

2010

Post-Racialism in the Inner-City: Structure and Culture in Lawyering

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Recommended Citation

Anthony V. Alfieri, *Post-Racialism in the Inner-City: Structure and Culture in Lawyering*, 98 *Geo. L.J.* 921 (2010).

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ESSAYS

Post-racialism in the Inner City: Structure and Culture in Lawyering

ANTHONY V. ALFIERI*

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* Professor of Law and Director, Center for Ethics and Public Service, University of Miami School of Law. © 2010, Anthony V. Alfieri. For their comments and support, I am grateful to Mario Barnes, Erwin Chemerinsky, Charlton Copeland, Zanita Fenton, Adrian Barker Grant-Alfieri, Amelia Hope Grant-Alfieri, Ellen Grant, Patrick Gudridge, Osamudia James, Kevin Johnson, Trina Jones, JoNel Newman, Kunal Parker, Girardeau Spann, Angela Onwuachi-Willig, Stephen Urice, Frank Valdes, and the law student interns and fellows of the Community Economic Development and Design Clinic.

I also wish to thank Barbara Brandon, Robin Schard, Caitlin Currie, Mia Goldhagen, Kara Strohlic, and the University of Miami School of Law library staff for their research assistance, workshop participants at the 2009 Midwest Clinical Law Teachers Conference, the 2010 Association of American Law Schools Conference on Clinical Legal Education, Georgetown University Law Center, the University of Alabama, the University of Colorado, and the University of Miami, and Kate Mitchell-Tombras, Clayton Northouse, and the editors of *The Georgetown Law Journal* for their commitment to race in American law and lawyering.

*"They don't know who they are. They don't know where they come from."*¹

INTRODUCTION

If they don't know who they are, then how are we supposed to help? That was the question I did *not* ask Reverend Daniels, the long-time pastor of Miami's Macedonia Baptist Church, during an early morning meeting of the Coconut Grove Ministerial Alliance in the spring of 2009. Macedonia Baptist Church evoked memories of my earlier work as a community organizer in low-income, mixed-race neighborhoods in Providence, Rhode Island. Touring its upstairs sanctuary and basement meeting room reminded me of the quiet neighborhood churches I visited long ago to recruit volunteers and organize direct action campaigns—courtroom demonstrations, sidewalk protests, and street marches. Even the rough-hewn parking lot, its blacktop cracked and broken from the summer heat, seemed familiar.

Like the Ministerial Alliance clergy I came to know, the pastors and rectors in those nineteenth-century Providence churches carried great clout with their congregations. They were greeted in the chapel and on the street. They were summoned outside from porches and across fences. And they were called first and last for help. Most important, for me, they always welcomed impromptu visits, climbing the stonework steps in slow rhythm to weigh new neighborhood improvement initiatives to combat crime, improve housing, and enhance schools.

Reverend Daniels and the other pastors within the Coconut Grove Ministerial Alliance reminded me of the New England ministers I once knew—strong-willed, independent, and eloquent—except they trusted me less. They distrusted my color, my academic trappings, and my social status as an outsider drawn from the once segregated university across the highway. And yet, both ministers and deacons greeted me on that warm spring day with open, albeit uncertain, kindness. Our common purpose: to begin a grassroots legal needs assessment of the Coconut Grove Village West community. Initiated by the Historic Black Church Project at the University of Miami Law School's Community Economic Development and Design Clinic, the assessment sought to develop the action agenda for upcoming clinic-sponsored rights education workshops, capacity-building seminars, and pro se clinics. The workshops, seminars, and clinics spearheaded a two-year community outreach partnership with the Ministerial Alliance.

The partnership grew out of my clinical students' sense of frustration and futility, a sentiment shared by many clinical students and teachers, and their fellow civil rights and poverty lawyers around the nation, when confronting the seemingly intractable problems of inner-city poverty. To my students, each semester the most basic problems of the inner city—education, employment, housing, and healthcare—seemed to grow more daunting while their work

1. Interview with Rev. Rudolph Daniels, Pastor, Macedonia Baptist Church, Coconut Grove Ministerial Alliance Meeting, in Miami, Fla. (May 2, 2009).

seemed to become less useful. Compounded by decades of federal, state, and local government neglect and nonprofit abandonment, the problems in fact appeared insoluble. Lacking the public infrastructures, nonprofit entities, and private allies available to other communities, the only surviving institutional partners in the West Grove accessible to us for the purposes of clinical outreach were the Historic Black Churches of the Ministerial Alliance. Thus, sitting in a pew near the front of St. Matthew's Church that morning, the question I *did* ask Reverend Daniels and the other ministers and deacons was pragmatic and straightforward: What can we do to help? That is, what can we do to help the Ministerial Alliance, its churches, congregations, and affiliated nonprofit pre-schools, after-school programs, health clinics, and tenants' and homeowners' association? I did not ask about concentrated inner-city poverty in Miami, the young black men in the streets and jails of Miami-Dade County, or the young black families in the West Grove headed by teenage girls.

Each of the ministers and deacons around the table pondered my question and each answered in turn by reciting the common litany of inner-city poverty: unemployment, crime, drug use, and more. Yet, each repeatedly omitted the actual subjects of this now familiar litany—the victims of unemployment, the agents of law breaking, and the clients of drug addiction. When it was his chance to speak, Reverend Daniels turned to the matter left unspoken: the young black men and black families of the community. Speaking quietly at first with his eyes downcast, the reverend slowly recounted the social and economic problems plaguing the young people of the West Grove. Straightening as he continued and growing animated, he decried the dissolution of families, the failure of schools, and the behavior of young men and women in the neighborhood—the drug dealing, the prostitution, the violence—the segregated but paradoxically unbroken neighborhood he recalled from his own youth. Finally, in a voice rising with anger and frustration, he declared of the young congregating at night in the streets outside his church: “They don't know who they are. They don't know where they come from.”²

Reverend Daniels's anger coincides with a statewide disciplinary crisis in Florida's public school system, the twentieth anniversary of Critical Race Theory (CRT), and the ascending claim of post-racialism in American law, culture, and society. Indeed, with the inauguration of Barack Obama as the forty-fourth President of the United States, many in politics and in the media proclaim the end of race, engendering a new orthodoxy of colorblind neutrality in popular discourse on racial equality.³ This post-racial orthodoxy diminishes

2. *Id.*

3. See, e.g., Naomi Klein, *Minority Death Match: Jews, Blacks, and the “Post-Racial” Presidency*, HARPER'S MAGAZINE, Sept. 2009, at 53, 56, 64–67 (describing the Obama administration's reluctance to participate in the United Nations's Durban Review Conference on racism and the administration's motivating desire to avoid potential challenges to the image of a “post-racial” United States in its pursuit of both national and foreign policies); *Talk of the Nation, Op-Ed: “Post-Racial” U.S. Not Yet a Reality* (NPR radio broadcast Mar. 30, 2009), available at <http://www.npr.org/templates/story/>

the ongoing importance of race as a descriptive and prescriptive category of structural and cultural analysis.⁴ Descriptively, post-racial orthodoxy overlooks the influence of racial bias and discrimination in law, culture, and society, for example, in inner-city neighborhoods and labor markets like the West Grove. Prescriptively, post-racial orthodoxy omits race-conscious remedies in law and society, for example, in education, employment, and criminal justice. This dual absence inhibits efforts in law and public policy to overcome structural and cultural impediments to socioeconomic and political equality.

To counter this ascendant orthodoxy, many legal activists, policy advocates, and interdisciplinary scholars have formulated competing accounts of race in contemporary American law, culture, and society.⁵ The accounts range widely, encompassing constitutional law, criminal justice, and immigration.⁶ These post-racial accounts challenge the orthodoxy of colorblind and color-coded neutrality in law and public policy. In legal education, that collective challenge increasingly infuses the discourse of classroom and clinical teaching, especially in the arena of social justice lawyering.⁷

The purpose of this Essay is to examine the form and substance of post-racialism in legal education and lawyering within the fields of civil rights and

story.php?storyID=102515069 (discussing continuing relevance of race in American culture and society and the contested meaning of post-racial claims in politics and the media).

4. See Bob Herbert, Op-Ed., *The Scourge Persists*, N.Y. TIMES, Sept. 19, 2009, at A17 (suggesting that instead of signifying a post-racial historical moment, President Obama's election has brought forward potentially violent racial tensions).

5. See, e.g., Sumi Cho, *Post-Racialism*, 94 IOWA L. REV. 1589, 1589 (2009) (arguing that post-racialism encourages a "retreat from race," analyzing its effects in legal, political, and intellectual contexts, and offering ways in which scholars might resist the dangers presented by post-racialism); John A. Powell, *Post-Racialism or Targeted Universalism?*, 86 DENV. U. L. REV. 785, 791, 805 (2009) (asserting that post-racialism creates a sense of "false universalism" and that race remains an important and evolving concept best understood and crucially considered when determining policy implementation and institutional reform).

6. See, e.g., Mario L. Barnes, Erwin Chemerinsky, & Trina Jones, *A Post-Race Equal Protection*, 98 GEO. L.J. 967 (2010) (examining the impact of post-racialism on recent U.S. Supreme Court decisions and noting its ineffectiveness in light of existing structural inequalities); Kevin R. Johnson, *How Racial Profiling in America Became the Law of the Land: United States v. Brignoni-Ponce and Whren v. United States and the Need for Truly Rebellious Lawyering*, 98 GEO. L.J. 1005 (2010) (maintaining that the U.S. Supreme Court's decisions in *United States v. Brignoni-Ponce* and *Whren v. United States* encouraged racial profiling by police and urging lawyers to root out such practices through political and legal means); Angela Onwuachi-Willig, *Another Hair Piece: Exploring New Strands of Analysis*, 98 GEO. L.J. 1079 (2010) (pointing out that antidiscrimination laws fail to protect black women from the implicit bias in workplace hair grooming policies because such laws overlook "intersectional race and gender discrimination"); Girardeau A. Spann, *Disparate Impact*, 98 GEO. L.J. 1133 (2010) (defining post-racialism as a form of discrimination, describing how the U.S. Supreme Court has used post-racialism to reject disparate impact claims, and advocating for the use of disparate impact claims to fight against racial discrimination).

7. Several law schools and affiliated institutions have recently held conferences or meetings focused on post-racialism, including the University of Iowa Law School (Critical Race Theory 20: Honoring Our Past, Charting Our Future on Apr. 2–4, 2009); Harvard Law School's Black Law Students' Association (Is America Really Post-Racial? on Mar. 13, 2009); Yale Law School (Frontiers in Social Justice Lawyering: Critical Race Revisited on Apr. 16–17, 2009); and the annual meeting held by the Association of American Law Schools (What's Race Got To Do with Post Racialism? on Jan. 9, 2009).

poverty law based on my experience and ongoing work in Miami and the West Grove. Building on the work of the eminent urban sociologist William Julius Wilson,⁸ the Essay discusses the structure and culture of race and racial inequality in American law and society and proffers an alternative structural and cultural discourse about race in legal-political advocacy. By discourse, I mean a way of seeing, speaking, and thinking about the world. Structural discourse speaks to the material effects of economic and social structures—such as low-skilled labor markets and housing segregation—on the physical environment of the inner city, on the sidewalks and streets of the West Grove. Cultural discourse speaks to the behavioral effects of these larger structures on individuals, families, and institutions—such as churches and nonprofit community organizations—within the inner city played out in household kitchens, school classrooms, and Sunday services. Both structural and cultural discourse focus on the interaction between individuals and their environments—cultural, economic, and social—that is, how we navigate our environment in making choices and how our environment frames those choices. In this way, the Essay revisits the debate over color-conscious jurisprudence in scholarship, advocacy, and public policy.⁹

Now well-settled in the legal academy, race scholarship forged by Critical Race Theory¹⁰ and its progeny—Latina/o Critical Theory,¹¹ OutCrits,¹² and

8. See WILLIAM JULIUS WILSON, *MORE THAN JUST RACE: BEING BLACK AND POOR IN THE INNER CITY* 3 (2009) (noting that “the complexities of understanding race and racial inequality in America are not limited to research on blacks”) [hereinafter WILSON, *MORE THAN JUST RACE*]; see also WILLIAM JULIUS WILSON, *THE TRULY DISADVANTAGED: THE INNER CITY, THE UNDERCLASS, AND PUBLIC POLICY* (1987) (describing problems of urban social dislocations in the inner city); WILLIAM JULIUS WILSON, *WHEN WORK DISAPPEARS: THE WORLD OF THE NEW URBAN POOR* (1996) (examining social structural factors affecting joblessness and economic marginality of the inner-city black poor).

9. See Ralph Richard Banks, *Beyond Colorblindness: Neo-Racialism and the Future of Race and Law Scholarship*, 25 HARV. BLACKLETTER L.J. 41, 41–42 (2009) (arguing for race-and-law scholarship to adopt a neo-racial perspective as a result of the changing role of racism); Charles J. Ogletree, Jr., *From Dred Scott to Barack Obama: The Ebb and Flow of Race Jurisprudence*, 25 HARV. BLACKLETTER L.J. 1, 38–39 (2009) (discerning patterns in the advancement of and subsequent retreat from racial equality in the U.S. political and legal spheres over the past 150 years and commenting that President Obama’s election does not necessarily indicate a post-racial society).

10. For histories of Critical Race Theory, see CRITICAL RACE FEMINISM: A READER (Adrien Katherine Wing ed., 2d ed. 2003); CRITICAL RACE THEORY: THE CUTTING EDGE (Richard Delgado & Jean Stefancic eds., 2d ed. 2000); CRITICAL RACE THEORY: THE KEY WRITINGS THAT FORMED THE MOVEMENT (Kimberlé Crenshaw et al. eds., 1995); and CROSSROADS, DIRECTIONS, AND A NEW CRITICAL RACE THEORY (Francisco Valdes et al. eds., 2002).

11. See, e.g., Richard Delgado, Jean Stefancic & Juan F. Perea, *Creating and Documenting a New Field of Legal Study*, 12 HARV. LATINO L. REV. 103, 104 (2009) (describing LatCrit casebook, which expands the debate over whether the U.S. has become a post-racial society by incorporating the discrimination still faced by Latinos); Ian F. Haney López, *Race, Ethnicity, Erasure: The Salience of Race to LatCrit Theory*, 85 CAL. L. REV. 1143, 1148, 1157 (1997) (developing a social constructionist definition of the Latino race and advocating its use in order to draw more attention to and combat against racial inequality).

12. See, e.g., Francisco Valdes, *Theorizing ‘Outcrit’ Theories: Coalitional Method and Comparative Jurisprudential Experience—Racecrits, Queercrits and Latcrits*, 53 U. MIAMI L. REV. 1265, 1272–74

ClassCrits¹³—helps guide the investigation of post-racial lawyering and, moreover, informs alternative structural and cultural measures of racial progress. Critical Race Theory rejects colorblind notions of racial neutrality in law, culture, and society in favor of a more complex, historical concept of racial identity that is multifaceted and protean.¹⁴ That conception allows room for changes in the character of identity over time caused by accommodation and resistance to the shifting structure and culture of inner-city communities of color. Latina/o Critical Theory imports considerations of ethnicity and nationality into the meaning of racial identity.¹⁵ Mixing ethnicity and nationality into the meaning of race expands the dimensions of individual and collective identity. OutCrits merge theories of sexuality—lesbian/gay, bisexual/transgender, normal/queer—into the concept of racial identity.¹⁶ The identity-based convergence of sexuality and race brings alternative explanations of character and conduct among lesbian/gay, bisexual/transgender, normal/queer groups in communities of color. ClassCrits add elements of economic status and caste.¹⁷ Calibrations of economic status and caste rank illuminate the structural and cultural constraints of race.

Extended widely across disciplines, CRT's multipronged investigation considers not only the ongoing social construction of race, but also the continuing nature of racial discrimination and privilege. The reformist purpose here is to harness CRT's investigatory powers in order to better understand evolving structural and cultural accounts of racism and racial consciousness and, equally important, to outline anti-racist strategies of social justice. For lawyers and policy advocates alike, the key is to understand how, when, and why structural and cultural accounts of racism and racial consciousness inform our frameworks of legal and policy analysis and, moreover, how, when, and why such accounts harm or help our clients within inner-city communities. Only by understanding how, when, and why structural and cultural explanations about inner-city poverty among young black men and black families construct our legal-political and racial consciousness will lawyers and policy advocates be able to develop effective antiracist strategies of social justice.

The Essay is divided into four parts. Part I describes the Community Economic Development and Design Clinic's Historic Black Church Project and the

(1999) (describing CRT and LatCrit theories and endorsing OutCrit adoption of various LatCrit methods).

13. See, e.g., Athena D. Mutua, *Introducing Classcrits: From Class Blindness to a Critical Legal Analysis of Economic Inequality*, 56 BUFF. L. REV. 859, 864 (2008) (explaining ClassCrit theory and demonstrating how race and gender status and class relations mutually affect each other). In another example of the cross-pollination of Crit scholarship, the University at Buffalo Law School hosted the Northeast People of Color Legal Scholarship Conference '09—entitled “America's New Class Warfare?”—on Oct. 23–24, 2009.

14. See *supra* note 10.

15. See *supra* note 11.

16. See *supra* note 12.

17. See *supra* note 13.

school-to-jail crisis in Miami. Part II reviews the structure and culture of difference and outlines difference-based critical pedagogies and practices emerging in legal education and the lawyering process. Part III examines Wilson's recent work on the structure and culture of the inner-city black poor, particularly the concentrated poverty affecting black men and black families. Part IV considers alternative post-racial pedagogies and practices to combat the structure and culture of contemporary inner-city black poverty exemplified by Miami's school-to-jail crisis. The Essay concludes that the crisis of inner-city concentrated poverty compels civil rights and poverty lawyers to reconfigure their understanding of structural and cultural effects when representing individuals, groups, and communities of color.

I. THE HISTORIC BLACK CHURCH PROJECT: SCHOOL-TO-JAIL IN MIAMI

The Historic Black Church Project embodies the University of Miami Law School's continuing effort "to assist Miami's economically distressed West Coconut Grove community" since 2000.¹⁸ The project is spearheaded by the Community Economic Development and Design Clinic (CEDAD), a joint venture collaboration with the University's School of Architecture and housed both at the Law School's Center for Ethics and Public Service and at Florida Legal Services in Miami. By design, the project provides "multidisciplinary resources in education, law, and social services to underserved low-income residents" through partnerships with the West Grove's sixteen-church Ministerial Alliance and affiliated community-based nonprofit organizations in the areas of education, health care, and housing.¹⁹ Those resources encompass rights-education seminars,²⁰ capacity-building workshops,²¹ and pro se clinics.²² The focus of rights-education seminars includes "children's health, education, elder

18. Anthony V. Alfieri, *Against Practice*, 107 MICH. L. REV. 1073, 1090 (2009). See generally Arva Moore Parks, *History of West Coconut Grove*, in REIMAGINING WEST COCONUT GROVE 20 (Samina Quraeshi ed., 2005) (providing historical background on West Coconut Grove).

19. Alfieri, *supra* note 18, at 1090; see also *The Center for Ethics and Public Service Forms an Alliance with Black Churches in West Coconut Grove: Partners from the Pulpit*, VERITAS (University of Miami, Miami, Fla.), June 2008, <http://www6.miami.edu/veritas/summer2008/nb/nb.html> (describing the project); Project Description, Community Economic Development and Design Clinic, Historic Black Church Project (Fall 2009) (on file with author) (same).

20. See generally Ingrid V. Eagly, *Community Education: Creating a New Vision of Legal Services Practice*, 4 CLINICAL L. REV. 433 (1998) (describing rights education and evaluating its advantages and disadvantages).

21. See Scott L. Cummings, *Community Economic Development as Progressive Politics: Toward a Grassroots Movement for Economic Justice*, 54 STAN. L. REV. 399, 458-91 (2001) (describing and advocating for community economic development centered around a capacity-building model as opposed to a market-based strategy); Gerald P. López, *Shaping Community Problem Solving Around Community Knowledge*, 79 N.Y.U. L. REV. 59, 75-81 (2004) (describing the findings of the Neighborhood Legal Needs & Resources Project and proposing the implementation of various capacity-building programs in low-income and minority communities).

22. The clinic also coordinates church-based oral history and food distribution projects with local schools. See Project Description, *supra* note 19.

law, tenants' rights, homeowner protection, crime prevention, and voting rights."²³ More institutionally oriented, capacity-building workshops deal with "community-wide economic development and nonprofit legal compliance."²⁴ Even more broadly, pro se clinics teach self-help strategies of advocacy and organizing to poor individuals and groups in Miami's inner city and refer prospective clients to county-wide bar associations for pro bono representation.²⁵

Reverend Daniels's remarks at the Historic Black Church Project's monthly Ministerial Alliance meeting in the West Grove neither affirm nor glorify the status of poor blacks in inner-city Miami. Rather, his remarks acknowledge the self-destructive behavior, economic problems, and social dislocations universal to inner-city ghettos throughout the nation. Among a battery of structural and cultural conditions, public education stands out both as a cause and an effect of inner-city poverty. Recently, several local and national civil rights organizations—the Florida State Conference NAACP, the Advancement Project, and the NAACP Legal Defense and Educational Fund, Inc.—compiled a report documenting the disproportionate effect of disciplinary practices in public schools in Miami and elsewhere in Florida on minorities.²⁶ The byproduct of statewide public hearings, the report seeks to "raise public awareness about the negative impact of 'law and order' approaches used to address typical student misbehavior," to "expose the connections between disparities in educational opportunities and extreme discipline policies," and to prescribe "best practices for keeping schools safe without criminalizing children."²⁷

Expansively aimed, the report maintains that numerous Florida public school districts "have turned away from traditional education-based disciplinary methods," instead "looking to the legal system to handle even the most minor transgressions."²⁸ Reliance on law enforcement, the report complains, criminalizes minor adolescent misbehavior, in effect establishing a "schoolhouse-to-jailhouse track" or "school-to-prison pipeline" for children and their families.²⁹ During the 2004–2005 school year, the report shows, school officials made

23. Alfieri, *supra* note 18, at 1091 ("The church-based seminars afford both students and church activists the opportunity to learn substantive law while integrating critical pedagogies into classroom and community settings.").

24. *Id.* ("These church-based workshops offer practical-skills training in financial management and nonprofit governance spanning a variety of substantive areas from corporate to tax law.").

25. On pro se clinical models, see Margaret Martin Barry, *Accessing Justice: Are Pro Se Clinics a Reasonable Response to the Lack of Pro Bono Legal Services and Should Law School Clinics Conduct Them?*, 67 *FORDHAM L. REV.* 1879, 1891–1912 (1999) (describing different pro se clinic models in Arizona, Florida, Missouri, Texas, Maryland, California, New Mexico, New York, and Colorado).

26. FLA. STATE CONFERENCE NAACP ET AL., *ARRESTING DEVELOPMENT: ADDRESSING THE SCHOOL DISCIPLINE CRISIS IN FLORIDA* 6 (2006), available at <http://www.advancementproject.org/sites/default/files/full%20report.pdf>.

27. *Id.* The report was compiled from public hearings encompassing five cities and six school districts in Florida: Pinellas and Hillsborough in St. Petersburg; Duval in Jacksonville; Palm Beach in West Palm Beach; Broward in Fort Lauderdale; and Miami-Dade in Miami. *Id.*

28. *Id.* The report defines traditional education-based disciplinary methods in terms of counseling, after-school detention, and extra homework assignments. *Id.*

29. *Id.*

26,990 student referrals to the Florida Department of Juvenile Justice statewide, where 76% were for misdemeanor offenses, including “disorderly conduct, trespassing, or assault and/or battery.”³⁰ Typically, the referrals result in the removal of students through out-of-school suspensions. As a consequence, the report laments, in some classes students “miss countless days of school, fall behind in their classes, become discouraged and drop out of school altogether.”³¹

The report tracks both student arrests and suspensions. Specifically with respect to Miami-Dade, the report shows that in 2004, 54% of the 2566 students arrested by the Miami-Dade County Police Department were black, with black students representing only 27% of the total student population.³² For the same county, more than 66% of all arrests flowed from misdemeanor offenses.³³ The Miami-Dade Public Defender’s Office links many local student arrest referrals to a cluster of majority-black high schools, namely Edison, Carol City, Northwestern, Booker T. Washington, and Homestead, all now geographically partitioned by patterns of resegregation in public and private housing markets.³⁴

During the same period, the report demonstrates, the rise in the number of out-of-school suspensions statewide “outpaced the growth of the student population by almost two-to-one.”³⁵ Suspensions escalated from 385,365 in 1999–2000 to 441,694 in 2004–2005, a 14% increase relative to a student population increase of merely 8.4%.³⁶ In Miami-Dade County, officials issued 130,030 suspensions, an average of one suspension per 2.8 district students.³⁷ By any measure, the suspensions disproportionately affect black students and students with disabilities.³⁸ In fact, the report calculates that black students in Florida

30. *Id.* at 6, 15.

31. *Id.* at 10. In Miami-Dade County Public Schools “only 42 percent of students who were suspended in the ninth grade continued to be enrolled in the school district in the eleventh grade, suggesting that more than half of them dropped out of school.” *Id.* at 50. The report also points to “evidence that some schools in Florida respond to the pressure of high-stakes testing by ‘selectively disciplining’ or ‘pushing out’ low-performing students” on state test dates. *Id.* at 16.

32. *Id.* at 10, 48 (“Students as young as seven were [sic] arrested in Miami-Dade’s public schools, and almost 10 percent (245) were twelve years old and younger.”).

33. *Id.* at 48. Under Florida law, “arrests for certain offenses, such as assault and petit theft, become part of a child’s juvenile record and are automatically retained well into their adult years, in some instances permanently becoming a part of their adult records.” *Id.* at 10, 18.

34. *Id.* at 48. This carries repercussions for those students in public housing; in point of fact “the Miami-Dade Housing Agency (MDHA) has been actively evicting parents of children who are truant or charged with a nonviolent offense.” *Id.* at 50 (citing the testimony of Barbara Pierre, president of the local tenant’s organization).

35. *Id.* at 6, 15.

36. *Id.*

37. *Id.* at 49 (“Comparatively, Palm Beach and Broward County school districts issued one suspension for every 4.1 and 5.2 students, respectively.”).

38. The report mentions “a growing number of children with disabilities being referred to the juvenile justice system.” *Id.* at 17. In Miami-Dade County, “[s]everal witnesses testified that a seemingly disproportionate number of students with disabilities find themselves on the track from schools to jails.” *Id.* at 49. Moreover, at the hearings for the same county, the report notes, “Barbara Demeritte, a social worker from the Public Defender’s Office, estimated that 60 percent of the students

“received 46 percent of out-of-school suspensions and police referrals” even though they “comprised only 22.8 percent of the student population.”³⁹ The report advances several suggested reasons for this disproportionate racial impact, including both “racial and cultural intolerance among some school administrators and teachers” and “the inadequacies of the public educational system in Florida” manifested in “a lack of experienced or certified teachers and guidance counselors, advanced instruction, early intervention programs, extracurricular activities, and safe, well-equipped facilities,” notably in “areas of concentrated poverty.”⁴⁰

To cure racially disparate rates of out-of-school suspensions, expulsions, school-based arrests, and juvenile court referrals in Miami-Dade County and Florida, the report recommends the creation and expansion of prevention, intervention, and alternative discipline programs,⁴¹ especially for students with special needs.⁴² These academic and behavioral programs range from adopting peer mediation and in-school suspension practices to encouraging parent-teacher academic progress conferences and school discipline oversight committees.⁴³ All require enhanced collaboration among relevant stakeholders (parents, students, educators, and advocates), increased funding for guidance counselors and social workers, and the heightened monitoring of school compliance with federal and state civil rights laws.⁴⁴

Stakeholder outreach and participation are crucial to school-based, anti-poverty advocacy strategies in large communities like Miami and small neighborhoods like the West Grove. Parents may be reached through parents’s associations as well as preschool and after-school programs. Students may be mobilized through in-school clubs, councils, and organizations or informal, out-of-school networks. Educators may be contacted through unions and affiliated support groups. And advocates may be linked through coalitions among nonprofit groups. For many of these constituent groups, local churches may provide a focal point, perhaps the only focal point, for educating and organizing around issues central to the “school-to-prison pipeline.” The next Part considers the critical pedagogies and practices necessary to educate law students and to train

that go into the juvenile justice system in Miami-Dade have severe emotional disturbances, learning disabilities, or emotional disabilities.” *Id.* at 49. Demeritte attributed the bulk of the discipline problems for this special needs population to “acting out.” *Id.*

39. *Id.* at 6, 16.

40. *Id.* at 15.

41. *See id.* at 11, 53–54. The report mentions two programs under development in Miami-Dade County schools: (1) School Health Connect Teams comprised of a social worker, a nurse, and two school health aides; and (2) an alternative civil citation program in place of school-based arrests for minor offenses. *Id.* at 51.

42. *Id.* at 12, 54.

43. *Id.* at 11–12, 53–54. Committee responsibilities “could include handling complaints about school discipline practices and conduct of security and police officers, and reviewing discipline and arrest statistics and the school district’s efforts to maintain safety in a fair and nondiscriminatory manner.” *Id.* at 11, 54.

44. *See id.* at 11–12, 53–54.

lawyers to pursue these and other strategic remedies.

II. CRITICAL PEDAGOGIES AND PRACTICES

The critical pedagogies and practices of modern legal education and lawyering struggle to address the structural and cultural causes and consequences of the school-to-jail crisis in Miami. A progressive response to conventional models of education and advocacy, critical pedagogies and practices seek to enlarge formal legal analysis, practical skills, and professional identity in law school and in legal representation. Enlargement springs from the normative and empirical import of difference-based identity, context, and community in the lawyering process.⁴⁵ This section considers the structure and culture of difference and related difference-based teaching strategies. Structures of difference encompass broad economic and political forces, in this case housing and school segregation. Cultures of difference similarly include a breadth of factors, here family composition and educational opportunity. Difference-based teaching strategies deploy structural and cultural insights to teach lessons of structural reform and cross-cultural communication.

A. THE STRUCTURE AND CULTURE OF DIFFERENCE

Wilson's new work on the structural and cultural forces limiting individual and collective opportunities in ghetto neighborhoods highlights the persistence of poverty and racial inequality for many African Americans and the complicated and interrelated factors that impede legal-political change.⁴⁶ Wilson deploys the concepts of social structure and culture as explanatory variables in seeking to illuminate issues of race and urban poverty.⁴⁷ Social structure, he notes, "refers to the way social positions, social roles, and networks of social relationships are arranged in our institutions, such as the economy, polity, education, and organization of the family."⁴⁸ Culture, by comparison, "refers to the sharing of outlooks and modes of behavior among individuals who face similar place-based circumstances . . . or have the same social networks."⁴⁹ To Wilson, impoverished, inner-city culture developed from the traditions, beliefs, and practices among those living and interacting in a particular community

45. Alfieri, *supra* note 18, at 1082.

46. See WILSON, MORE THAN JUST RACE, *supra* note 8, at 3. He adds that the "[f]ormal and informal aspects of inequality have also victimized Latinos, Asian Americans, and Native Americans." *Id.*

47. *See id.*

48. *Id.* at 4. He adds that a

social structure could be a labor market that offers financial incentives and threatens financial punishments to compel individuals to work; or it could be a 'role,' associated with a particular social position in an organization such as a church, family, or university (e.g., pastor, head of a household, or professor), that carries certain power, privilege, and influence external to the individuals who occupy that role.

Id.

49. *Id.*

environment. Those traditions, beliefs, and practices create inclinations among individual community members to act in a particular way.⁵⁰ In Miami, the environments in place surround often very poor and racially segregated neighborhoods like the West Grove.

Wilson addresses both the independent effects and ongoing interactions of social structure and culture and how they produce varying group outcomes in socioeconomic status and mobility.⁵¹ He points to two kinds of structural forces—social acts and social processes—that “contribute directly to racial group outcomes.”⁵² A social act, he comments, “refers to the behavior of individuals within society.”⁵³ A social process, by contrast, “refers to the ‘machinery’ of society that exists to promote ongoing relations among members of the larger group.”⁵⁴

Wilson traces the “political and economic forces that *indirectly* contribute to racial inequality” and adversely affect racial group outcomes.⁵⁵ He classifies structural forces “as indirect because they are mediated by the racial groups’ position” of privilege or subordination in the stratified ranks of “power, influence, privilege, and prestige” in society.⁵⁶ Against this backdrop, he attributes the “sharply increased joblessness and declining real wages among many poor African Americans” to the impersonal economic forces of a modern global economy increasingly driven by new technologies and international competition.⁵⁷ The rise of global urban economies, Wilson remarks, has eroded mass production and eradicated manufacturing jobs, thereby “drastically reducing the importance of physical capital and natural resources,” displacing low-skilled

50. *See id.* This social network sharing occurs “when members of particular racial or ethnic groups share a particular way of understanding social life and cultural scripts,” collectively guiding their behavior. *Id.*

51. *See id.*

52. *Id.* at 5.

53. *Id.* (“Examples of social acts are stereotyping; stigmatization; discrimination in hiring, job promotions, housing, and admission to educational institutions—as well as exclusion from unions, employers’ associations, and clubs—when any of these are the act of an individual or group exercising power over others.”).

54. *Id.* Wilson cites “laws, policies, and institutional practices that exclude people on the basis of race or ethnicity” as examples of social processes that contribute directly to racial group outcomes; they

range from explicit arrangements such as Jim Crow segregation laws and voting restrictions to more subtle institutional processes, such as school tracking that purports to be academic but often reproduces traditional segregation, racial profiling by police that purports to be about public safety but focuses solely on minorities, and redlining by banks that purports to be about sound fiscal policy but results in the exclusion of blacks from home ownership.

Id.

55. *Id.*

56. *Id.* at 6 (remarking that “economic changes and political decisions may have a greater adverse impact on some groups than on others simply because the former are more vulnerable as a consequence of their position in the social stratification system”).

57. *Id.*

jobs, and depleting the wages of unskilled workers.⁵⁸

For Wilson, the growth of global urban economies negatively impacts “black central-city residents with little or no education beyond high school” by consigning their employment to “low-paying jobs in the service sector” and by restricting their “access to areas of higher employment growth.”⁵⁹ He shows that inner-city ghetto residents already suffering from higher jobless rates and lower employment growth also experience physical isolation from places of employment and social isolation from informal job networks.⁶⁰ He mentions as well that “the breakdown of the informal job information network magnifies the problems of job spatial mismatch.”⁶¹

Additionally, Wilson asserts that “cultural forces may contribute to or reinforce racial inequality.”⁶² He underlines two types of cultural forces: “(1) national views and beliefs on race and (2) cultural traits.”⁶³ Wilson gleanes national views and beliefs on race from the media, public policy, and ethnographic study. He distills cultural traits from “shared outlooks, modes of behavior, traditions, belief systems, worldviews, values, skills, preferences, styles of self-presentation, etiquette, and linguistic patterns.”⁶⁴ A product of collective experiences, the traits, he points out, “emerge from patterns of intragroup interaction in settings created by discrimination and segregation.”⁶⁵ Wilson notes that “cultural repertoires (habits, styles, and skills)” and attendant “micro-level processes of meaning making and decision making” differentiate “the way individuals in particular groups, communities, or societies develop an understanding of how the world works and make decisions based on that understanding.”⁶⁶ In this way, the repertoires and “processes of meaning making and decision making” mold every day cultural frames and group constructions of reality.⁶⁷

Wilson defines racism as a national cultural frame harmful to African Americans as a group and to the inner city as a social system.⁶⁸ To gauge the impact of cultural frames on inner-city neighborhoods like the West Grove, he attempts to

58. *Id.* “[L]ower-skilled workers with less education are falling behind with the increased use of information-based technologies and computers, and they face the growing threat of job displacement in certain industries.” *Id.* at 7. In comparison to previous periods, Wilson notes when discussing historical racial subjugation, “Black mobility in the economy was severely impeded by job discrimination, as well as by failing segregated public schools, where per capita expenditures to educate African American children were far below amounts provided for white public schools.” *Id.* at 9.

59. *Id.* at 9–10.

60. *See id.* at 10.

61. *Id.* (emphasis omitted).

62. *Id.* at 14 (emphasis omitted).

63. *Id.*

64. *Id.* at 14–15.

65. *Id.* at 15.

66. *Id.*

67. *Id.*

68. *Id.* at 16. Wilson views racism as “one of the most prominent American cultural frames,” applicable “in determining how whites perceive and act toward blacks.” *Id.* at 15. He locates racism within

measure the social and economic outcomes of poor blacks, discovering that “distinct cultural frames in the inner city have not only been shaped by race and poverty, but in turn often shape responses to poverty.”⁶⁹ Those responses, he adds, “may contribute to the perpetuation of poverty” through a combination of cultural traits, racial biases, and stereotypes.⁷⁰

To Wilson, culture stands “closely intertwined with social relations.”⁷¹ Culture, Wilson argues, furnishes “tools (skills, habits, and styles)” and weaves “constraints (restrictions or limits on behavior or outlooks) in patterns of social interaction.”⁷² Such constraints, he explains, include cultural frames derived from shared visions of human behavior and processes of in-group meaning making deduced from shared views on how the world works.⁷³ Cultural frames in turn influence decision making, over time directing “choices that reflect shared definitions of how the world works.”⁷⁴ For illustration, he points to two inner-city cultural frames—“acting black” and “acting white”—that give rise to observable group characteristics depicting ghetto “trust/street smarts.”⁷⁵ Wilson links these group-specific cultural traits, here characterized by “cultural frames, orientations, habits, and worldviews, as well as styles of behavior and particular skills,” to patterns of racial exclusion traceable to racially segregated neighborhoods in Miami and elsewhere.⁷⁶ Patterns of this sort, he warns, are unlikely to facilitate social mobility.⁷⁷

For Wilson, individual and group “processes of meaning making and decision making evolve in situations imposed by poverty and racial segregation.”⁷⁸ The situations, he observes, “lead to the development of informal codes that regulate behavior” and constrain mobility.⁷⁹ For these reasons, he argues, cultural explanations deserve integration into accounts of individual and group behavior and outcomes in inner-city ghettos like the West Grove.⁸⁰ The explanatory integration of cultural influences in differential racial group outcomes and racial stratification, however, in no way warrants the abandonment of structural

an ideology of racial domination with two key features: (1) beliefs that one race is either biologically or culturally inferior to another and (2) the use of such beliefs to rationalize or prescribe the way that the ‘inferior’ race should be treated in this society, as well as to explain its social position as a group and its collective accomplishments.

Id.

69. *Id.* at 16.

70. *Id.*

71. *Id.* at 17.

72. *Id.*

73. *See id.* He further comments that “decision making is influenced partly by how people come to view their world over time—what we call ‘meaning making.’” *Id.* at 18.

74. *Id.*

75. *Id.* at 17.

76. *Id.*

77. *Id.*

78. *Id.* at 18.

79. *Id.*

80. *See id.* at 21.

factors.⁸¹ To Wilson, “structure trumps culture.”⁸² Accordingly, structural conditions are crucial to an accounting of the “social and economic factors that, over time, contributed to the development of certain cultural traits and related behavior.”⁸³

Like Wilson, civil rights and poverty lawyers seeking to understand the frustration in inner-city neighborhoods and to decipher their structural dynamics should turn their attention to culture.⁸⁴ Culture, for Wilson, “provides a frame for individuals to understand their world.”⁸⁵ To their credit, many clinical teachers and legal aid lawyers take account of client and community culture in constructing the lawyering process. By investigating culture only for the purposes of interviewing and counseling,⁸⁶ however, lawyers overlook an opportunity—admittedly a controversial opportunity—to help clients and communities understand and reframe attitudes in a way that “promotes desirable behavior and outcomes.”⁸⁷ Alert to public policy, Wilson concedes that “attitudes must be reframed in conjunction with programs that address structural inequities.”⁸⁸ To succeed in remedying the problem of black male fatherhood, for example, he argues that culturally oriented programs must confront “the broader and more fundamental issues of restricted economic opportunities,” a confrontation that addresses “the framing of attitudes, norms, and behaviors in combination with local and national attempts to improve job prospects.”⁸⁹

Wilson’s work on the structure and culture of inner-city black poverty and racial inequality delineates several factors that determine the outlook and behavior of communities pertinent to the difference-based advocacy strategies of civil rights and poverty lawyers.⁹⁰ To Wilson, relevant factors include the degree of community social isolation, the extent of community control over material assets or resources, the benefits and privileges accrued from community resources, the accumulated cultural experiences community members derive “from current as well as historical, political, and economic arrangements,” and the scope of “influence that members of the community wield because of these arrangements.”⁹¹ The structural and cultural forces that socially isolate, economically impoverish, and politically disenfranchise inner-city neighbor-

81. *See id.*

82. *Id.*

83. *Id.* (noting that “an adequate explanation of cultural attributes in the black community must explore the origins and changing nature of attitudes and practices going back decades, even centuries”).

84. *See id.* at 22.

85. *Id.* at 23.

86. *See* Susan Bryant, *The Five Habits: Building Cross-Cultural Competence in Lawyers*, 8 *CLINICAL L. REV.* 33, 64–67 (2001); Paul R. Tremblay, *Interviewing and Counseling Across Cultures: Heuristics and Biases*, 9 *CLINICAL L. REV.* 373, 408–12 (2002).

87. WILSON, *MORE THAN JUST RACE*, *supra* note 8, at 23.

88. *Id.*

89. *Id.* (“Only when black fathers have a realistic opportunity to adequately care for their children financially will they be able to envision a more family-centered life for themselves and their children.”).

90. *See id.* at 16.

91. *Id.* at 16–17.

hoods like the West Grove also hinder the social mobility of young men and women caught up in Miami's school-to-jail crisis. The next section considers the capacity of difference-based teaching strategies in a classroom and clinical setting to understand the problems of the West Grove community and to collaborate with its families in solving the school-to-jail crisis.

B. DIFFERENCE-BASED TEACHING STRATEGIES

Difference-based classroom and clinical teaching strategies, I have argued elsewhere, involve a fuller description of the role of identity and community in advocacy on behalf of minority racial groups beset by structural and cultural conditions of economic and political subordination.⁹² Identity description addresses individual and group traits, including class, ethnicity, gender, race, and sexuality. Individual and group clients often present these traits in multiple, overlapping variations that are difficult to unwind and disentangle. The traits may complement one another in unifying identity or collide against each other in fragmenting identity. They may also emerge and recede depending on the context of their expression. By comparison, community description attends to geography, group affiliation, and institutional association. Geography marks the physical boundaries of community. Group or neighborhood affiliation defines its cultural and social content. Institutional association determines which sectors dominate community decisions (public, private, or nonprofit) and which structures (church, family, school) frame the range of available choices.

Predicated on the insights of liberal legalism and postmodernism, forms of identity and community description seek to uncover evidence of caste or status hierarchies and the contingencies of racial and cultural identity among individual and group clients.⁹³ Caste and status hierarchies may be visible or hidden. They may be heard in speech, in gesture, or in silence. They may be manifested in texts or in physical space. Likewise, the contingencies of racial and cultural identity shift in accordance with context. They may be muted in public and flaunted in private. And they may be spurred differently by individual and group pressures.

Liberal legalism resists the notion of an immutable or inherent caste-status hierarchy in society. This is the liberalism of radical individualism and rational agency—the liberalism infusing the lawyering process and its governing ethics rules, especially the intrinsic values of client communication, confidentiality, and informed consent. Its egalitarian strain favors moral autonomy and equality of opportunity among possessive individuals engaged in marketplace competition.

92. Alfieri, *supra* note 18, at 1083; see also Anthony V. Alfieri, *Reconstructive Poverty Law Practice: Learning Lessons of Client Narrative*, 100 YALE L.J. 2107, 2119 (1991) (asserting that poverty law advocacy should preserve the narratives and normative values of clients, such as selfhood, family, community, love, and work).

93. Alfieri, *supra* note 18, at 1083–84.

Postmodernism more forcefully rejects the notion of a natural or necessary caste-status hierarchy. This is the postmodernism of the free subject in culture and society. This stance fosters a disaggregated and indeterminate view of the lawyering process where the client collapses into multiple parts each occupying a distinct dimension of the subject. Following this logic, the subject may be gendered, racialized, or sexualized. Through this socially constructed complexity, the client subject stands centered at multiple, sometimes overlapping identity locations. Thus situated, postmodernism presumes shifting forms of racial and cultural identity as well as changing constitutive contents of identity.

The embrace of liberal egalitarianism and postmodern contingency, I have shown previously, gives rise to more improvisational and interdisciplinary, community-based collaborations in inner-city neighborhoods like Miami's West Grove.⁹⁴ The collaborations must be improvisational to respond to fast-moving changes in individual, group, and community circumstances. They must be interdisciplinary to account for the complexity of client identity and the interwoven structure and culture of poverty across the intersecting vectors of education, employment, healthcare, and housing. And they must be community-based to represent adequately the wide spectrum of identity among individuals and groups. Such collaborations rely on and generate antisubordination norms and frameworks for legal analysis, lawyering skills, and professionalism grounded in identity, context, and community.⁹⁵ Antisubordination norms repudiate visions of the client as dependent or inferior, and counsel against lawyering tactics and strategies that humiliate or marginalize clients and communities in representation. Applicable to direct service and law reform litigation as well as nonlitigation transactional contexts, antisubordination frameworks encourage the exercise of client participation and power throughout the lawyering process—for example, in fact investigation, trial advocacy, and community education.

Antisubordination norms and frameworks, I have contended, locate status hierarchies in racial and cultural identity and in neutral pedagogical perspectives.⁹⁶ Status hierarchies—typically white over black—may be state-sanctioned in de facto Jim Crow codes or culturally tolerated in popular images and narratives. Neutral pedagogical perspectives treat such socially constructed hierarchies as natural or necessary byproducts of an open and free society. These perspectives may appeal to the social biology of natural client or group inferiority or the pragmatic efficacy of lawyer supremacy. Both conventional, lawyer-dominant models of lawyering rising up daily in poverty-riven courtrooms and reformist, client-centered models of lawyering emerging out of

94. *Id.* at 1083; see also Anthony V. Alfieri, *(Un)Covering Identity in Civil Rights and Poverty Law*, 121 HARV. L. REV. 805, 844 (2008) (observing that liberal legalism and postmodernism combine to offer up a more inclusive identity-affirming vision of civil rights and poverty law).

95. Alfieri, *supra* note 18, at 1083–85.

96. *Id.* at 1083–84; see also Anthony V. Alfieri, *Gideon in White/Gideon in Black: Race and Identity in Lawyering*, 114 YALE L.J. 1459, 1463 (2005) (citing antisubordination norms, rather than neutrality constructs, as the focal point for the social and cultural assessment of clients in community contexts).

academic clinical advocacy arise from a common liberal framework and, accordingly, assert neutrality and nonaccountability claims in defending lawyer judgments about the means and ends of representation.⁹⁷ Neutrality claims of pedagogy and practice tolerate, albeit at times with reservation, the use of stereotype and stigma in the lawyering process to conform to legality or to achieve justice.⁹⁸ Nonaccountability claims deny personal or professional responsibility for the exploitation of stereotype and stigma.⁹⁹ Tolerance of stereotype and stigma, I have claimed, deforms the cognitive, emotional, and behavioral content of the client-lawyer relationship.¹⁰⁰ Mediated by stereotypes of client or group difference pervading culture and society, that advocacy and advisory relationship often operates to perpetuate stigma-induced marginalization in the private sphere of client counseling and the public sphere of a client on trial.¹⁰¹ Only the careful reassessment of client and community identity in context through cross-cultural, difference-based analysis is likely to alter lawyer perception and interpretation of client difference in inner-city communities and facilitate lawyer-client, as well as lawyer-community, collaboration across and in spite of segregating differences.¹⁰² Contextual reassessment addresses client and community identity in action, not in theory. It looks to the contexts of church, school, and neighborhood to ascertain the multiple components of identity, and it searches for cross-cultural differences and alternative perceptions or interpretations of such differences. Once located and bridged, those differences may facilitate lawyer-client and lawyer-community interaction.

Critical reassessment of stereotypes that impute marginalizing traits or behaviors to clients and communities of color requires, I and others have claimed, cross-cultural collaboration that identifies segregating differences, explores multiple explanations for client behavior, and mitigates the deep-seated biases of lawyers.¹⁰³ Collaboration entails client participation in case-specific and neigh-

97. Alfieri, *supra* note 18, at 1083–84; *see also* MODEL RULES OF PROF'L CONDUCT R. 1.2(a) (2009) (discussing scope of representation and allocation of authority between client and lawyer).

98. Alfieri, *supra* note 18, at 1084; *see also* Anthony V. Alfieri, *Jim Crow Ethics and the Defense of the Jena Six*, 94 IOWA L. REV. 1651, 1685–86 (2009) (assailing prosecution and defense claims of “colorblind neutrality” in the Jena Six trial for decontextualizing the stories of the accused and tacitly accepting the community’s racial stereotypes).

99. *See* Anthony V. Alfieri, *Defending Racial Violence*, 95 COLUM. L. REV. 1301, 1321 (1995) (describing the core principles of conventional ethics in terms of partisanship and moral nonaccountability).

100. Alfieri, *supra* note 18, at 1084.

101. *Id.* at 1084; *see also* Anthony V. Alfieri, *Disabled Clients, Disabling Lawyers*, 43 HASTINGS L.J. 769, 826–27 (1992) (documenting attorneys’ use of gender, caretaker, nonwage-earner, and impairment imagery to victimize clients with disabilities, re-entrenching stereotypes and stigmas about those traits).

102. Alfieri, *supra* note 18, at 1084; *see also* Anthony V. Alfieri, *Faith in Community: Representing “Colored Town,”* 95 CAL. L. REV. 1829, 1854 (2007) (endorsing “rebellious lawyers” for validating the relevance of client experiential knowledge, which enables them to recognize clients as partners and to integrate lay culture into advocacy).

103. Alfieri, *supra* note 18, at 1084; *see also* Ascanio Piomelli, *Cross-Cultural Lawyering by the Book: The Latest Clinical Texts and a Sketch of a Future Agenda*, 4 HASTINGS RACE & POVERTY L.J. 131, 174, 178 (2006) (employing social cognition studies to explore client stereotypes and to break out

borhood-wide advocacy, here in the form of rights education and economic development training.¹⁰⁴ Client participation bridges client-lawyer differences, elucidates client behavior, and mitigates lawyer bias. Participation via individual client decision making and community problem solving transforms the lawyering process into a client-activist form of democracy-enforcing legal-political advocacy.¹⁰⁵

The practical judgment that attends this transformation, I have asserted, introduces multiple identity narratives, layered contextual descriptions, and silenced community histories into classroom, clinical, and neighborhood settings.¹⁰⁶ Discerning these multiple narratives, layered descriptions, and silenced histories in client and community advocacy comes out of a mixture of classical liberal and critical-outsider jurisprudence increasingly heard in post-racial debates.¹⁰⁷ Liberal jurisprudence values authentic self-elaboration, individual liberty, and collective equality.¹⁰⁸ It encourages clients to speak out. Outsider stances, in contrast, expose caste status, class subordination, and the stigmas accorded to race, gender, and sexuality.¹⁰⁹ They reach beyond appearance. The interdisciplinary fusion of these jurisprudential frameworks illuminates the ethnographic, psychological, and sociological underpinnings of client-lawyer roles and relationships and their susceptibility and resistance to change.

Both ethical discretion and moral decision making are basic to the roles and relationships of the lawyering process.¹¹⁰ Distinct from the theology and spirituality celebrated by the historic black ministries of the West Grove, ethical discretion echoes the moral conversation invoked in some conventional and reformist practices of lawyering.¹¹¹ Both conventional and reformist lawyering

of deeply ingrained but counterproductive patterns of advocacy in order to work better with clients from marginalized social groups).

104. Alfieri, *supra* note 18, at 1085. See generally Anthony V. Alfieri, *Practicing Community*, 107 HARV. L. REV. 1747 (1994) (reviewing GERALD P. LÓPEZ, *REBELLIOUS LAWYERING: ONE CHICANO'S VISION OF PROGRESSIVE LAW PRACTICE* (1992)).

105. Alfieri, *supra* note 18, at 1085; see also Eduardo R.C. Capulong, *Client Activism in Progressive Lawyering Theory*, 16 CLINICAL L. REV. 109, 180-92 (2009) (discussing the extent to which different models of progressive lawyering have achieved their goals of client empowerment and self-determination); Lucie White, *Democracy in Development Practice: Essays on a Fugitive Theme*, 64 TENN. L. REV. 1073, 1077-78 (1997) (discussing the need for the participation of the residents in community development lawyering and focusing on democracy in the day-to-day activities of community development).

106. Alfieri, *supra* note 18, at 1085; see also Anthony V. Alfieri, *Discovering Identity in Civil Procedure*, 83 S. CAL. L. REV. (forthcoming 2010) (examining lawyer identity judgments in the trials of civil rights cases).

107. Alfieri, *supra* note 18, at 1085.

108. See *id.*

109. See *id.*

110. See generally DAVID LUBAN, *LEGAL ETHICS AND HUMAN DIGNITY* (2007) (urging dignity-based lawyer decision making); WILLIAM H. SIMON, *THE PRACTICE OF JUSTICE: A THEORY OF LAWYERS' ETHICS* (1998) (approving justice-promoting ethical discretion by lawyers in adversary process).

111. See generally Neal Kumar Katyal, *Hamdan v. Rumsfeld: The Legal Academy Goes to Practice*, 120 HARV. L. REV. 65 (2006) (connecting classroom and clinical moral conversation to social justice advocacy in legal education).

models speak of moral conversation and religious faith. Often shaped by a vision of civic professionalism, faith-based conversation links the ability to make thoughtful moral judgments with the ethical, legal, and social skills of advocacy.¹¹² Expanding the capacity of students to experience this ethical-social development requires the reimagining of the lawyering process as both a social and a cultural practice.¹¹³

Imagining lawyering as a social and cultural practice applicable to the oral, written, and social texts of communities broadens the concrete social reality of difference-based client and community identity to encompass law, culture, and society.¹¹⁴ This broadened view rejects neutral claims to a natural or necessary method of construing client identity and narrative in advocacy, and neutral attributions of a natural or necessary racial order in society. That twin rejection, I have said, discounts identity-based judgments as descriptively incomplete, opting instead to treat identity as a multifaceted and unstable aggregation of shifting categories tied to class, race, gender, and sexuality.¹¹⁵ Treating difference-based client and community identity this way recasts judgments of fact and law as incomplete and partial.¹¹⁶

To many, the recasting or destabilizing of lawyer judgments renders legal reasoning far more multivariable, open-ended, and useful in cross-racial contexts.¹¹⁷ Like pragmatism in its renewed forms,¹¹⁸ this situational reasoning locates lawyers' decisions about advocacy in the context of the community and admits that many outcomes will be highly contingent and provisional for clients and communities struggling in deteriorating economic circumstances.¹¹⁹ Fundamentally, these outcomes derive legitimacy from client and community participation.¹²⁰

Democratic legal theory encourages widespread client participation in advocacy to enhance opportunities for individual empowerment and collective mobi-

112. See Alfieri, *supra* note 18, at 1087.

113. *Id.*

114. *Id.* at 1088; see also Ariela Gross, *Beyond Black and White: Cultural Approaches to Race and Slavery*, 101 COLUM. L. REV. 640, 645–54 (2001) (viewing the trial as narrative performances reveals representations of racial identity and culture enacted in the legal system).

115. Alfieri, *supra* note 18, at 1088.

116. See *id.* at 1089.

117. See, e.g., Russell G. Pearce, *White Lawyering: Rethinking Race, Lawyer Identity, and Rule of Law*, 73 FORDHAM L. REV. 2081, 2093–99 (2005) (arguing that integration-and-learning approaches to differences in professional settings enhance cross-cultural understanding and remake perceptions of racial identity as a source of value); David B. Wilkins, *Identities and Roles: Race, Recognition, and Professional Responsibility*, 57 MD. L. REV. 1502, 1567–69 (1998) (claiming that black lawyers should aim for “race-conscious professionalism” rather than “bleached-out neutrality” in practice).

118. See Joseph William Singer, *Normative Methods for Lawyers*, 56 UCLA L. REV. 899, 913–14 (2009) (maintaining that legal complexity is best learned in the context of cases, normative considerations, and the principles and policies behind them).

119. Alfieri, *supra* note 18, at 1089.

120. See *id.*

lization.¹²¹ Together, empowerment and mobilization involve the clients' own rights education, lay skills training, and social service capacity building like the initiatives displayed in CEDAD's work in the West Grove.¹²² However, the structure and culture of inner-city black poverty and racial inequality, especially the concentrated poverty affecting black men and black families, frequently militate against that individual and collective involvement. In the next section, Wilson's ethnographic findings and conclusions on inner-city poverty illustrate this point.

III. BLACK AND POOR IN THE INNER CITY

Wilson's efforts to develop "a framework for understanding the formation and maintenance of racial inequality and racial group outcomes" in inner-city environments like Miami and neighborhoods like the West Grove analytically merges cultural factors with structural forces that directly and indirectly manifest explicit racial bias.¹²³ In applying this framework to the inner-city African-American experience, he scrutinizes not only the formation but also the persistence of the inner-city ghetto and the consequent "plight" of black males and the "breakdown" of black families.¹²⁴ This section turns first to his general examination of concentrated inner-city poverty and then to his particularized analysis of inner-city black men and poor black families. Wilson's appraisal of the structural economic and political forces framing the culture of chronic racial subordination in the inner city elucidates the decline of cooperative relationships and the fragmentation of poor black families; the reconstruction of each is crucial to political organization and mobilization in Miami and the West Grove and essential to the revitalization of inner-city communities and the preservation of their core institutions from church to school.

A. CONCENTRATED POVERTY

For Wilson, concentrated poverty "magnifies the problems associated with poverty in general," specifically "joblessness, crime, delinquency, drug trafficking, broken families, and dysfunctional schools."¹²⁵ To explain the experiences and social outcomes of inner-city residents straining to overcome these problems, Wilson examines "how explicit racial structural forces directly contribute to inequality and concentrated poverty."¹²⁶ At the same time, he explores "how

121. *Id.* at 1090; see also Susan D. Bennett, *Little Engines That Could: Community Clients, Their Lawyers, and Training in the Arts of Democracy*, 2002 Wis. L. REV. 469, 495-96 (suggesting that lawyer encouragement of client participation in advocacy and representation leads to a process of "mutual evolution" in which both the lawyer and the client learn to better work together for the community).

122. See Alfieri, *supra* note 18, at 1089-90.

123. WILSON, *MORE THAN JUST RACE*, *supra* note 8, at 23-24.

124. *Id.* at 24.

125. *Id.* at 27.

126. *Id.*

political actions and impersonal economic forces indirectly affect life in the inner city."¹²⁷ In this inquiry, he emphasizes the importance of "the effects of national racial beliefs and cultural constraints" on local neighborhoods beleaguered by decades of "racial isolation and chronic economic subordination."¹²⁸

Wilson surveys the economic and political changes in central cities and inner suburbs, finding that these interlocked metropolitan communities "lack the fiscal means to address the concentrated problems of joblessness, family break-ups, and failing public schools."¹²⁹ He ascribes this fiscal incapacity to federal government policies that are explicitly and implicitly motivated by racial bias, such as neighborhood redlining and inner-city public housing segregation.¹³⁰ Policies of this sort, he continues, coupled with overall reductions in urban aid appropriations, impose "financial constraints that make it difficult to generate the political support to effectively combat problems such as joblessness, drug trafficking, AIDS, family stress, and failing schools."¹³¹ Adjacent federal policies related to highway transportation, suburban infrastructure development, and mortgage-interest tax policy, he adds, "jointly facilitated the exodus of working- and middle-class white families from inner-city neighborhoods" and "the destruction of many viable low-income black neighborhoods."¹³² Wilson also notes that the absence of effective labor market policies sufficient to safeguard the "real value" of the minimum wage made it more difficult for the inner-city working poor to support themselves.¹³³ All of these factors, combined with the erosion of urban areas as centers of economic activity, "accelerated neighborhood decline in the inner city and widened gaps in race and income between cities and suburbs."¹³⁴

Wilson observes that the national economic shift from manufacturing to finance, service, and technology sectors contributed to the local erosion in metropolitan economies.¹³⁵ This macroeconomic shift, he notes, transformed traditional labor-intensive industries by reducing the importance of physical capital and relegating lower-skilled workers to more unstable retail and service industries that afford lower wages, meager benefits, and scant worker protections.¹³⁶ The same shift, also accompanied by the rise of suburban and exurban economies, sprawl, and inverted commuting patterns,¹³⁷ curtailed "inner-city residents' access to meaningful economic opportunities" and burdened "neighbor-

127. *Id.* (emphasis omitted).

128. *Id.*

129. *Id.* at 37.

130. *See id.* at 38.

131. *Id.*

132. *Id.* at 38-39.

133. *Id.* at 39.

134. *Id.*

135. *Id.* at 39-40.

136. *See id.* at 40.

137. *See id.* at 41 ("Increasingly, workers completely bypass the central city by commuting from one suburb to another.")

hoods with high concentrations of poverty and deteriorating physical conditions."¹³⁸ The upshot of this spatial mismatch¹³⁹ for low-income people of color, Wilson shows, are distressed neighborhoods like the West Grove—neighborhoods crippled by scarce jobs, inadequate services and amenities, and substandard schools.¹⁴⁰

To better understand the economic and political changes contributing to inner-city concentrated poverty, Wilson looks to cultural factors. Culture, for Wilson, provides tools (a cluster of habits, skills, and styles) and creates constraints (a battery of restrictions on outlooks and behavior) displayed in regular patterns of social interaction.¹⁴¹ The constraints, discernible in “shared group constructions of reality” that he calls cultural frames, exert influence upon and give direction to social action and, in doing so, act to reinforce racial inequality.¹⁴² Wilson links “exposure to cultural framing, habits, styles of behavior, and particular skills” to historic patterns of daily racial exclusion in culture and society.¹⁴³ Distorted by “the effects of living in a racially segregated, poor neighborhood,” cultural frames may hinder social mobility for individuals and their families.¹⁴⁴

Wilson’s neighborhood-effects research on concentrated poverty outcomes for poor black Americans carefully charts “cultural responses to chronic economic and racial subordination.”¹⁴⁵ Such research, in general, “suggests that concentrated poverty increases the likelihood of social isolation (from mainstream institutions), joblessness, dropping out of school, lower educational achievement, involvement in crime, unsuccessful behavioral development and delinquency among adolescents, nonmarital childbirth, and unsuccessful family management.”¹⁴⁶ It also reveals in the streets of Miami and the West Grove that the force of concentrated poverty “adversely affects one’s chances in life, beginning in early childhood and adolescence.”¹⁴⁷ Put simply, Wilson asserts, “living in a ghetto neighborhood has both structural and cultural effects that compromise life chances above and beyond personal attributes.”¹⁴⁸

The structural and cultural prongs of neighborhood-effects research focus on repeated, prolonged exposure to cultural traits derived from “living in segre-

138. *Id.* at 41–42.

139. *See id.* at 41 (“*Spatial mismatch* is a term that social scientists use to capture the relationship between inner-city residents and suburban jobs: the opportunities for employment are geographically disconnected from the people who need the jobs.”).

140. *See id.* at 42.

141. *See id.*

142. *Id.* at 43.

143. *Id.*

144. *Id.* By way of example, Wilson cites “the negative effects of a ‘cool-pose culture’ that has emerged among young black men in the inner city, which includes making sexual conquests, hanging out on the street after school, taking party drugs, and listening to hip-hop music.” *Id.*

145. *Id.* at 46.

146. *Id.*

147. *Id.*

148. *Id.* at 47.

gated neighborhoods over extended periods."¹⁴⁹ Searching out the tangible effects of segregation, Wilson treats traits like poor verbal skills as the mixed product of cumulative cultural and psychological experiences of racial exclusion.¹⁵⁰ For illustration, he cites systematic experiences of discrimination and disrespect that, when repeated over time, "can generate common psychological states that may be erroneously interpreted as norms by social investigators because they seem to regulate patterns of behavior."¹⁵¹ The psychological state of resignation, he mentions, may arise precisely in this way within segregated communities.¹⁵² Acquired by parents directly from experience and then transmitted to children indirectly through socialization, resignation conveys a set of beliefs and norms "about what to expect from life and how one should respond to life circumstances" marked by racial and income segregation.¹⁵³

To Wilson, the racial and income segregation common to inner-city black ghettos arises out of historic racial subjugation and structural conditions composed of impersonal economic forces and adverse political actions.¹⁵⁴ Wilson demarcates the power and effect of these structural forces in the abandonment and depopulation of ghetto neighborhoods now visible in the West Grove and inner-cities like Detroit. Under this theory, structural conditions composed of larger economic and political forces frame "the context within which cultural responses to chronic economic and racial subordination are developed."¹⁵⁵ The next section turns to the experience of subordination among inner-city black men.

B. INNER-CITY BLACK MEN

Wilson pronounces the economic predicament of low-skilled, inner-city black men catastrophic.¹⁵⁶ Throughout poor, segregated neighborhoods like the West Grove, he finds that "substantial proportions of the adult population are either officially unemployed or have dropped out of, or never entered, the labor force."¹⁵⁷ Many of the jobless, he reports, "are high school dropouts whose

149. *Id.* at 55.

150. *See id.*

151. *Id.* at 55-56.

152. *Id.* at 56. Wilson adds:

The impact of chronic economic subordination and displays of disrespect on people's psychological dispositions and emotional states may depend partly on the cultural resources they have to interpret what has happened to them, such as a cultural framing designed to fend off insults that promotes strong feelings of racial pride within the community.

Id.

153. *Id.* at 55-56 ("In the process, children may acquire a disposition to interpret the way the world works that reflects a strong sense that other members of society disrespect them because they are black.").

154. *See id.* at 60.

155. *Id.* at 60-61 (citing "little evidence that cultural forces carry the power of structural forces").

156. *See id.* at 62.

157. *Id.* at 64.

situations are especially bleak,"¹⁵⁸ in part because of the effects of a growing school-to-jail crisis.

Wilson points to structural and cultural causes for the "deteriorating economic plight of inner-city, low-skilled black males."¹⁵⁹ Structurally, he observes, the volatile labor market for low-skilled workers suppresses wages and threatens job displacement.¹⁶⁰ Racial barriers stem from "employers' negative attitudes toward black men as workers," the "physical and social isolation" of black men within inner-city areas of concentrated poverty, and the limited "access that poor black men have to informal job networks."¹⁶¹

Structurally, Wilson adds, "education plays a key role in enabling black men to secure employment."¹⁶² Citing poorly performing public schools, now widely common across Miami and Florida, he remarks that "low-skilled black males often enter the job market lacking some of the basic tools that would help them confront changes in their employment prospects."¹⁶³ Inner-city public schools in particular, he complains, suffer from "rigid district bureaucracies, poor morale among teachers and school principals, low expectations for students, and negative ideologies that justify poor student performance."¹⁶⁴ As a result, the schools fail to equip students with the skills and tools necessary to compete effectively in a globalized labor market.¹⁶⁵ Lack of education, Wilson warns, also heightens the risk of black male incarceration; indeed, he reports, "[b]etween 1979 and 1999, the risk of imprisonment for less educated men nearly doubled."¹⁶⁶

Wilson connects employers' cultural framework to structural patterns of widespread and enduring employer discrimination.¹⁶⁷ He explains that employers hold "common cultural beliefs or perceptions about black males" that, when acted upon, affect employment opportunities and outcomes.¹⁶⁸ The combined negative effects of cultural attitudes exhibited toward inner-city black males and macroeconomic shifts from entrenched manufacturing to transient service industries in the national economy, he contends, disadvantage black men in compet-

158. *Id.* at 66.

159. *Id.* at 68.

160. *Id.* at 71.

161. *Id.* at 73–74. Wilson describes attitude-based racial barriers as "statistical discrimination," a form of discrimination in which "employers make generalizations about inner-city, black male workers and reach decisions based on those assumptions without reviewing the qualifications of an individual applicant." *Id.* at 75 (mentioning that "although statistical discrimination contains some elements of class bias against poor, inner-city workers, it is clearly a racially motivated practice").

162. *Id.* at 68.

163. *Id.* at 71.

164. *Id.* ("Inner-city schools fall well below more advantaged suburban schools in science and math resources, and they lack teachers with appropriate preparation in these subjects.")

165. *See id.*

166. *Id.* at 72 (remarking that "a significant proportion of black men who have been in prison are high school dropouts").

167. *See id.* at 76.

168. *Id.*

ing for service sector jobs, in part because “they are seen as unable to sustain positive contact with the public”¹⁶⁹ relative to women and immigrant workers with similarly limited education and experience.¹⁷⁰ Wilson adds that high incarceration rates, including probation and parole, further disadvantage low-skilled black males, encouraging a “vicious cycle” of illegal activities, incarceration, and unemployment.¹⁷¹

Wilson links the attitudes, cultural traits, and “feelings that many inner-city black males express about their jobs and job prospects” in the larger economy to the “opportunity structure” for social mobility in society as a whole.¹⁷² By opportunity structure, he means the spectrum of life chances available to low-skilled black men in inner-city ghetto neighborhoods.¹⁷³ That structure, he explains, shapes the lives of young black men and, moreover, dictates the economic and social outcomes for racial groups and their individual members.¹⁷⁴ That same structure, he maintains, also adds a cultural dimension to race and poverty that derives from, and reinforces, inequality.¹⁷⁵ Embodied in the “cool-pose culture” common to many young black men of the inner city, that dimension, Wilson speculates, may be “partly related to employment failures and disillusionment with . . . poorly performing public schools” as well as to “the special social circumstances fostered by pre-1960s legal segregation” in Jim Crow communities like the West Grove.¹⁷⁶

Although he is skeptical of ethnographic claims of “a subculture of defeatism” in inner-city ghetto neighborhoods, and cautious in his account of cultural attitudes, Wilson endorses Sandra Smith’s integrated analysis of the cultural factors that may “contribute to the complex and often difficult world of work inhabited by low-skilled blacks.”¹⁷⁷ Wilson argues that Smith’s study

169. *Id.* at 76–77 (“The shift to service industries has resulted in a greater demand for workers who can effectively serve and relate to the consumer.”).

170. *Id.* Wilson found that many employers favor “women and recent immigrants of both genders (who have come to populate the labor pool in the low-wage service sector) over black men for service jobs.” *Id.*

171. *Id.* at 77–78 (commenting that “a prison record carries a stigma in the eyes of employers and decreases the probability that an ex-offender will be hired, resulting in a greater likelihood of even more intractable joblessness”).

172. *Id.* at 78.

173. *See id.*

174. *Id.* at 78–79.

175. *Id.* (noting that “the evidence for the influence of cultural factors on the social and economic circumstances of low-skilled black males is far less compelling than structural arguments”).

176. *Id.* at 80–81. Wilson stresses that “cultural explanations that include historical context should be part of our attempt to fully account for behavior that is so contradictory to mainstream ideas of how work and family should fit into a man’s life.” *Id.* at 81. Wilson also notes that “it is exceedingly difficult to determine the relative balance between cultural and structural arguments in explaining the behavior and the social and economic circumstances in which we find poor, young black males.” *Id.*

177. *Id.* at 83, 90 (citing SANDRA SUSAN SMITH, *LONE PURSUIT: DISTRUST AND DEFENSIVE INDIVIDUALISM AMONG THE BLACK POOR* (2007)).

substantiates the importance of combining a definitive cultural analysis (exploring the effects of a tendency to distrust and the discourse of individualism in the black community) with a structural explanation (focusing on the impact of discriminatory actions of the staff members of a job center) to account for the employment outcomes of low-skilled, young black males.¹⁷⁸

For Wilson, this combination of cultural analysis and structural explanation illustrates how the breakdown of informal job information networks among residents, and the consequent limited use of available job referrals, discernibly “aggravates the problems of job spatial mismatch” and social isolation in inner-city black neighborhoods.¹⁷⁹ That illustration, he argues, also shows how cultural frames, specifically the shared visions of human behavior attributable to “micro-level processes of meaning making and decision making,” effectively “orient action” in neighborhoods like the West Grove.¹⁸⁰

Nonetheless, Wilson insists that “structural explanations of the economic woes of low-skilled black men are far more significant than cultural arguments, even though structural and cultural forces jointly restrict black male progress in some situations.”¹⁸¹ Structurally, for example, Wilson ties the disproportionate and still growing number of low-skilled black males in society to historical segregation and discrimination as well as to impersonal economic forces, including “the decreased relative demand for low-skilled labor caused by the computer revolution, the globalization of economic activity, the declining manufacturing sector, and the growth of service industries.”¹⁸² Taken together, those social legacies and economic forces help explicate conditions of chronic poverty and exploitation seen in poor black neighborhoods throughout Miami.¹⁸³ Equally valuable to Wilson, they also help explicate the tendency of neighborhood residents to distrust, and therefore shun, cooperative relationships crucial to informal job and political networks.¹⁸⁴ Similar legacies and forces help to explain the condition of poor black families in inner-city ghettos like the West Grove.

C. POOR BLACK FAMILIES

Wilson locates the African-American family, specifically poor black families, at the center of the structure-versus-culture debate in law and society.¹⁸⁵ Wary

178. *Id.* at 92.

179. *Id.* at 90, 92.

180. *Id.* at 92.

181. *Id.* at 93.

182. *Id.*

183. *Id.* at 94.

184. *See id.* (“Black workers in the inner city tend to be less willing to recommend friends and relatives for jobs that become available.”).

185. For initial studies on the culture of poverty in low-income communities of color, see generally OSCAR LEWIS, *FIVE FAMILIES: MEXICAN CASE STUDIES IN THE CULTURE OF POVERTY* 1–19 (1959); OSCAR LEWIS, *LA VIDA: A PUERTO RICAN FAMILY IN THE CULTURE OF POVERTY—SAN JUAN AND NEW YORK* xlii–lii

of the racialized content and consequences of that discordant debate in sociology and social policy, he works carefully to validate the influence of culture on individual and group behavior in the inner city while framing that behavior and the environment of the inner city itself within a larger economic and political structure global in reach and decades long in the making. Against this cultural and structural framework, Wilson considers “the sharp increase in single-parent families and out-of-wedlock births” and the documented “relationship between these trends and economic hardships,” cautiously striving to “synthesize structural and cultural analyses to understand the dynamics of poor black families” and to account for the fragmentation of the African-American family earlier proclaimed in the controversial work of Daniel Patrick Moynihan and others.¹⁸⁶ Recounting Moynihan’s initial findings, Wilson reports that “by 1996 the proportion of black children born outside of marriage had reached a high of 70 percent,” though it declined in the short-term to 69 percent in 2005.¹⁸⁷ He also reports that a more long-term study found that 31 percent of all persistently poor households were headed by nonelderly black women¹⁸⁸ and endorses Kathryn Edin’s conclusion that children living in such households represent “America’s poorest demographic group.”¹⁸⁹ The available research, according to Wilson, establishes a “strong connection linking single parenthood with poverty and welfare receipt.”¹⁹⁰ This research, he notes, “indicates that children from low-income households without fathers present are more likely to be school dropouts, become teenage parents, receive lower earnings in young adulthood, be welfare recipients, and experience cognitive, emotional, and social problems.”¹⁹¹ The research in addition shows that “daughters who grow up in single-parent households are more likely to establish single-parent households themselves” and, furthermore, that black mothers in such inner-city households “face greater challenges in raising children.”¹⁹²

Unlike Moynihan, however, Wilson observes that structural factors—“the decreased relative demand for low-skilled labor[,] . . . the decline of the manufac-

(1966); OSCAR LEWIS, *THE CHILDREN OF SANCHEZ* xxiii–xxxii (1961); Oscar Lewis, *The Culture of Poverty*, in *ON UNDERSTANDING POVERTY: PERSPECTIVES FROM THE SOCIAL SCIENCES* 187–200 (Daniel Patrick Moynihan ed., 1968).

186. See WILSON, *MORE THAN JUST RACE*, *supra* note 8, at 96, 104–05. See generally OFFICE OF POLICY PLANNING AND RESEARCH, U.S. DEP’T OF LABOR, *THE NEGRO FAMILY: THE CASE FOR NATIONAL ACTION* (1965) (detailing the disintegration of African-American family structures in urban ghettos and attributing the continuing gap between blacks and whites to this disintegration); LEE RAINWATER & WILLIAM L. YANCEY, *THE MOYNIHAN REPORT AND THE POLITICS OF CONTROVERSY* (1967) (assembling a collection of writings critically assessing the Moynihan Report).

187. WILSON, *MORE THAN JUST RACE*, *supra* note 8, at 100.

188. *Id.* at 101 (citing GREG J. DUNCAN, *YEARS OF POVERTY, YEARS OF PLENTY* (1984)).

189. *Id.* at 101–02 (quoting Kathryn Edin, *The Myths of Dependence and Self-Sufficiency: Women, Welfare, and Low-Wage Work*, in 17 *FOCUS* 203, 230 (1995)).

190. *Id.* at 102.

191. *Id.*

192. *Id.* at 102–03 (also noting that “single-parent households tend to exert less control over the behavior of their adolescent children”).

turing sector, and the growth of service industries”—contribute to both the “increase in joblessness among low-skilled black males” and the “fragmentation of black families.”¹⁹³ He points to such contributing factors in research studying the relationship between male employment, marriage rates, and single parenthood that suggest “a strong association between rates of marriage and both employment status and earnings at any given point in time.”¹⁹⁴ However, he cautions that although structural factors, such as black male joblessness, may prove significant in explicating “delayed entry into marriage and . . . the decreasing rates of marriage after a child has been born,” standing alone they fail to explain “the decline in marriages in the inner city.”¹⁹⁵

For a fuller explanation of the fragmentation of the African-American family, Wilson looks to cultural factors to understand “how black people respond to poverty” and “how cultural practices may contribute to either the increase or reduction of poverty.”¹⁹⁶ In surveying contributing cultural factors, Wilson acknowledges current research on the “cultural/historical continuity in the linguistic and religious behaviors of African Americans.”¹⁹⁷ Yet, he tries to “separate factors influenced by cultural continuities from factors derived from situational and contextual factors” (joblessness and poverty) in determining the sociocultural mechanisms that “transmit weak family structure across generations.”¹⁹⁸

To Wilson, “cultural frames are necessary but not sufficient explanations for behavior” bearing on the “decline in the rate of marriage among inner-city black parents.”¹⁹⁹ On this logic, patterns in the behavior of black families reveal “the interaction between material and cultural constraints” expressed in cultural continuity and socioeconomic conditions.²⁰⁰ Indeed, Wilson declares, “cultural arrangements reflect structural realities.”²⁰¹ Thus, in inner-city Miami, “[t]he weaker the norms are against premarital sex, out-of-wedlock pregnancy, and nonmarital parenthood, the more economic considerations affect decisions to marry.”²⁰²

Wilson’s claim of cultural and structural interaction leads him to consider “the role of culture under conditions of chronic economic hardship and its impact on family life.”²⁰³ He considers cultural frames broadly, clarifying how

193. *Id.* at 106–07.

194. *Id.* at 107.

195. *Id.* at 107–08.

196. *Id.* at 108–11.

197. *Id.* at 114.

198. *Id.*

199. *Id.* at 115.

200. *Id.* (quoting Mark Testa, *Male Joblessness, Nonmarital Parenthood and Marriage* 16 (Oct. 10–12, 1991) (unpublished paper, on file with the Chicago Urban and Family Life Conference)).

201. *Id.* at 117.

202. *Id.* at 116, 119–20 (commenting that the cool-pose culture among young black men “revealed especially weak support for the institution of marriage in the inner-city ghetto among black men”).

203. *Id.* at 129.

they “develop in different spatial and contextual circumstances, and how they orient action.”²⁰⁴ Wilson contends that applied to inner-city black families, “unique historical racial experiences,” such as poverty and segregation, may affect the “cultural framing of marriage and motherhood.”²⁰⁵ To illustrate the framing of marriage and motherhood, he refers to ethnographic research that shows “both inner-city black males and females believe that since most marriages will eventually break up and no longer represent meaningful relationships, it is better to avoid the entanglements of wedlock altogether.”²⁰⁶ At the same time, he mentions, research shows that poor women “find meaning and purpose in child rearing in spite of serious financial hardship.”²⁰⁷ This cultural framing of marriage and motherhood, Wilson underscores, shapes how poor women respond to poverty and influences “their children’s odds of escaping poverty.”²⁰⁸

In sum, to Wilson the experiences of poor, inner-city blacks and their responses to marriage and childbearing “stem from the linkage between new structural realities, changing norms, and evolving cultural patterns.”²⁰⁹ The structural reality of “diminishing employment opportunities” for inner-city low-skilled workers, he notes, weakens the foundation for stable marriage relationships, opening the “way to temporary liaisons that result in broken relationships, out-of-wedlock pregnancies and births, and, in the rare occurrence of marriage, to separation and divorce.”²¹⁰ Even so, Wilson argues that “structural evidence for the fragmentation of poor black families is not as compelling” as cultural variables related to the “historic racial experiences of inner-city African American women” and “their cultural framing of marriage and motherhood.”²¹¹ Accordingly, consider the implications of Wilson’s research on inner-city poverty to the formulation of post-racial pedagogies and practices responsive to the structural and cultural conditions of impoverished communities like Miami’s West Grove.

IV. POST-RACIAL PEDAGOGIES AND PRACTICES

The national debate over post-racial pedagogies and practices typically di-

204. *Id.*

205. *Id.* Wilson also points to the accrued “experiences” of daily “living in racially segregated ghettos”; in such contexts the “problems of poverty, joblessness, and lack of opportunity are exacerbated by the cumulative problems of race.” *Id.* at 130–31.

206. *Id.* at 125 (observing that “single parenthood reduces the emotional burden and shields these women from the type of exploitation that often accompanies the sharing of both living arrangements and limited resources”).

207. *Id.* at 129.

208. *Id.* at 127–28.

209. *Id.* at 131.

210. *Id.* at 131 (“The changing norms for marriage in the larger society also reinforce the movement toward temporary liaisons in the inner city, and therefore economic considerations in marital decisions take on even greater significance.”).

211. *Id.* at 131–32.

vides into competing claims of race-neutrality and race-consciousness in constitutional and legislative arenas. The claims echo descriptively in the judicial analysis of racial categories and prescriptively in the court fashioning of racial remedies. In the inner-city streets of Miami and the West Grove, formalist and instrumentalist claims of racial perspective and privilege barely resonate. The absence of such pitched debate should be unsurprising. In impoverished communities of color across America, there is scarce logic to colorblind claims of racial neutrality. For too many of those communities, the color of poverty is black and the war against it is unfinished.

To be post-racial in the inner city then is not to abandon race as a descriptive method or as a prescriptive remedy. And surely it is not to deny the bleak socioeconomic reality of race for young black men and poor black families. Rather, to be post-racial in pedagogy and practice is to integrate structural and cultural factors in analyzing racial inequality and concentrated inner-city poverty precisely among the black men and poor black families that Wilson searches out and that our clinical students encounter in church meetings and rights education workshops. That integration must occur in law school clinical advocacy, in poverty law litigation, and in civil rights test cases and legislative reform. The school-to-jail crisis in Miami and more generally in Florida provides a case study for experimentation in such integration. By now it is clear that the crisis disproportionately impacts young black men and poor black families in Miami's inner-city ghettos. This section addresses that crisis by outlining structural and cultural strategies of legal-political advocacy in the context of concentrated poverty and public education. Incorporated into a school-to-jail remedial campaign, the strategies draw upon the best traditions of conventional civil rights and poverty law advocacy, and reformist clinic-centered advocacy.

A. STRUCTURE AND CULTURE IN ADVOCACY

Wilson's work provides the ethnographic foundation for structural and cultural strategies of legal-political advocacy. To Wilson, "some cultural patterns in the inner-city ghetto reflect informal rules that shape how people interact or engage one another and make decisions."²¹² Decision making, he explains, constitutes a meaning making process "related to perceptions about how the world works."²¹³ Both meaning making and decision making processes, for example regarding education, employment, and marriage, "evolve over time in situations imposed by racial segregation and poverty."²¹⁴ Culture, Wilson argues, frames the processes of meaning making and decision making, "mediat[ing] the impact of structural forces" in segregated and impoverished

212. *Id.* at 133.

213. *Id.*

214. *Id.*

neighborhoods similar to the West Grove.²¹⁵

Residents of inner-city ghettos like the West Grove, Wilson maintains, develop culturally mediated ways or codes “to adjust and respond to chronic racial and economic subordination.”²¹⁶ These informal cultural codes—for instance, the “code of the street”²¹⁷ and the “code of shady dealings”²¹⁸—function to regulate individual and group behavior.²¹⁹ In doing so, Wilson comments, the codes “display a degree of autonomy” that “often reinforces the very conditions that have emerged from structural inequities.”²²⁰ The pull of “autonomous cultural forces” undergirding codes of behavior, he warns, “ultimately reduces one’s chances for successful integration into the broader society and thereby contributes to the perpetuation of poverty.”²²¹

The complex dynamics of meaning making and decision making processes prompt Wilson to reject a “strict structure culture distinction” in his analysis of the neighborhood effects of concentrated poverty.²²² Instead, he adopts a temporal standpoint, remarking that “the relationship between structure and culture may flow in a different direction” depending on *when* the social process under investigation is observed.²²³ From this posture, he opines, “structure influences culture” in the form of informal codes of behavior, and “cultural codes in turn influence structure in the sense of perpetuating poverty.”²²⁴ In this way, Wilson concludes, social reality emerges from the interaction between, and “dynamic interrelationships of, structure and culture.”²²⁵

Nevertheless, in assessing the neighborhood effects of concentrated poverty, Wilson argues that structural causes of inequality in inner-city ghettos “continue to play a far greater role in the subjugation of black Americans and other people of color” and deserve to be accorded more weight analytically.²²⁶ Culture, he

215. *Id.* (emphasis omitted).

216. *Id.* at 134.

217. The “code of the street,” according to Wilson, “represents an informal but explicit set of rules that have evolved to regulate violence and govern interpersonal public behavior in neighborhoods with high crime and low police protection.” *Id.* at 134; *see also* ELIJAH ANDERSON, CODE OF THE STREET: DECENCY, VIOLENCE, AND THE MORAL LIFE OF THE INNER CITY 32–34 (1999) (describing how street life has developed a set of rules, driven by profound alienation, governing public behavior and, particularly, violence that are centered around the concept of getting “respect”).

218. The “code of shady dealings,” Wilson explains, “represents an informal but explicit set of rules that regulate off-the-books trading in the underground economy, rules that stipulate what is expected of individuals involved in these exchanges and where the transactions should take place.” WILSON, MORE THAN JUST RACE, *supra* note 8, at 134; *see also* SUDHIR ALLADI VENKATESH, OFF THE BOOKS: THE UNDERGROUND ECONOMY OF THE URBAN POOR 366–87 (2006) (describing dynamics of neighborhood underground economy).

219. WILSON, MORE THAN JUST RACE, *supra* note 8, at 134.

220. *Id.*

221. *Id.*

222. *Id.* at 135.

223. *Id.*

224. *Id.*

225. *Id.*

226. *Id.*

reasons, stands “less causally autonomous than social structure,” functioning more often in “a mediating role in determining African Americans’ chances in life.”²²⁷ On this analysis, legal–political advocacy strategies attacking racial inequality “should reflect awareness of the inextricable link between aspects of structure and culture.”²²⁸ That awareness comes from efforts to demonstrate “a relationship between structural inequities and culture” and to show the cumulative structural and cultural effects of inequality on the social and economic outcomes of poor people of color in social environments like the West Grove.²²⁹

The social environment of the West Grove illustrates the impact of structural and cultural forces in its high rate of unemployment, large number of non-elderly, female-headed family households, and recurrent frequency of school suspension and expulsion. To the extent that “culture is the sharing of outlooks and modes of behavior that are sustained through social interaction within a community and often transmitted from generation to generation,” Wilson reiterates, “patterns of behavior in racially segregated inner-city neighborhoods” like the West Grove “often represent particular cultural traits that emanate from or are the products of racial exclusion.”²³⁰ Though these racialized traits, he comments, “may impede successful maneuvering in the larger society,” they also may reframe advocacy strategies by situating social issues of race and poverty in larger legal–political contexts.²³¹

Wilson recognizes the contingency of “deliberative” political frames in historical time, particularly their ability to orient and shift policy debates to address racial inequities.²³² To attack structural inequities affecting the working poor, for example, he urges the reframing of “opportunity-enhancing affirmative action programs” to aid individuals and families.²³³ Simultaneously, he urges the creation of cultural programs that acknowledge the “complex interplay of structural and cultural factors” in the formation and maintenance of racial inequality and poverty.²³⁴ Those structural forces and cultural factors encompass direct and explicit, as well as indirect and implicit, forms of racial bias influencing the social outcomes of inner-city neighborhoods in the lives of low-skilled black men and black families.²³⁵

To crystallize the colorblind form of deeply racialized structural forces, Wilson once again points to government public welfare policies that harmed the poor black residents of inner-city neighborhoods, such as federal transportation and highway policies, mortgage tax policies, urban renewal policies, and fiscal

227. *Id.*

228. *Id.* at 136.

229. *Id.* at 136–37.

230. *Id.* at 138.

231. *Id.*

232. *Id.* at 138–39.

233. *Id.* at 140.

234. *Id.* at 143–44.

235. *See id.*

austerity policies.²³⁶ When combined with weak labor market policies and regressive tax policies, Wilson reports, race-neutral government public welfare programs actually worked “to undermine the ability of poor, inner-city workers to support their families.”²³⁷ Indeed, his findings establish a correlation “between black male joblessness and the rise of single-parent families.”²³⁸ Likewise, he adds, indirect structural forces, typified by “the decline in locally situated industrial employment,” have disparately affected poor black inner-city neighborhoods by inducing the out-migration of nonpoor residents.²³⁹ In the West Grove and elsewhere, the resulting depopulation has further contributed to the fragmentation of African-American families and the deterioration of public schools.²⁴⁰

Both direct and indirect structural forces pose legal-political obstacles for civil rights and poverty lawyers. Embedded in facially neutral government policies and global industrial practices, structural forces resist conventional direct service and law reform litigation strategies.²⁴¹ Wilson’s account of the interrelationship between structural and cultural forces helps recalibrate traditional litigation strategies. Recall that Wilson contends that “[t]wo types of cultural forces contribute to racial inequality,” the first rooted in “belief systems of the broader society that either explicitly or implicitly give rise to racial inequality” and the second entrenched in “cultural traits that emerge from patterns of intragroup interaction in settings created by racial segregation and discrimination.”²⁴² Belief systems, he notes, extend to “widespread racist beliefs and prejudiced attitudes that have, over the years, reinforced racial disadvantage.”²⁴³ Cultural traits, he adds, incorporate “shared outlooks, traditions, belief

236. *Id.* at 144–45.

237. *Id.* at 145. Wilson enumerates additional structural forces, such as

the decreased relative demand for low-skilled labor caused by the technological revolution and the growing internationalization of economic activity; the relocation of urban industries first to suburbs and then to points overseas for a sharp decline in the central-city manufacturing sector; and urban sprawl that reduces inner-city residents’ access to economic opportunities and exacerbates the ‘spatial mismatch’ between poor black neighborhoods and jobs that pay well.

Id.

238. *Id.* at 147.

239. *Id.* at 145–46. Wilson remarks that “[t]he departure of jobs from the cities coincided with the end of the Second Great Migration of poor blacks from the rural South to the urban North.” *Id.* at 145. He also notes that “the shift to service industries has been especially problematic for low-skilled black males because the jobs it generates call for workers who can effectively provide personal service and relate to consumers.” *Id.* at 146.

240. *See id.* (“African American men, especially those with prison records, do not inspire confidence among employers for service sector jobs.”).

241. On direct service and law reform strategies, see Anthony V. Alfieri, *The Antinomies of Poverty Law and a Theory of Dialogic Empowerment*, 16 N.Y.U. REV. L. & SOC. CHANGE 659, 683–90 (1988); Michael J. Klarman, *Social Reform Litigation and Its Challenge: An Essay in Honor of Justice Ruth Bader Ginsburg*, 32 HARV. J.L. & GENDER 251, 252–66 (2009).

242. WILSON, MORE THAN JUST RACE, *supra* note 8, at 147.

243. *Id.*

systems, worldviews, preferences, manners, linguistic patterns, clothing styles, and modes of behavior in the inner-city ghetto.”²⁴⁴ To Wilson, inner-city black males and families exhibit behavioral traits “in the micro-level processes of meaning making and decision making,” processes that create an individual “understanding of how the world works” and channel “choices that reflect that understanding,” even in legal and political advocacy.²⁴⁵

Civil rights and poverty lawyers neglect Wilson’s account of inner-city cultural forces that have historically reinforced poverty and racial inequality.²⁴⁶ In the West Grove and throughout Miami, however, the “cumulative and sometimes durable effects of residing in poor segregated neighborhoods” are devastating to individuals and families.²⁴⁷ Consider, for example, the structural effects of labor market isolation²⁴⁸ and enrollment in low-quality public schools.²⁴⁹ Consider as well the cumulative effects of “repeated exposure to cultural traits that emanate from or are the products of racial exclusion” and inform “a child’s peer group norms.”²⁵⁰

Rather than credit popular claims of a “cool-pose culture” or a “subculture of defeatism” within inner-city ghettos, Wilson investigates the influence of culture on social outcomes.²⁵¹ He finds “compelling evidence” of such influence in inner-city labor markets where “a culture of distrust and a discourse of individualism” among low-income blacks dominate informal job networks, resulting in

244. *Id.* at 147–48.

245. *Id.* at 148.

246. *See id.*

247. *See id.*

248. *See id.* at 148–49. Wilson points out:

[D]espite the popular view that young, low-skilled black males resist seeking low-wage jobs, the most definitive empirical evidence reveals that black men at the bottom of the income distribution reported lower reservation wages (wages that workers are willing to accept for certain types of work) than did comparable white men.

Id. at 149.

249. *See id.*

250. *Id.*

251. *See id.* On cool-pose culture and subcultures of defeatism within inner-city ghettos, see generally ELIJAH ANDERSON, *STREETWISE: RACE, CLASS, AND CHANGE IN AN URBAN COMMUNITY* (1990) (exploring emerging public “street-smart” role models among young black males in the inner city); RICHARD MAJORS & JANET MANCINI BILLSON, *COOL POSE: THE DILEMMAS OF BLACK MANHOOD IN AMERICA* (1992) (characterizing black male coolness as a coping strategy in the African-American community); CARL HUSEMOLLER NIGHTINGALE, *ON THE EDGE: A HISTORY OF POOR BLACK CHILDREN AND THEIR AMERICAN DREAM* (1993) (linking street-smart values and behavior among young black males to historical exclusion of poor African-American children from meaningful participation in American economic and social life); ALFORD A. YOUNG, JR., *THE MINDS OF MARGINALIZED BLACK MEN: MAKING SENSE OF MOBILITY, OPPORTUNITY, AND FUTURE LIFE CHANCES* (2004) (surveying culture and social world of young low-income African-American men); Orlando Patterson, *Taking Culture Seriously: A Framework and Afro-American Illustration*, in *CULTURE MATTERS: HOW VALUES SHAPE HUMAN PROGRESS 202–18* (Lawrence E. Harrison & Samuel P. Huntington eds., 2000) (reviewing cultural explanations in the study of Afro-Americans).

“the limited use of job referrals.”²⁵² Noting that “employers in low-skilled labor markets heavily rely on personal referrals,” he points out that the predominant “‘go it alone’ approach proves enormously self-defeating,” effectively “undermining the development of cooperative relationships that facilitate the job-matching process.”²⁵³

In the same way, rather than accepting the “idea of cultural continuity” in describing the structure of the current African-American family, Wilson probes the influence of culture on black family fragmentation.²⁵⁴ His investigation discloses that “African American women have, on balance, formed particular views on family through unique circumstances tied to their experiences with racial oppression in America.”²⁵⁵ Those views, he repeats, enable poor women to “find meaning and purpose in child rearing despite serious financial hardship.”²⁵⁶

Wilson lays the groundwork for civil rights and poverty lawyers to understand “how structural and cultural forces interact to create racial group outcomes” for black men and black families living in inner-city ghettos like the West Grove.²⁵⁷ This groundwork supports a multidimensional framework of lawyering integrating culture and social structure in combating racial discrimination and urban poverty.²⁵⁸ Admitting the impact of structural forces on individual, group, and neighborhood outcomes, the framework treats culture as a mediating factor and, thus, less causally autonomous “in determining individuals’ life outcomes” relative to more powerful racialist structural factors.²⁵⁹ To Wilson, racialist structural factors include the legacy effects of slavery and Jim Crow segregation,²⁶⁰ public and private discrimination, and other pernicious racial acts and processes, as well as the impact of race-influenced political, economic, and policy decisions.²⁶¹

Modeling a multidimensional framework of lawyering on Wilson’s work starts from his own premise that “one cannot draw a simple dichotomy between culture and structure in an investigation of their relative impact” on individuals,

252. See WILSON, MORE THAN JUST RACE, *supra* note 8, at 149–50 (citing SANDRA SUSAN SMITH, LONE PURSUIT: DISTRUST AND DEFENSIVE INDIVIDUALISM AMONG THE BLACK POOR (2007)).

253. See *id.* at 150.

254. See *id.* Wilson expresses skepticism toward the view that “sub-Saharan African patterns” of family structure suggest “that strong ties and obligations to extended kin have led to a greater acceptance of marital separation.” *Id.* at 150–51.

255. *Id.* at 151–52.

256. *Id.* at 151.

257. *Id.* at 152.

258. On multidimensional models of lawyering in the civil rights movement for same-sex marriage, see Scott L. Cummings & Douglas NeJaime, *Lawyering for Marriage Equality*, 57 UCLA L. REV. (forthcoming June 2010).

259. *Id.* at 152–53 (declining “to argue that the cultural factors in the black community are equally as important in determining life chances or creating racial group outcomes”).

260. For a detailed cultural and social chronicle of the Jim Crow era in the South during the late nineteenth and early twentieth century, see LEON F. LITWACK, TROUBLE IN MIND: BLACK SOUTHERNERS IN THE AGE OF JIM CROW (1998).

261. WILSON, MORE THAN JUST RACE, *supra* note 8, at 153.

groups, and inner-city neighborhoods.²⁶² For Wilson, the two factors work in concert.²⁶³ He pointedly asserts that “culture is not simply a product of structure with no independent or autonomous power.”²⁶⁴ To demonstrate that autonomous power, he points to “the weakening of the informal job information network in the inner-city ghetto” arising in part out of a cultural “inclination to distrust in the inner city—an inclination that inhibits cooperative relationships needed in the job-matching process.”²⁶⁵ Still, Wilson emphasizes, “cultural forces are often generated, fostered, and empowered by structures,” even though “in some cases structures are created or reinforced by cultural forces.”²⁶⁶ Recognition of this complex interrelationship, and the shifting dynamics of structural and cultural forces in inner-city ghettos, helps shape school-to-jail remedial strategies for civil rights and poverty lawyers.

B. SCHOOL-TO-JAIL REMEDIAL STRATEGIES

Effective school-to-jail remedial strategies borrow from the traditions of conventional civil rights and poverty law advocacy and reformist, clinic-centered advocacy to erect a multidimensional framework of inner-city practice. Deduced from Wilson’s work on the neighborhood effects of concentrated poverty, that model spurs legal-political advocacy strategies that reframe the role of structural and cultural forces in racial inequality. Reframing the contributing roles of structure and culture in creating and reinforcing school-to-jail inequities in the West Grove and in Miami more generally expands the scope of the growing legal-political challenge to “over-zealous discipline policies—including mandatory ‘zero tolerance’ policies—that remove students deemed to be ‘problem children’ from their schools” in Florida and nationwide.²⁶⁷ In 2000, states recorded “over three million school suspensions and over 97,000 expulsions.”²⁶⁸ Statistically, advocates report, “a child who has been suspended is more likely to be retained in grade, to drop out, to commit a crime, and/or to

262. *Id.*

263. *Id.*

264. *Id.* at 154.

265. *Id.*

266. *Id.*

267. See NAACP LEGAL DEF. & EDUC. FUND, INC., *DISMANTLING THE SCHOOL-TO-PRISON PIPELINE 3* (2005), available at http://www.naacpldf.org/content/pdf/pipeline/Dismantling_the_School_to_Prison_Pipeline.pdf. See generally ADVANCEMENT PROJECT, *OPPORTUNITIES SUSPENDED: THE DEVASTATING CONSEQUENCES OF ZERO TOLERANCE AND SCHOOL DISCIPLINE 6* (2000), available at <http://www.advancementproject.org/sites/default/files/publications/opsusp.pdf> (documenting racial disparities in the application of zero tolerance school disciplinary policies); Russell J. Skiba & Kimberly Knesting, *Zero Tolerance, Zero Evidence: An Analysis of School Disciplinary Practice*, in *ZERO TOLERANCE: CAN SUSPENSION AND EXPULSION KEEP SCHOOLS SAFE?* 17–43 (Russell J. Skiba & Gil G. Noam eds., 2001) (discussing findings of racial disproportionality in school discipline).

268. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 3 (“In some states, the number of suspensions exceeded 10% of the number of students enrolled in school in those states.”).

end up incarcerated as an adult.”²⁶⁹ In addition to suspension and expulsion, students increasingly suffer arrest and referral to law enforcement officials or juvenile courts for prosecution.²⁷⁰

Both structural and cultural factors contribute to school disciplinary outcomes. Structurally, the “neglected and under-resourced” conditions of public education systems “yield poor educational achievement and poor behavioral outcomes.”²⁷¹ Common to “areas of concentrated poverty,” these conditions “set students up to fail.”²⁷² Indeed, civil rights advocates explain, “continuing resource deficiencies—evidenced by a lack of experienced or certified teachers and guidance counselors, advanced instruction, early intervention programs, extracurricular activities, and safe, well equipped facilities—lock many students into second-class educational environments that neglect their needs and make them feel disengaged from their schools.”²⁷³ Inadequate resources, advocates complain, in fact “create[] perverse incentives for school officials to remove children from school.”²⁷⁴ Removal especially harms students with unmet special learning needs who reportedly “end up in inferior settings such as suspension centers, alternative schools, and juvenile prisons,”—precisely those “places where meaningful educational services are practically nonexistent and students with histories of behavioral problems can negatively influence one another.”²⁷⁵ Studies indicate that “approximately 8.6% of children in public school have been identified as having disabilities that impact their ability to learn,” while “approximately 32% of youth in juvenile corrections had been previously identified as having special learning needs.”²⁷⁶ In Florida, the data indicate that “as many as 60% of all juvenile offenders have disabilities that affect their ability to learn.”²⁷⁷

269. *Id.* at 3–4 (remarking that “taking children out of school for even a few days disrupts their education and often escalates poor behavior by removing them from a structured environment and giving them increased time and opportunity to get into trouble”).

270. *See id.* at 4; ADVANCEMENT PROJECT, EDUCATION ON LOCKDOWN: THE SCHOOLHOUSE TO JAILHOUSE TRACK 11–19 (2005), available at <http://www.advancementproject.org/sites/default/files/publications/FINALEOLrep.pdf>.

271. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 4.

272. *Id.*

273. *Id.* at 4–5.

274. *Id.* at 5 (commenting that “harsh discipline policies provide schools with a convenient method to remove certain students and thereby mask educational deficiencies”).

275. *Id.* at 5–6; *see also* Daniel J. Losen & Kevin G. Welner, *Legal Challenges to Inappropriate and Inadequate Special Education for Minority Children*, in RACIAL INEQUITY IN SPECIAL EDUCATION 167–94 (Daniel J. Losen & Gary Orfield eds., 2002) (appraising challenges to minority overrepresentation in racially isolated special education contexts); Sue Burrell & Loren Warboys, *Special Education and the Juvenile Justice System*, JUV. JUST. BULL., July 2000, at 10–13 (Office of Juvenile Justice and Delinquency publication reviewing status of youth with disabilities in institutional settings).

276. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 6.

277. *Id.*; *see* FLA. DEP’T OF EDUC., FLORIDA PUBLIC HIGH SCHOOL GRADUATES 2003–04, available at <http://www.fldoe.org/eias/eiaspubs/archives.asp>; FLA. DEP’T OF EDUC., NON-PROMOTIONS IN FLORIDA’S PUBLIC SCHOOLS, 2003–04, available at <http://www.fldoe.org/eias/eiaspubs/archives.asp>; FLA. DEP’T OF EDUC., PROFILES OF FLORIDA SCHOOL DISTRICTS, STUDENT AND STAFF DATA, 2003–04, available at <http://www.fldoe.org/eias/eiaspubs/pdf/ssdata04.pdf>.

Culturally too, civil rights advocates point out, “African Americans, especially young black males,” bear the “brunt” of school suspension, expulsion, and incarceration policies.²⁷⁸ In 2000, advocates show, “African Americans represented only 17% of public school enrollment nationwide, but accounted for 34% of suspensions.”²⁷⁹ In 2003, they additionally show, “African-American youths made up 16% of the nation’s overall juvenile population but accounted for 45% of juvenile arrests.”²⁸⁰ Advocates stress that “African-American students are far more likely than their white peers to be suspended, expelled, or arrested for the *same kind* of conduct at school.”²⁸¹ They attribute such disparities to “the longstanding racist stereotype that African Americans, especially men and boys, are dangerous and predatory.”²⁸² Echoing themes sounded by Wilson, they trace “the problems of access to quality education for African-American students” and to the historical legacy of America’s racial caste system.²⁸³

In documenting the growing structural disparities and increasing cultural isolation experienced by African-American students living in inner-city ghettos, civil rights advocates remark that across the nation “African-American students are over-represented in special education categories and under-represented in advanced placement courses and gifted education.”²⁸⁴ Moreover, they estimate that merely “50% of all African-American ninth-graders will graduate with their class in four years.”²⁸⁵ To civil rights advocates combating the effects of concentrated poverty, inner-city schools daily reproduce the historical inequities of a racial caste system “by shuttling countless numbers of African-American students into lower education tracks and removing them from school altogether through zero tolerance and other harsh discipline policies.”²⁸⁶

Convergent structural and cultural remedial strategies tailored to challenge racially disparate school disciplinary policies combine legal–political community-based advocacy and organizing practices. Basic fact investigation is the starting

278. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 6–7; *see also* RUSSELL J. SKIBA ET AL., *THE COLOR OF DISCIPLINE: SOURCES OF RACIAL AND GENDER DISPROPORTIONALITY IN SCHOOL PUNISHMENT 2–5* (2000), *available at* <http://www.indiana.edu/~safeschl/cod.pdf> (noting that African-American males are disproportionately subjected to school discipline).

279. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 7 (footnote omitted).

280. *Id.* (footnote omitted).

281. *Id.*

282. *Id.* at 7.

283. *Id.* at 7–8 (“Historically, African-American children and other children of color have been denied access to equal educational opportunities.”).

284. *Id.* at 8.

285. *Id.* at 8–9. In Florida, “African Americans make up less than 24% of the overall student population,” yet “they account for nearly 36% of the students retained.” *Id.* at 9 (mentioning that in Florida “only 45% of African Americans [overall] and a mere 38% of African-American males graduat[e] on time”); *see also* THE CIVIL RIGHTS PROJECT AT HARVARD UNIVERSITY, *CONFRONTING THE GRADUATION RATE CRISIS IN THE SOUTH 6–10* (2005), *available at* http://www.eric.ed.gov:80/ERICDocs/data/ericdocs2sql/content_storage_01/0000019b/80/1b/b8/85.pdf (documenting educational and civil rights crisis among poor and minority public high school students in Southern states).

286. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 9.

point for community-based legal–political advocacy in school contexts. Both advocacy and organizing may be built around local, school-specific fact investigation involving parents, students, educators, judges, juvenile justice defenders, police officers, and community activists. Such investigations, advocates recommend, should “take a critical look at existing school discipline policies, the actual practices of schools and law enforcement, and the impact of those policies and practices.”²⁸⁷

By design, critical investigation of school discipline and law enforcement policies and practices uncovers marginalized and hypermarginalized identities among affected inner-city families. Rooted in racial group histories and subordinate cultures, these identities signify caste status, often the lower rank status of the disabled, which may be usefully ascribed to practices of cultural and social construction.²⁸⁸ Uncovering individual or group disability status risks stigma and stereotype. To mitigate stigma, advocates should stress norms of client empowerment and democratic participation in the lawyering process. They should also carefully gauge the impact of contextual variables, such as school-based special education systems.

In 2007, for example, the Southern Poverty Law Center (“SPLC”) launched a new national initiative, the School to Prison Reform Project, to aid inner-city students with disabilities.²⁸⁹ Based in New Orleans, the goal of the Project “is to ensure that public schools provide special education services required by federal law.”²⁹⁰ To achieve that goal, the Project urges adoption of the Positive Behavioral Interventions and Supports program, a school-wide initiative that “emphasizes the reinforcement of positive social behaviors rather than simply punishing bad behaviors.”²⁹¹ SPLC reports that black students nationally “are more than twice as likely to be suspended as white students.”²⁹² Pointing to recent studies, SPLC asserts “that up to 85 percent of children in juvenile detention facilities have disabilities that make them eligible for special education services, yet only 37 percent had been receiving any kind of services in their school.”²⁹³ Conse-

287. *Id.* at 10.

288. Alfieri, *supra* note 94, at 836.

289. Press Release, S. Poverty Law Ctr., SPLC Launches ‘School to Prison Reform Project’ to Help at-Risk Children Get Special Education Services, Avoid Incarceration (Sept. 11, 2007).

290. *Id.* (asserting that such “services are crucial because students with disabilities are at risk of behavioral problems that can land them in detention and threaten their future”).

291. *Id.*

292. *Id.*

293. *Id.* SPLC cites studies demonstrating that:

[C]hildren with emotional disturbances are particularly at risk:

- They have the worst graduation rate of all students with disabilities. Nationally, only 35 percent graduate from high school, compared to 76 percent for all students.
- Seventy-three percent of those who drop out are arrested within five years.
- They are twice as likely as other students with disabilities to be living in a correctional facility, halfway house, drug treatment center or on the street after leaving school.
- They are almost twice as likely as students with other disabilities to become teenage mothers.

quently, critical fact investigation entails “experimentation with new forms of cross-cultural collaboration” focused on students with disabilities and their families.²⁹⁴

In my previous work, I argued that cross-cultural collaboration enables lawyers to reach out and connect with clients across boundaries of cultural and racial difference.²⁹⁵ Outreach of this kind rejects any pretense of colorblind neutrality in client-lawyer counseling and any easy presupposition of cross-cultural competence acquired through neutral techniques of lawyer case planning and management.²⁹⁶ Instead, it calls for the abandonment of neutrality and a frank, open discussion of stereotypes—disability or otherwise—as a means to encourage client self-elaboration and solidarity with others in community groups.²⁹⁷ Uncovering identity in this way also involves discretionary counseling decisions about the process of, and participation in, fact investigation.²⁹⁸ When collaborative and open-ended, that process expands the scope of individual and group client participation in litigation problem solving and strategic decision making.²⁹⁹

The concurrent strategy of incorporating “client self-elaboration and group legal-political collaboration” in the fact-finding process draws on lawyer and lay skills of community-based, interdisciplinary work beyond traditional visions of advocacy, for example in cooperation with university-based schools of medicine, nursing, and social work.³⁰⁰ This work comes out of efforts to reconceptualize the cultural and structural meaning of difference-based identity in legal advocacy and political organizing.³⁰¹ To be effective, these efforts should be inclusive of multiple cultures, affirming of difference, and transformative of stigma.³⁰²

Next, advocates and organizers should collaborate with community-based affinity groups in order to craft alternative programs—for example, “truancy intervention programs, peer mediation, after-school programs, intensive guidance counseling, and conflict resolution programs”—engrafted from other school districts that have retained children in successful mainstream educational environments.³⁰³ Like many difference-based identity groups, those affinity groups and their members (students and families) will likely seek socioeconomic and

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- They are more than three times as likely as other students to be arrested before leaving school.

Id.

294. See Alfieri, *supra* note 94, at 837.

295. *Id.*

296. *Id.*

297. *Id.* at 837–38.

298. *Id.* at 838.

299. *Id.*

300. *Id.* at 842.

301. *Id.* at 844.

302. *Id.*

303. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 10.

political benefits from a campaign of public elaboration apart from stigma and stereotype.³⁰⁴ Tied to “equality of economic opportunity” and “the liberty of cultural and societal participation,” that group identity campaign actively resists cultural fragmentation, economic inequality, political disenfranchisement, and social bias.³⁰⁵

Resistance is crucial in reducing the isolation of historically subordinated groups in politics, labor markets, culture, and society. As I have argued elsewhere, uncovering of this sort affords stigmatized social groups an opportunity not only to confront entrenched status hierarchies and to engage in transformative acts of self-elaboration, but also to enhance political and economic participation and cross-racial dialogue about social stigma and caste status.³⁰⁶ To be sure, uncovering carries the disciplining risk of internal group repression and external cultural discrimination, especially for the disabled.³⁰⁷ Those strategic risks jeopardize the formation of outsider affinity group coalitions around school-to-jail structural and cultural issues, exacerbating the complexity of multidimensional lawyering.³⁰⁸

An example of effective multidimensional lawyering comes from the Advancement Project’s recent Opportunity to Learn Program and its related initiative, Ending the Schoolhouse to Jailhouse Track.³⁰⁹ The Project’s objective is “to eliminate institutional barriers that exclude children of color and poor children from quality K–12 education and opportunities to pursue college degrees.”³¹⁰ Aimed at ending “harsh and unfair school disciplinary measures,” the related initiative illustrates the feasibility of a multi-year, multi-site youth and adult organizing effort to end the unwarranted criminalization of children by their schools by establishing legal–political campaign partnerships with inner-city community groups.³¹¹ The community partnerships entail “participatory research, analysis of school discipline data and policies, and effective communication strategies” tailored to reforming disciplinary policies in specific school districts.³¹² The Advancement Project contends that such district-wide reform should seek to “ensure that all schools have school disciplinary policies and practices that treat students fairly, promote academic achievement, and create

304. Alfieri, *supra* note 94, at 814.

305. *Id.* at 815.

306. *Id.* at 816.

307. *Id.*

308. *Id.* at 817.

309. See ADVANCEMENT PROJECT, *supra* note 270, at 45–47; see also ADVANCEMENT PROJECT, MAPPING AND ANALYZING THE SCHOOLHOUSE TO JAILHOUSE TRACK: AN ACTION KIT FOR UNDERSTANDING HOW HARSH SCHOOL DISCIPLINE POLICIES AND PRACTICES ARE IMPACTING YOUR COMMUNITY 2 (2009) (working “to expose and reform the way in which schools have turned to out-of-school suspensions, expulsions, and referrals to law enforcement and courts to handle minor school disciplinary infractions”).

310. Advancement Project, Staff Attorney, http://www.advancementproject.org/about/career_opportunities/2009/08/staff-attorney (last visited Feb. 1, 2010).

311. Advancement Project, Ending the Schoolhouse to Jailhouse Track, <http://www.advancementproject.org/our-work/schoolhouse-to-jailhouse> (last visited Feb. 1, 2010).

312. *Id.*

safe learning environments.”³¹³ Among the reforms advanced by the Project in Florida and elsewhere are efforts to “limit zero tolerance school discipline procedures to only conduct that pose a serious threat to safety,” to impose “a moratorium on arrests for disorderly conduct and other such petty, non-violent offenses,” to “adopt clear and concise school discipline guidelines that provide students and parents with notice of potential disciplinary actions for specific offenses,” and to train school police officers “to effectively interact with youths and children with disabilities.”³¹⁴ Additional reforms seek to establish parent–student school discipline oversight committees “to handle complaints about school discipline practices and the conduct of security and police officers,” create peer student juries to “work with students who have committed disciplinary offenses in an effort to connect them with community resources and to address root causes of their behavior and identify positive solutions,” and form community-based panels of trained volunteers to adjudicate disciplinary offenses as an alternative to juvenile court proceedings.³¹⁵

Furthermore, multidimensional lawyering advocates and organizers should “conduct a broad media campaign to increase public awareness and develop a set of best practices regarding discipline policy and police presence on school campuses.”³¹⁶ The media campaign requires families and communities to collaborate. By working together, they may help uncover the structural and cultural forces contributing to the school-to-jail crisis.³¹⁷ In structurally marginalized neighborhoods like the West Grove, such contributing forces include the cultural and social stigmas accompanying the hypermarginalized identities of poor black children and adolescents with disabilities. Stigma, I have argued in earlier work, “inhibits individual self-elaboration and group integration in the cultural and social spheres of civic life.”³¹⁸ Media campaigns must address the damaging effects of stigmatizing, difference-based client identity for inner-city students with disabilities. The campaigns establish the advocacy and organizing predicate to counsel marginalized and hypermarginalized families to uncover the structure and culture of identity.

Legal–political uncovering affords inner-city students and families “a potentially beneficial opportunity to engage in authentic self-elaboration, to obtain equal treatment, and to exercise the liberty of full participation in cultural and social environments.”³¹⁹ Moreover, it gives students and families “a useful chance to collaborate in grassroots, interest group mobilization in support of

313. Press Release, Advancement Project, Civil Rights Groups Propose Zero Tolerance Guidelines and Model Discipline Code (July 30, 2009) (quoting the president of the Florida State Conference NAACP).

314. ADVANCEMENT PROJECT, *supra* note 270, at 46.

315. *Id.*

316. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 14.

317. See Alfieri, *supra* note 94, at 806.

318. *Id.* at 807.

319. *Id.* at 809.

economic justice” in education.³²⁰ Uncovering campaigns approach racial and multicultural “difference as a meaning-making factor central to the construction of individual, group, and community identity.”³²¹ Inscribed in legal, cultural, and social narratives, that meaning may be covered or muted to hide identity stigma or stereotype, even when it is known and visible.³²² To cover in this sense is in effect “to mute or repress a disfavored or stigmatized identity trait.”³²³ In inner-city public schools, “covering signals a cultural and social suppression of traits and behaviors associated with difference.”³²⁴ For Professor Kenji Yoshino and others, covering of this sort constitutes “a public performance of scripted acts and dialects simultaneously self-deforming and repressive.”³²⁵ Group-specific uncovering by students and families in school-to-jail media campaigns “repudiates the stigma of sub-group marginalization” and its cultural restrictions.³²⁶

Additionally, multidimensional lawyering advocates and organizers should aid in the implementation of “a community organizing campaign and a citywide public awareness effort,” including public hearings, to reform school-to-jail disciplinary policies.³²⁷ Community organizing campaigns must advise students and families “why, how, and when” to uncover either through individual self-elaboration or group collaboration.³²⁸ Such legal-political counseling requires an assessment of costs and benefits, particularly the risks of curbing self-elaboration, diminishing socioeconomic and political equality, and curtailing cultural and social liberty.³²⁹ Deliberative, cross-disciplinary methods of assessment hinge on “social dialogue among marginalized and hypermarginalized” community groups about “litigation tactics, campaign strategy, [and] resource allocation,” all issues involving transactional conflicts and costs.³³⁰

In New York City, for example, the NAACP Legal Defense and Educational Fund (“LDF”) recently joined students, parents, members of the New York City Council, and a coalition of civil rights organizations in support of new school-based legislation entitled the Student Safety Act.³³¹ LDF explains that the

320. *Id.*

321. *Id.*

322. *Id.* at 810.

323. *Id.* at 811.

324. *Id.*

325. *Id.* at 810. See generally KENJI YOSHINO, COVERING: THE HIDDEN ASSAULT ON OUR CIVIL RIGHTS (2006) (describing the personal and professional experience of covering against the backdrop of broader rights-based social movements in American history).

326. Alfieri, *supra* note 94, at 813.

327. NAACP LEGAL DEF. & EDUC. FUND, INC., *supra* note 267, at 14 (noting that public hearings provide parents and students with “an opportunity to share their experiences as they relate to school discipline, discuss alternatives to harsh discipline policies, and lay the foundation for school discipline reform”).

328. Alfieri, *supra* note 94, at 813.

329. *Id.* at 814.

330. *Id.* at 819.

331. NAACP Legal Def. Fund, Inc., *NAACP Legal Defense Fund Advocates for Safe Schools in NYC*, Aug. 14, 2008, www.naacpldf.org/content.aspx?article=1305.

Student Safety Act's regulatory duties "require the New York City Department of Education and NYC Department to submit quarterly reports to the Council regarding student suspensions, expulsions and arrests, along with the age, race, sex and disability status of the students affected."³³² At the same time, LDF adds, the provisions of the Act "give students the right to file complaints against School Safety Agents with the city's Civilian Complaint Review Board."³³³ The purpose of the School Safety Act, according to LDF, is "to increase transparency and hold School Safety Agents . . . accountable for their actions."³³⁴ Without such regulatory accountability, LDF argues, school districts will continue "abdicating their responsibility to provide meaningful discipline and instead rely on law enforcement to discipline students, inevitably fueling the School-to-Prison Pipeline."³³⁵

Last, multidimensional lawyering advocates and organizers should develop litigation guidelines to correct racial disparities in public education and demand local community reinvestment in educational resources and school facilities.³³⁶ Public education provides widespread direct service, law reform, and community education opportunities for civil rights and poverty lawyers to assail school-to-jail disciplinary and law enforcement policies.³³⁷ Those opportunities allow for the use of alternative identity-making practices that construct client, group, and community difference, even disabling difference, free of stigma and stereotype. Constructing clients—students and families—in schoolhouses and in courthouses without disabling or marginalizing identity narratives encourages cultural self-elaboration and group self-expression in advocacy.³³⁸

In Louisiana, for example, the Southern Poverty Law Center and its partners, the Southern Disability Law Center and Juvenile Justice Project of Louisiana, effected major systemic improvements in the quality and breadth of special education services without disabling or marginalizing identity narratives through legal strategies that increased "the frequency and duration of social work, psychological and counseling services," implemented "district-wide use of Positive Behavioral Interventions and Supports," improved "students' academic progress at all grade levels," eliminated "harsh and illegal disciplinary practices and policies," enlarged "access to less restrictive general education environments," and expanded "access to vocational training."³³⁹

332. *Id.*

333. *Id.*

334. *Id.*

335. *Id.*

336. See Michael Heise, *Litigated Learning, Law's Limits, and Urban School Reform Challenges*, 85 N.C. L. REV. 1419, 1453–63 (2007) (assessing efficacy of litigation-driven urban public school reform).

337. See Dean Hill Rivkin, *Legal Advocacy and Education Reform: Litigating School Exclusion*, 75 TENN. L. REV. 265, 280–84 (2008) (weighing costs and benefits of school and legal reform strategies).

338. Alfieri, *supra* note 94, at 820–21, 824–25, 834.

339. S. Poverty Law Ctr., *School-to-Prison Pipeline: Stopping the School-to-Prison Pipeline by Enforcing Special Education Law*, <http://www.splcenter.org/legal/schoolhouse.jsp> (last visited Dec. 15, 2009).

Extended to the families and children of the West Grove, these structural and cultural measures may help cure problems such as racially disparate rates of out-of-school suspensions, expulsions, school-based arrests, and juvenile court referrals in Miami-Dade County and Florida. The creation and expansion of community-based prevention, intervention, and alternative discipline programs (for example peer mediation projects, parent-teacher academic progress conferences, and school discipline oversight committees) for Louisiana and Florida public school students, especially for students with special needs, depend on collaboration among parents, students, educators, and advocates, increased funding for support services, and greater compliance with federal and state civil rights laws. Neither collaboration nor compliance, however, will limit the growth of global urban economies or mitigate their negative impact on black inner-city residents with little or no education who are consigned to low-paying jobs in the service sector without access to areas of employment growth. As Wilson shows, those inner-city ghetto residents already suffer and will continue to suffer from high jobless rates and low employment growth and, moreover, experience physical isolation from employment markets and social isolation from informal job networks. Indeed, Wilson's analysis of the structural and cultural causes for the deteriorating economics of the inner city and concentrated poverty highlights the need to build new opportunity structures for social mobility for low-skilled black men in inner-city ghetto neighborhoods. Those structures might include the organization of informal job information networks to deal with the problems of job spatial mismatch and social isolation. Collaborative experiments in such institution-building illustrates how structural and cultural frames may reorient actions and micro-level processes of meaning making and decision making in neighborhoods like the West Grove.

CONCLUSION

Post-racialism in legal education and lawyering within the fields of civil rights and poverty law advances a mixed structural and cultural framework of analysis. Assembled from the work of the sociologist William Julius Wilson, this multidimensional framework addresses both the structure and culture of race and racial inequality in American law and society, especially the concentrated poverty gravely affecting black men and black families. It also shapes a new structural and cultural discourse about race in legal-political advocacy that enlarges the debate over colorblind and color-conscious jurisprudence in scholarship, advocacy, and public policy. Spurred by Critical Race Theory and its progeny, that debate opens up a deeper investigation of post-racial lawyering and casts alternative structural and cultural measures of racial progress. Pursued here, the investigation considers the ongoing social construction of race in inner-city ghettos like the West Grove and the continuing nature of racial discrimination in the school-to-jail disciplinary policies of Miami and Florida public schools. Both community and school reform in Miami and elsewhere depend on evolving structural and cultural accounts of racism and racial consciousness. To help each other, we need to know who we are.