, or adoption of a White, non-Hispanic child by parent(s) of Color only. This method purposely underestimates transracial adoptions. For example, the adoption of a child of Hispanic origin by a Black parent is not considered transracial, and neither is the adoption of a Black child by an Asian parent or a parent of Hispanic origin. No adoption by an inter-racial couple (where an inter-racial couple is, by this definition, comprised of one White, non-Hispanic partner and one partner of Color) is considered a transracial adoption. The method focuses the analysis on the most controversial of transracial adoptions.

Table 2 shows that transracial placements in adoptions with state agency involvement rose from 11.6 percent in 1997 to 16.9 percent in 2003. There were 938 identifiable transracial placements in 1997; there were over 7,500 identifiable transracial placements in 2003.

Averaging across all years, Black children were placed transracially in 16 percent of adoptions with state agency involvement. In 1996 and 1997, over 17 percent of Black children adopted were adopted transracially. As kinship adoption of Black children increased, transracial adoption fell, to a low of 11.2 percent in 1999. After 1999 transracial placements of Black children rose steadily so that in 2003, 20 percent of adopted Black children were adopted transracially.

White, non-Hispanic children also experienced increases in transracial placement, from 3.5 percent in 1996 to 8 percent in 2002 and 2003.

## Transracial Adoptees Experience Speedier Adoptions

Table 3 shows that finalization of adoption occurs at a younger age and sooner after termination of parental rights when the placement is transracial rather than same-race. Transracially adopted children were more than a year younger, on average, than their counterparts in same-race placements. While the age of children placed within race rose about six months between 1996-1997 and 2003, the age of transracial adoptees fell by a few months. Transracial adoptions happen, on average, one month more quickly after termination of parental rights, and were among the most expeditious adoptions throughout the 1996-2003 period. Over 40 percent of transracially placed children are adopted before their third birthdays, and the proportion of infants and toddlers among transracially adopted children about doubled (increasing from 26 percent to 49 percent) between 1996 and 2003. Transracial placements are only half as prevalent among adoptions of teens.

We model the length of the length of the time a child waits in foster care as a legal orphan:

$$Wait_i = \alpha + \beta Age_i + \phi Black_i + \delta TRA_i + \varphi X_i + \varepsilon_i.$$

$Wait$  is the wait time of child  $I$  measured in months,  $Age$  is the age of the child in months at the time of termination of parental rights,  $Black$  indicates that the child is Black,  $TRA$  indicates a transracial adoption. The vector  $X$  includes other case characteristics, such as the special needs and disabilities of the child, the marital status of the adoptive parent(s), and whether the adoptive parents had a relationship with the child prior to adoption.

Interactions, state, and year effects are also included. We use a log-log specification.

The time period between termination of parental rights and finalization of adoption has been consistently and positively associated with the age of the child in previous studies. In New York State, for all available children, each additional year in care resulted in a one-



sixth reduction in the odds of adoption for a child (Finch et al 1986). In California, older children and children who experienced abuse or neglect before entering care waited longer for an adoptive family (Barth et al 1994). Several other studies confirm these findings (Avery 1998, Brown 1988, Rosenthal 1993, Tatara 1993). Being adopted at an older age is the primary determinant of disruption and dissolution in adoption (Barth and Berry 1988, Festinger 2002, Goerge et al 1997, Groze 1996). Table 4 shows that age at the time of termination of parental rights remains the single most important determinant of wait time. Consider this example, if termination of parental rights occurs when the child is 5 and one-half years, rather than five years, the wait is likely to be 1.04 years (one year and two weeks) rather than one year.

Barth (1997) reports that age and race of a child have significant and independent effects on the odds of adoption, and that the race and age effects are equally dramatic. He finds that a Black infant has the same likelihood of being adopted as a White three- to five-year-old. Brenda Smith (2003) finds that in the cohort of foster children whose birth parents' rights were terminated in October 1997, children who are older and Black had longer times between termination and adoption. Black children wait longer for adoption. The standard error of the estimated effect of being Black is very small, indicating there is very little chance that Black children and children of other races have identical wait times. Further, the interaction between race and age is positive, indicating that the racial gap in placement grows with the age.

One strand of the debate over transracial adoption in the 1980s focused on whether policies favoring in-racial matching adds to times of Black children spend as legal orphans (Bartholet 1991, 1999; Simon and Alstein 1977; Simon, Altstein, and Melli 1994). An analysis of Michigan child welfare data for cases opened in the 1980s indicates that Black

children were moved more slowly into adoption than children of other races, all other things equal (Kossoudji 1997). The average waiting time for Black children in the 1996-2003 AFCARS data is 17.7 months, while the average waiting time for children of all other races is 15.0 months. And, as discussed above, wait times recorded in AFCARS are shorter for transracially placed children than for children in same-race placements. The regression results in table 4 confirm that children adopted transracially spend less time as legal orphans; transracial placement especially speeds the adoption of Black children.

## **Conclusion**

The U.S. Department of Health and Human Services, Office for Civil Rights (OCR) has the discretion to conduct periodic reviews to determine whether recipients of Federal financial assistance operate their programs in compliance with MEPA. In late 2003, in an unprecedented move, OCR issued a Letter of Finding pursuant to 42 U.S.C. § 671(a) against Hamilton County and the state of Ohio for \$1.8 million for blocking White families from adopting Black children between 1995 and 2000 (Bartholet 2006). According to OCR, it has initiated more than 130 investigations of racial discrimination across the country. In the majority of the cases, either no violation was found or the grantee agency was asked to make needed changes in their programs. The Ohio case was the first instance in which OCR issued a finding that the civil rights of individual children or prospective adoptive or foster parents were violated. Seemingly, this finding was taken because of the extensive history of discrimination and repeated failure of the country to make necessary corrections. In 2005, OCR issued a finding against the South Carolina Department of Social Services, and in 2006 a much smaller fine of about \$107,000 was imposed (Bartholet 2006).

Although the role of transracial adoption in speeding adoptive placement for Black children continues to be questioned in the social work literature, AFCARS data confirm that children adopted transracially spend less time as legal orphans. OCR should enforce the MEPAs in order to capture all possible gains of adoption for Black legal orphans in foster care.

## References

- Avery, Rosemary. 1998. Adoption Assistance under P.L. 96-272: A Policy Analysis. *Children and Youth Services Review* 20(1): 29-55.
- Bachrach, Christine A., K.A. London, and Penelope L. Maza. 1991. On the path to adoption: Adoption seeking in the United States, 1988. *Journal of Marriage and Family* 53: 705-718.
- Barth, Richard P. 1997. Effects of age and race on the odds of adoption versus remaining in long-term out-of-home care. *Child Welfare* 76(2): 285-308.
- Barth, Richard P., and Marianne Berry. 1988. *Adoption and disruption: Rates, risks and responses*. New York: Aldine de Gruyter.
- Barth, Richard P., Mark Courtney, and Marianne Berry. 1994. Timing is everything: Analysis of the time of adoption and legalization. *Social Work Research* 18(3): 139-48.
- Bartholet, Elizabeth. 2006. Multiethnic Placement Act enforcement decisions. ONLINE. Available: <http://www.law.harvard.edu/faculty/bartholet/mepa.php> (last accessed December 30, 2006).
- Bartholet, Elizabeth. 1999. *Nobody's children*. Boston, MA: Beacon Press.
- Bartholet, Elizabeth. 1991. Where do Black children belong? The politics of race matching in adoption. *University of Pennsylvania Law Review* 139(5): 1163-1256.
- Brooks, Devon, Richard Barth, Alice Bussiere, and Glendora Patterson. 1999. Adoption and race: Implementing the Multiethnic Placement Act of 1994 and the Interethnic Adoption Provisions. *Social Work* 44(2): 167-178.
- Brooks, Devon, Sigrid James, and Richard Barth. 2002. Preferred characteristics of children in need of adoption: Is there a demand for available foster children? *Social Services Review* 76(4): 575-603.

- Brown, Eva. 1988. Recruiting adoptive parents for children with developmental disabilities. *Child Welfare* 67(2): 123-135.
- Festinger, Trudy. 2002. After adoption: Dissolution or permanence? *Child Welfare* 81(3): 515-533.
- Finch, Stephen J., David Fanshel, and John F. Grundy. 1986. Factors associated with the discharge of children from foster care. *Social Work Research & Abstracts* 22(1): 10-18.
- Fogg-Davis, H. 2002. *The ethics of transracial adoption*. Ithaca: Cornell University Press.
- Gilles, T., and Joseph Kroll. 1991. *Barriers to same race placement*. St. Paul, MN: North American Council on Adoptable Children.
- Goerge, Robert M., Eboni C. Howard, D. Yu., and S. Radomsky. 1997. *Adoption disruption and displacement in the child welfare system, 1976-94*. Chicago: University of Chicago, Chapin Hall Center for Children.
- Groze, Victor. 1996. *Successful adoptive families: A longitudinal study of special needs adoption*. Westport, CT: Praeger Publishers.
- Hansen, Mary Eschelbach. 2006. The value of adoption. American University Department of Economics Working Paper 2005-15. ONLINE. Available: <http://www.american.edu/academic.depts/cas/econ/workingpapers/workpap.htm> (last accessed December 30, 2006).
- Hansen, Mary Eschelbach, and Bradley A. Hansen. 2006. The economics of adoption of children from foster care. *Child Welfare* 85, 3(May/June 2006): 559-583.
- Hansen, Mary Eschelbach, and Daniel Pollack. 2006. Tradeoffs in formulating a consistent national policy on adoption. American University Department of Economics Working Paper 2005-14. ONLINE. Available: <http://www.american.edu/academic.depts/cas/econ/workingpapers/workpap.htm>

(last accessed December 30, 2006).

Hollinger, Joan, and The ABA Center on Children and the Law National Resource Center on Legal and Courts Issues. 1998. *A guide to the Multiethnic Placement Act of 1994 as Amended by the Interethnic Provision of 1996*. Washington, DC: American Bar Association.

Hollingsworth, Leslie D. 1990. Sociodemographic influences in the prediction of attitudes toward transracial adoption. *Families in Society* 81(1): 92-100.

*In re adoption of a minor*, 228 F.2d 446 (1955)

Interethnic Placement Provisions. 2000. Section 1808 of the Small Business Job Protection Act of 1996, Pub. L. No. 104-188, 1808, 110 Stat. 1755, 1903-04 (1996); codified at 42 U.S.C. 671, 674, & 1996b.

Kossoudji, Sherrie A. 1997. Racial aspects of the move to adoption. In Rosemary J. Avery (ed.) *Adoption policy and special needs children*. Westport, CT: Auburn House.

*Loving v. Virginia*, 388 U.S. 1 (1967).

Madison, B.Q., and M. Schapiro. 1973. Black adoption issues and policies: Review of the literature. *Social Services Review* 47(3): 531-560.

Maza, Penelope. 2000. Using administrative data to reward agency performance: The case of the federal adoption incentive program. *Child Welfare* 79(5): 444-456.

McRoy, R.G., L.A. Zurcher, M.L. Lauderdale, and R.N. Anderson. 1982. Self esteem and racial identity in transracial and inracial adoptees. *Social Work* (November): 522-526.

Multiethnic Placement Act of 1994, 42 U.S.C. 5115a. 1994. Repealed by Act of Aug. 20, 1996, Pub. L. No. 104-188, 1808(d), 110 Stat. 1904.

National Association of Black Social Workers. 1972. Position paper: Transracial adoption. New York, NY: Author.

- National Association of Black Social Workers. 1994. Position statement: Preserving African-American families. Detroit, MI: Author.
- National Data Archive on Child Abuse and Neglect. n.d.. *AFCARS user's guide and codebook, 1995-1999*. Ithaca, NY: NDACAN.
- Roby, Jini, and Stacey A. Shaw. 2006. The African orphan crisis and international adoption. *Social Work* 51(3): 199-210.
- Rosenthal, James A. 1993. Outcomes of adoption of children with special needs. *The Future of Children: Adoption* 3(1): 77-88.
- Simon, Rita J. 1999. Transracial adoptions: does the law matter? *American Experiment Quarterly* (Fall): 85-94.
- Simon, Rita J., and Howard Alstein. 1977. *Transracial adoption*. New York: John Wiley & Sons.
- Simon, Rita J., Howard Alstein, and Marygold S. Melli. 1994. *The case for transracial adoption*. Washington, DC: The American University Press.
- Smith, Brenda D. 2003. After parental rights are terminated: Factors associated with exiting foster care. *Children and Youth Services Review* 25(12): 965-985.
- Steinberg, Gail, and Beth Hall. 2000. *Inside transracial adoption*. Indianapolis, IN: Perspectives Press.
- Stolley, Kathy S. 1993. Statistics on adoption in the United States. *The Future of Children: Adoption* 3(1): 26-42.
- Tatara, Toshio. 1993. *Characteristics of children in substitute and adoptive care*. Washington, DC: American Public Welfare Association.
- US DHHS. 2006. Statistics and research: Adoption and foster care statistics. ONLINE. Available: [http://www.acf.hhs.gov/programs/cb/stats\\_research/index.htm](http://www.acf.hhs.gov/programs/cb/stats_research/index.htm)

(last accessed December 30, 2006).

Wilson, Julie, Jeff Katz, and Rob Geen. 2005. Listening to parents: Overcoming barriers to the adoption of children from foster care. KSG Working Paper No. RWP05-005. ONLINE. Available: <http://ssrn.com/abstract=663944> (last accessed September 30, 2005).



Table 1. Race of Children Adopted

with State Involvement

(percent of valid observations)

	Children of Color*	Black Children
1996	51.0	37.6
1997	59.4	45.0
1998	60.6	46.8
1999	60.5	46.0
2000	59.7	42.9
2001	59.5	40.1
2002	59.3	40.3
2003	57.0	38.3
Average	59.0	42.1

\* “Of Color” includes all non-Whites and Hispanics

Table 2. Transracial Adoption

(percent of valid observations)

	All Children	White Children (Not Hispanic)	Black Children
1996	11.6	3.5	17.2
1997	13.2	3.9	17.7
1998	12.7	3.7	13.6
1999	12.5	5.5	11.2
2000	14.0	5.5	14.2
2001	15.7	6.5	16.8
2002	16.3	8.5	18.6
2003	16.9	8.2	20.1
Average	14.7	6.4	16.0

Table 3. Age and Time from TPR to

Finalization by TRA

	Average Age at Finalization		Months from TPR to Finalization	
	Same Race	TRA	Same Race	TRA
1996	6.67	6.16	21.57	14.17
1997	6.43	5.68	16.48	14.68
1998	6.77	5.91	15.30	14.81
1999	6.88	5.79	14.30	13.82
2000	6.93	5.83	14.64	13.97
2001	6.97	5.82	15.35	14.37
2002	7.04	5.94	15.51	14.27
2003	7.02	5.80	15.64	14.27
Average	6.92	5.85	15.37	14.25

Table 4. Determinants of Time from TPR to Finalization

Dependent variable is ln(Time from TPR to finalization)

Ln (Age at TPR)		0.382**
		(0.003)
Black		0.185**
		(0.019)
Black*ln(Age at TPR)		0.008*
		(0.005)
TRA		-0.084**
		(0.033)
Black*TRA		-0.066**
		(0.013)
State effects?	Yes	
Year effects?	Yes	
Case controls?	Yes	
N		226,584
R <sup>2</sup>		0.20

*Notes:* \* indicates  $p < .05$ ; \*\* indicates  $p < .01$ .

Robust standard errors in parentheses.

Case controls include special needs and disabilities,

family structure (single/married), prior relationship of adoptive parents to child.

Figure 1. Effect of a Ban on TRA

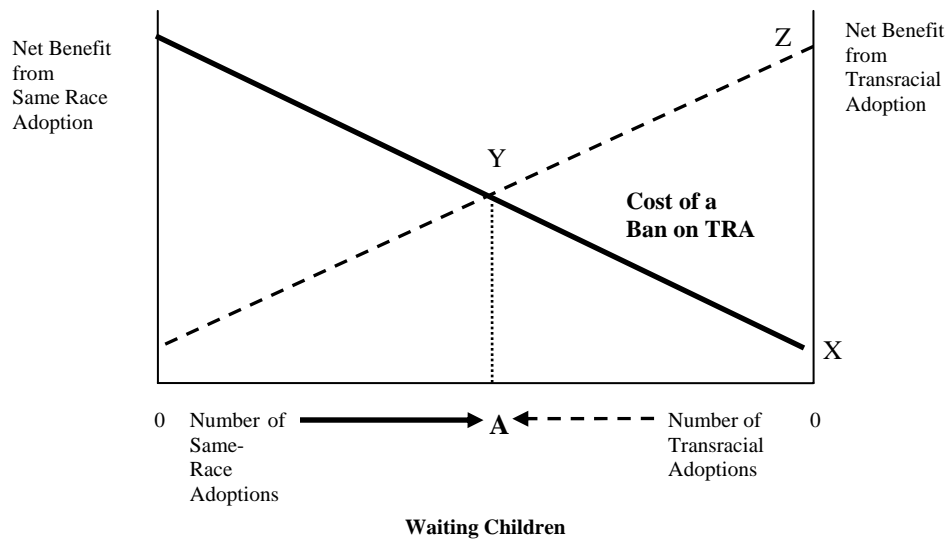
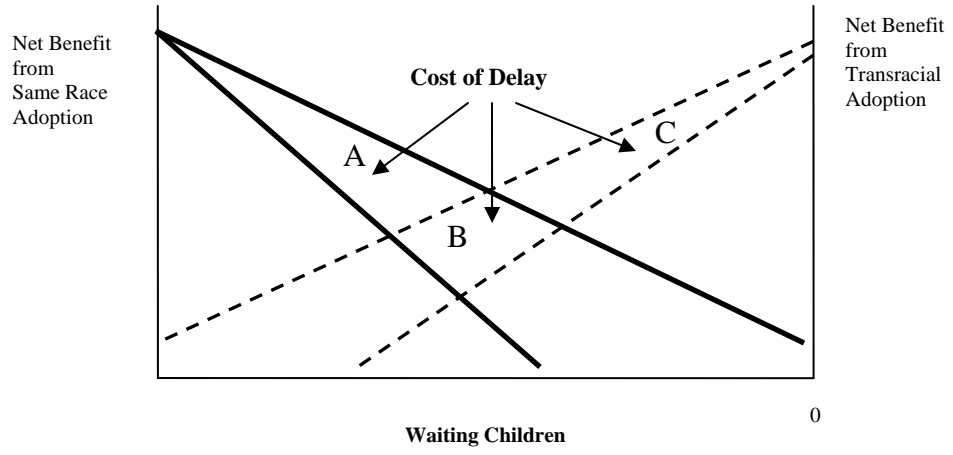


Figure 2. Effect of Delay of Adoption



---

<sup>i</sup>We assume for simplicity that the waiting children are identical (tantamount to assuming that the most important ‘disability’ is the disability of being without parents).

<sup>ii</sup>The User’s Guide and Codebook states that, “Adoptions finalized in years prior to [fiscal year] 1998 are not being updated because most states indicated that those data were not credible” (NDACAN n.d., 9).

<sup>iii</sup>For fiscal year 1996, eight of the states that submitted AFCARS adoption data omitted one or more of the elements needed to calculate the wait time for at least 90 percent of adoption cases. Five additional states omitted one or more of the elements for between 50 and 90 percent of cases. All told, only 13 states submitted enough information to calculate time between termination and finalization for 90 percent or more of adoption cases. Maine and Ohio still had very incomplete records for fiscal year 1998; Ohio did not submit substantially complete information on these elements until fiscal year 2000. Other states with inconsistently complete data, especially for fiscal years prior to 2001, include Arkansas, Illinois, Kentucky, Nebraska, and Virginia.

<sup>iv</sup>These percentages account for single parent adoptions. That is, if the adoption was completed by a single mother, the adoptive father’s race is not applicable rather than missing.

<sup>v</sup>It could be argued that “unable to determine” considered indicates “person of color,” but inconsistencies across states and over time in the use of the “unable to determine” category requires a conservative approach. Occurrences of “unable to determine” are therefore treated as missing.