

2019

# Radical ACEs: Building Resilience and Triggering Structural Change

Nancy E. Dowd

*University of Florida Levin College of Law*, [dowd@law.ufl.edu](mailto:dowd@law.ufl.edu)

Follow this and additional works at: <https://scholarship.law.ufl.edu/facultypub>



Part of the [Juvenile Law Commons](#)

---

## Recommended Citation

Nancy E. Dowd, *Radical ACEs: Building Resilience and Triggering Structural Change*, 71 Fla. L. Rev. Forum 80 (2019)

This Article is brought to you for free and open access by the Faculty Scholarship at UF Law Scholarship Repository. It has been accepted for inclusion in UF Law Faculty Publications by an authorized administrator of UF Law Scholarship Repository. For more information, please contact [kaleita@law.ufl.edu](mailto:kaleita@law.ufl.edu).

## RADICAL ACES: BUILDING RESILIENCE AND TRIGGERING STRUCTURAL CHANGE

*Nancy Dowd\**

Children's developmental equality is critical to their opportunity and lifetime success. If we are to dismantle hierarchies among children, we must dismantle barriers placed in their way as well as insure affirmative support so that each child achieves their full developmental potential.<sup>1</sup> The Adverse Childhood Experiences (ACEs) framework<sup>2</sup> identifies factors that create hurdles, not necessarily insurmountable, to children's development. A higher ACEs number translates into geometrically increased challenges for individual children. Identifying ACEs, if used simply to count obstacles for children, does not contribute to the goal of children's equality. Indeed, counting ACEs may have the converse effect, if identifying factors supports a story of deviancy and incapability, to stigmatize those children with high ACEs counts.<sup>3</sup>

In this essay I consider whether ACEs could have radical potential, as a framework for dismantling the causes of developmental hurdles. I consider both whether current, immediate uses of ACEs can facilitate broad solutions, as well as whether ACEs data can be used to trigger legal or policy responses to change structural conditions that generate ACEs. ACEs, in combination with the broad application of neuroscience information and other essential frameworks, might be used to incorporate

---

\* Professor and David Levin Chair in Family Law, University of Florida Levin College of Law. I am indebted to my colleague, Professor Teresa Drake, Director, Intimate Partner Violence Assistance Clinic, for insightful conversations and critique of this Essay, as well as being the co-convenor of the Early Childhood Workshop: Critical Legal Issues and Strategies, April 5–6, 2018.

1. NANCY E. DOWD, REIMAGINING EQUALITY: A NEW DEAL FOR CHILDREN OF COLOR 2 (2018).

2. *Adverse Childhood Experiences (ACEs)*, CENTERS FOR DISEASE CONTROL AND PREVENTION, <https://www.cdc.gov/violenceprevention/acestudy/index.html>.

3. For example, children in the juvenile justice system disproportionately have high ACEs counts. James Garbarino, a longtime scholar of violence, recently wrote of his interviews with juveniles serving life in prison without the possibility of parole, who now are being assessed as adults to determine whether, under the new rules in force due to the Miller decision, they should now be allowed an opportunity for parole. Garbarino screened for ACEs, and found that high ACEs were the rule among this population, with an average of 8 ACEs, and low numbers the exception rather than the rule. He hypothesizes the risks ACEs expose as “untreated traumatized children inhabiting the dangerous adolescent.” James Garbarino, *ACEs in the Criminal Justice System*, 17 ACAD. PEDIATRICS S32, S32 (2016). He suggests the value of ACEs screening in the juvenile justice population as a means to obtain developmental information that can be the basis for therapeutic information. He also found that the individuals who had grown into balanced adults were those who had benefitted from therapeutic intervention and spiritual transformation as the basis for their “recovery.” While his practice is clearly important for the juvenile justice system, it also dramatically demonstrates the consequences of unaddressed ACEs, and merely counting.

a broad developmental norm within the state's responsibilities to nurture and foster children and their families.

This essay is divided into three parts. First, I present an overview of ACEs, focusing on current articulations of the framework, as well as recent research and policy concerns. Second, I consider how ACEs has been used to evaluate children and adults. I use examples of intake procedures for pediatric patients and survivors of intimate partner violence. Finally, I explore how ACEs might be used to generate policy change. I also suggest how interdisciplinary collaborators might use ACEs to generate locally based experiments for change.

ACEs are not a "magic bullet" to accomplish children's equality. I consider here only whether they are a significant tool, among many others that are needed, and particularly focus only on early childhood, not the entire developmental course from birth to age 18.

## I. ACES: THE BASICS

ACEs is a framework for identifying trauma factors that have a correlation with lifelong health outcomes; learning and cognitive problems; and high correlations with juvenile justice system involvement.<sup>4</sup> Significant revisions have changed the factors and questions from the original set of questions, reflecting a more diverse evaluation of subjects in terms of age, race and class.<sup>5</sup>

ACEs factors assessed as part of the National Survey of Children's Health are based on the revised ACEs factors, an assessment of the presence of the following factors in an individual's life:<sup>6</sup>

Somewhat often/very often hard to get by on income

Parent or guardian divorced or separated

Parent/guardian died

---

4. Nancy E. Dowd, *Straight Out of Compton: Developmental Equality and a Critique of the Compton School Litigation*, 45 CAP. UNIV. L. REV. 199, 228–31 (2017).

5. See, e.g., Peter F. Cronholm et al., *Adverse Childhood Experiences: Expanding the Concept of Adversity*, 49 AM. J. PREVENTATIVE MED. 354, 355 (2015); David Finkelhor et al., *Improving the Adverse Childhood Experiences Study Scale*, 167 JAMA PEDIATRICS 70, 72–73 (2013); Roy Wade, Jr. et al., *Adverse Childhood Experiences of Low-Income Urban Youth*, 134 PEDIATRICS 13, 14 (2014), <http://pediatrics.aappublications.org/content/pediatrics/early/2014/06/10/peds.2013-2475.full.pdf> [<https://perma.cc/U47G-V5FY>].

6. *Traumatic Experiences Widespread Among U.S. Youth, New Data Show*, ROBERT WOOD JOHNSON FOUNDATION (Oct. 19, 2017), <https://www.rwjf.org/en/library/articles-and-news/2017/10/traumatic-experiences-widespread-among-u-s-youth--new-data-show.html>. Analysis conducted by the Child and Adolescent Health Measurement Initiative (CAHMI, Johns Hopkins Bloomberg School of Public Health (collaboration with Robert Wood Johnson Foundation)).

Parent/guardian served time in jail  
 Saw or heard violence in the home  
 Victim of violence or witness violence in the neighborhood  
 Lived with anyone mentally ill, suicidal, or depressed  
 Lived with anyone with alcohol or drug problem  
 Often treated or judged unfairly due to race/ethnicity.

According to the 2016 National Survey of Children’s Health, 38% of children have at least one ACE.<sup>7</sup> A higher absolute number of White children have ACEs but a higher proportion of Black and Hispanic children have ACEs.<sup>8</sup> Among Black children, 64% have one or more ACEs, as compared to 51% of Hispanic children and 40% of White children.<sup>9</sup> Of those children with ACEs, 46% are White, 27% are Hispanic, and 17% are Black.<sup>10</sup> There is a higher prevalence of ACEs in low income families, but ACEs cross income lines (62% of the lowest income children have ACEs, as compared to 26% of the highest income children).<sup>11</sup> In the age range of 3–5 years old, ACEs are correlated with expulsion from preschool.<sup>12</sup>

ACEs are common among children, but the presence of ACEs correlates with the likelihood of negative outcomes for children and adults when the number of ACEs reaches three or four.<sup>13</sup> For very young children, these outcomes correlate with the impact of traumatic experiences during the rapid developmental and neurological phase of early childhood, from birth to age 5.<sup>14</sup> But even when trauma occurs later in the developmental course, the ACEs research indicates these

---

7. The recent research noted here is but a fraction of the work taking place on ACEs and how it is being used in health, education, social work, etc. Scholars have expressed concern about misuse or overly simplified use; correlation versus causation; and whether ACEs is reduced to just counting. In the question and answer session following the plenary talk by Dr. Margaret Beale Spencer at the early childhood workshop, when asked about ACEs, Dr. Spencer did not see ACEs as a valuable tool “if all you do is count.” Margaret Beale Spencer, *Ghosts of Brown v. Board of Education 1954 . . . Still Fighting for Human Status & Social Justice: Developmental and Intersectional Insights About Diverse Children’s Identity*, Plenary Session, University of Florida Early Childhood Workshop: Critical Legal Issues and Strategies, April 5, 2018.

8. *Traumatic Experiences Widespread Among U.S. Youth, New Data Show*, ROBERT WOOD JOHNSON FOUNDATION (Oct. 19, 2017), <https://www.rwjf.org/en/library/articles-and-news/2017/10/traumatic-experiences-widespread-among-u-s-youth--new-data-show.html>.

9. *Id.*

10. *Id.*

11. *Id.*

12. *Id.*

13. Dowd, *supra* note 4, at 242.

14. *Id.* at 232.

experiences can have lifelong consequences.<sup>15</sup> The impact of ACEs affects cognitive functions that correlate with negative health, educational and behavioral outcomes.<sup>16</sup> Critically, none of these outcomes are etched in stone. Rather, if identified, they can be ameliorated or remediated by building resilience.<sup>17</sup>

## II. USING ACES: DIAGNOSTICS AND RESILIENCE

The most common use of ACEs is as a diagnostic tool, particularly as an empathetic evaluation of children. Most critically, ACEs suggest the question to be asked about a particular child and their behavior, or a particular adult who is struggling, is not “What is wrong with you?” but rather “What happened to you?” Even before actions trigger such a question, a proactive ACEs evaluation can highlight trauma that might occur, and suggest the means to avoid the risk of negative outcomes.

One example of the evaluative or diagnostic use of ACEs is assessment of survivors of domestic violence. In the evaluation of victims of intimate partner violence, ACEs can assist the direct victim, as well as evaluate the impact of violence, direct or indirect, on children in the household.<sup>18</sup> Resources directed to the presence of ACEs can assist in recovery and empowerment.

ACEs evaluation is being used proactively in ACEs screening by pediatricians.<sup>19</sup> Parents of children are asked to answer questions, or adolescents self-screen. Pioneering work by Dr. Nadine Burke Harris uses the revised ACEs questions and adds seven other questions, with the seven as yet unverified but related to known factors that impact children’s health.<sup>20</sup> The purpose of the screening is to provide support and resiliency in response to this known context rather than in reaction to negative behavior or actions.<sup>21</sup>

---

15. *Id.* at 229.

16. *Id.*

17. See Julia C. Poole et al., *Childhood Adversity and Adult Depression: The Protective Role of Psychological Resilience*, 64 CHILD ABUSE & NEGLECT 89, 90 (2017); Genevieve E. Chandler et al., *Resilience Intervention for Young Adults with Adverse Childhood Experiences*, 21 J. AM. PSYCHIATRIC NURSES ASS’N 406, 407 (2015). See *Category Archives: Resilience, ACES TOO HIGH*, <https://acestoohigh.com/category/resilience/>, for examples of postings of early childhood interventions.

18. Interview with Teresa Drake, Director, Intimate Partner Violence Assistance Clinic. See Charles L. Whitfield et al., *Violent Childhood Experiences and the Risk of Intimate Partner Violence in Adults: Assessment in a Large Health Maintenance Organization*, 18 J. INTERPERSONAL VIOLENCE 166, 167 (2003).

19. Christina D. Bethell et al., *Child Well-being and Adverse Childhood Experiences in the United States*, 17 ACAD. PEDIATRICS S1, S2 (2017).

20. Nadine Burke Harris et al., *Prevent, Screen, Heal: Collective Action to Fight the Toxic Effects of Early Life Adversity*, 17 ACAD. PEDIATRICS S14 (2017).

21. *Id.*

### III. ACEs AND STRUCTURAL CHANGE

Could ACEs and neuroscience (plus other indicators) be used to achieve structural change? Can the identification of trauma be used as more than to describe what is there, and minimize the impact of ACEs by resiliency factors or programs? Can it be used proactively for prevention by triggering responsibility for attacking root causes, requiring structural and cultural change?<sup>22</sup>

A more radical use of ACEs requires the recognition that the ACEs framework should not be used alone. At a minimum, neuroscience is essential to understand and broadly support children's development, not just treat their traumas. Even in the absence of ACEs, inequality emerges, and does so beginning at eighteen months of age. Hierarchies emerge among children linked to the ecology of particular children's neighborhood and community, and the impact of their identities on development support versus developmental hurdles. Early support of all children is therefore critical for developmental equality.

One example of using ACEs/neuroscience broadly calls for a national agenda to "align administrative policies and legislation with brain science research to support health child development."<sup>23</sup> Current efforts for community focused efforts that would contribute to policy change include Change in Mind (CIM) and Mobilizing Action for Resilient Communities (MARC).<sup>24</sup>

In addition to adding neuroscience and other developmental knowledge to enrich the ACEs factors, other factors, particularly correlations with poverty and racism, are essential to take into account to understand how hierarchy is built. Poverty correlates with a host of negative developmental outcomes.<sup>25</sup> The high rate of child poverty in the United States, hovering at 20% for all children, creates known, identified barriers to children's developmental success. Racism creates significant and persistent stress independent of poverty. For example, a recent study identified the cumulative impact of daily and systemic racism, and its stresses on the body, as affecting not simply racial differences in health

---

22. Dowd, *supra* note 4, at 237–48. The most recent available reporting on Compton indicated settlement negotiations were in process, including bringing in the Washington state researcher, Blodgett, who has created plans for more than thirty Washington state schools. His model is called Collaborative Learning for Educational Achievement and Resilience Model (Washington State). See *WA State CLEAR (Collaborative Learning for Education Achievement and Resiliency*, GRANTOME NATIONAL INSTITUTES OF HEALTH, <http://grantome.com/grant/NIH/U79-SM061131-02> (detailing Christopher Blodgett's CLEAR research project and other related projects). For this essay, I consider a focus on policy change rather than litigation.

23. Jennifer Jones et al., *Translating Brain Science Research into Community-Level Change*, 17 *ACAD. PEDIATRICS* S24, S24–25 (2016).

24. *Id.*

25. Nancy E. Dowd, *Black Boys Matter*, 45 *HOFSTRA L. REV.* 47, 75–78 (2016).

but the specific high rate of pregnancy complications, death, and low birth rates among African American women across class lines.<sup>26</sup> Even before life begins, the developmental course is affected, and those same stress factors impact every phase of development for children of color.

In addition to not using ACEs alone, the gathering of ACEs data should be proactive as well as reactive. In other words, the known factors can be used to map the ecology of communities, school districts, and neighborhoods, in addition to the intimate ecology of the family, to assess where structural barriers are created and structural supports are needed in order to insure equity to every child. A great example of this kind of approach is the Washington State initiative which uses ACEs to evaluate the resources/resilience of the community as well as the presence of ACEs among the community's children, and uses that information to structure programs for schools.<sup>27</sup> Washington State has been innovative in conceptualizing ACEs at a community level, using the ARC3 survey instrument to gather data on community capacity at four levels.<sup>28</sup>

A structural focus would include identifying systems that alone and in combination impact children developmentally, and use ACEs to identify weaknesses as well as attend to particular needs of individual children. ACEs would not solely be a tool for treatment of the child, but a tool for treatment of the systems. With respect to early childhood, systems that serve children might also comprehensively serve families as points of contact for children 0 to 5. Those systems include health care, childcare, and education (including preschool education).

This is a public health model that seeks to address primary factors/root causes that are sector significant but also cross sector; identify secondary effects, so therefore reducing exposure and preventing toxic trauma; and through tertiary focus, treating effects. To the extent this model focuses on root causes it imagines a structural, radical role for ACEs screening.<sup>29</sup>

Some scholars are cautious about universal screening.<sup>30</sup> One very

---

26. Linda Villarose, *Why America's Black Mothers and Babies Are in a Life-or-Death Crisis*, N.Y. TIMES, Apr. 11, 2018, <https://www.nytimes.com/2018/04/11/magazine/black-mothers-babies-death-maternal-mortality.html> ("The bone-deep accumulation of traumatizing life experiences and persistent insults . . .").

27. See Dowd, *supra* note 4, at 240–45.

28. Margaret B. Hargreaves et al., *Aligning Community Capacity, Networks, and Solutions to Address Adverse Childhood Experiences and Increase Resilience*, 17 ACAD. PEDIATRICS S7, S7 (2016).

29. See also Christina D. Bethell et al., *Child Well-being and Adverse Childhood Experiences in the United States*, 17 ACAD. PEDIATRICS S1, S1 (2016).

30. See Jeremy Loudonback, *Considering the Unintended Consequences of ACEs Screening*, CHRONICLE OF SOCIAL CHANGE, Aug. 2, 2015, <https://chronicleofsocialchange.org/featured/considering-the-unintended-consequences-of-aces-screening>; David Finkelhor, *Screening for adverse childhood experiences (ACEs): Cautions and suggestions*, CHILD ABUSE & NEGLECT 1, 2 (2017), <http://dx.doi.org/10.1016/j.chiabu.2017.07.016>.

pragmatic concern is interaction with mandatory reporting to the child welfare system. Dr. Burke Harris' pediatric screening has found a way around this; but what works for pediatric assessment may not work for the education system or the juvenile justice system. More importantly, what are the effective interventions and responses once you identify an ACE factor, and what are the potential negative outcomes and costs? Prevention should be the key, with wide implementation of tested programs, and the triggering of structural changes instead of after the fact or "high risk" limitations on minimal system change.

Pediatric screening, for example, connects to the broader concept of health equity, which focuses on community building and recognizes the impact of racism, discrimination, environmental toxins, and the importance of safe and stable places.<sup>31</sup> Other community focused/community building models are the Self-Healing Communities Model and the Culture of Health model of the Robert Wood Johnson Foundation.<sup>32</sup>

In conjunction with healthcare, another affirmative structural step would be aimed at universalizing high quality childcare and preschool. This would not necessarily require new policy, but would demand full funding, through Head Start and Early Head Start. There is a stunning inadequacy of funding in direct contradiction to the science that unequivocally demonstrates the importance of early childhood education and high quality childcare. Yet Head Start serves only 42% of the 3–4 year olds who are eligible, while Early Head Start, aimed at children under 3, serves a meagre 4%.<sup>33</sup>

A comprehensive interdisciplinary model would utilize the healthcare and education systems to provide comprehensive affirmative supports to families to provide developmental support for each child to their developmental capacity.

## CONCLUSION

Every tool that is useful to advance children's equality should be used. But each should be used with care, lest it become bent to reinforce the very subordination we seek to end. ACEs, and the associated frameworks

---

31. Martha Davis et al., *Promoting Lifelong Health and Well-being: Staying the Course to Promote Health and Prevent the Effects of Adverse Childhood and Community Experiences*, 17 ACAD. PEDIATRICS S4, S4 (2016). The authors cite Manchester NH as an example/community adopting this approach. *Id.* at S5.

32. Jones et al., *supra* note 23, at S24.

33. Katherine A. Beckmann, *Mitigating Adverse Childhood Experiences Through Investments in Early Childhood Programs*, 17 ACAD. PEDIATRICS S28, S29 (2016). Another example of an underused existing statutory tool is EPSDT, Early and Periodic Screening Diagnostic and Treatment, part of Medicaid, geared to low income children, entitlement to assessment, care and medically necessary treatment. See Sara Rosenbaum, *ACEs and Child Health Policy: The Enduring Case for EPSDT*, 17 ACAD. PEDIATRICS S34, S34 (2017).



that expand its scope, has the potential to lead us forward if we remain vigilant as to how it is used, and the ends it might achieve.