

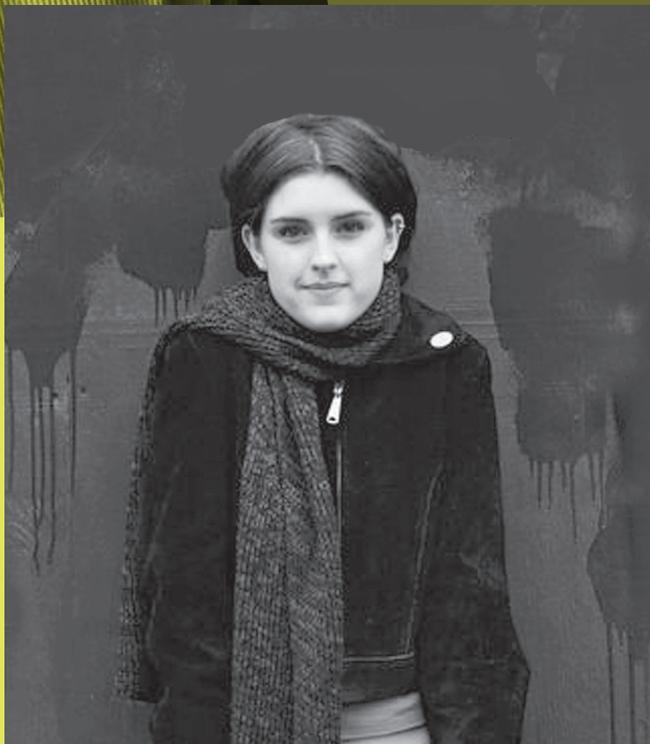


NATIONAL CONFERENCE *of* STATE LEGISLATURES

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Minority Youth in the Juvenile Justice System

Disproportionate Minority Contact



Minority Youth in the Juvenile Justice System

Disproportionate Minority Contact

By
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PREFACE AND ACKNOWLEDGMENTS

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INTRODUCTION

Minority youth are disproportionately represented throughout juvenile justice systems in nearly every state in the nation. Disproportionate minority contact in juvenile justice occurs when minority youth come into contact with the system at a higher rate than their white counterparts. African-Americans, Hispanics, Asians, Pacific Islanders and Native Americans comprise a combined one-third of the nation's youth population. Yet they account for over two-thirds of the youth in secure juvenile facilities.

Research by the National Council on Crime and Delinquency and the Center for Children's Law and Policy suggests that minority youth receive harsher treatment than their white counterparts at nearly every stage of the juvenile justice process. Minority juveniles are confined and sentenced for longer periods and are less likely to receive alternative sentences or probation compared to white juveniles.

EXPLANATIONS FOR DISPROPORTIONATE MINORITY CONTACT

Various explanations have emerged for the disproportionate treatment of minorities. They range from jurisdictional issues, certain police practices and punitive juvenile crime legislation of the 1990s to perceived racial bias in the system.

Jurisdiction

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) points out that results can depend on the jurisdiction in which the youth is processed. Cases adjudicated in urban areas, for example, are more likely to result in harsher results than similar cases adjudicated in non-urban areas.

Because minority populations are concentrated in urban areas, a geographic effect may work to over-represent minorities statewide.

Another contributing factor related to urbanization is the location and visibility of minority youth crimes also is viewed as a contributing factor. According to the OJJDP, although white youth tend to use and sell drugs in their homes, minority youth are more likely to do so on street corners or in public neighborhood gathering spots.

Law Enforcement

Police practices that target low-income urban neighborhoods and use group arrest procedures also can contribute to disproportionate minority contact. OJJDP arrest rate statistics illustrate that African-American youth are arrested at much higher rates than their white peers for drug, property and violent crimes. MacArthur Foundation research shows African-American youth are arrested at twice the rate of their white peers for drug crimes. Although these statistics suggest that minority youth simply commit more crimes, the matter is more complicated. A 2003 *National Survey in Drug Use and Health* by the Substance Abuse and Mental Health Services Administration documented that white youth are just as likely—or even more so—to be involved with illegal drug use and sales.

Punitive Juvenile Laws

In the early 1990s, states reacted to a spike in juvenile homicides with handguns by enacting tough laws that made it easier to try and sentence youth as adults. Many states enacted “automatic transfer laws” to exempt certain crimes from juvenile court jurisdiction. Under these laws, a juvenile is automatically referred to adult court for adjudication based on the alleged crime. The legislation also provided prosecutors and judges with more discretion to try juveniles as adults.

Research indicates that automatic transfer provisions have disproportionately affected minority

youth. OJJDP's data show that African-American and Native American youth are more likely to face conviction in adult court, especially for drug-related crimes. Analysis by the National Council on Crime and Delinquency indicates that three out of four of the 4,100 new admissions to adult prisons were minority youth. Another study completed in 2005 by Building Blocks for Youth showed that 85 percent of youth transferred to adult court under Illinois' automatic transfer law were African-American.

Racial Bias

Racial bias within the justice system also is cited as a reason for overrepresentation of minority youth. OJJDP's analysis of various studies spanning 12 years reveals that, in approximately two-thirds of the studies, "negative race effects" (meaning race explains why minorities remain in the system) were present at various stages of the juvenile justice process.

The complex explanations for disproportionate minority contact along with sensitive race and ethnicity issues, make it an important and difficult challenge for states.

ISSUES AND APPROACHES

Federal Level

The federal Juvenile Justice and Delinquency Prevention Act of 1974 directed states to recognize and address racial disparities in their juvenile justice systems. Amendments to the act have since broadened its scope from "disproportionate minority confinement" to "disproportionate minority contact" related to all stages of discretion and dealing with youth in the juvenile justice process. Under existing law, states are required to "address disproportionate minority contact efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups, who come into con-

tact with the juvenile justice system." In the current reauthorization for this law process, more expansive requirements are proposed in the U.S. Senate's reauthorization bill to develop steering committees, examine data, understand causes of disparities, and take steps to address them.

States use various methods to address disproportionate minority contact, including collecting data to determine the extent of the problem; establishing task forces and commissions to study policies to facilitate racially neutral decisions throughout the system; developing and expanding early intervention services for minority youth and their families; and creating alternatives to incarceration.

Models for Change

Established by the MacArthur Foundation in 2004, sites in four states—Illinois, Louisiana, Pennsylvania, and Washington—were selected to participate in the Models for Change initiative. Models for Change seeks to develop a blueprint for juvenile justice reform and "accelerate progress toward more rational, fair, effective and developmentally sound juvenile justice systems." Racial fairness exists as one of the principal Models for Change targets for improvement, emphasizing local reforms that can be expanded statewide. The initiative strives for a bias-free juvenile justice system, with routine compliance monitoring and resources to identify and address disparate treatment identified. Specific Models for Change accomplishments are described below.

- Locally in Berks County, Pennsylvania, for example, four task forces of the Racial and Ethnic Disparities Reduction Project are working to reduce overrepresentation of youth of color by increasing the language capability and cultural diversity of agencies that serve juvenile justice-involved youth and their families; increasing opportunities for delinquent youths' education and workforce development; developing alternatives to detention; and understanding

the community's service provision strengths and gaps. A new detention assessment instrument has been implemented and tested to ensure that detention decisions are made using standardized criteria, and plans for a new alternative to detention, an evening reporting center, are under way.

- Pennsylvania's work led to publication of a *Racial Coding Training Booklet* that details procedures for compiling accurate information on race and Hispanic ethnicity for youth in the Pennsylvania juvenile justice system, using the two-question format mandated for federal agencies.
- In Illinois, Models for Change partners have produced literature on the known facts about disproportionate minority contact in the state juvenile justice system, needed information and strategies to reduce racial disparities.

In 2007, the Disproportionate Minority Contact Action Network was created as a component of Models for Change. The network, operated by the Center for Children's Law and Policy, focuses on achieving reductions in racial and ethnic disparities in juvenile justice systems. The Disproportionate Minority Contact Action Network consists of eight sites in the four Models for Change states plus sites in the newly selected states of Kansas, Maryland, North Carolina and Wisconsin. Network goals are to support the involved jurisdictions as they work to develop and implement best practices to reduce disproportionate minority contact and promote change. Sites are exchanging information and resources as they increase their ability to provide national leadership in disproportionate minority contact reduction. The Action Network is expected to produce data that can increase awareness of system biases and guide related policy, program and funding decisions at the local and state levels.

Juvenile Detention Alternatives Initiative

The Juvenile Detention Alternatives Initiative (JDAI), launched in 1992 by the Annie E. Casey Foundation, strives to reduce disproportionate minority contact by focusing on a critical processing point—pretrial detention. To reduce disproportionate contact and confinement, JDAI developed risk assessment instruments (tools designed to assess risk of violence) for detention admissions screening; new or enhanced alternative detention programs, such as Evening Reporting Centers operated by community organizations in high referral neighborhoods for minority youth; expedited case processing to reduce time spent in secure detention; and new policies and practices for responding to youth who have probation violations or warrants or are awaiting placement. Juvenile Detention Alternatives Initiative accomplishments are listed below.

- In Multnomah County, Oregon, a detention intake team was created to evaluate youth in custody and help successfully implement risk assessment instruments and alternatives to detention. Between 1995, when risk assessment instruments were first implemented and 2000, the gap between detained white and minority youth—consisting of African Americans and Latinos—narrowed from around 11 percent to roughly 2 percent. Overall detention admissions were reduced by 65 percent. Also critical to the site's success was collaboration with law enforcement personnel and policymakers, sound data collection, and training to raise awareness about disproportionate minority contact.
- In Cook County, Illinois between 1996 and 2000, the number of minority youth in detention dropped 31 percent. Detention alternatives were developed for youth who did not pose a serious threat, alternatives include community-based evening reporting

centers that offer constructive activities during afternoons and early evenings, so youth can stay at home and in school.

- In California's Santa Cruz and Sacramento counties, JDAI worked to reduce high rates of minority detention that emphasized fast track case management and risk assessment screening tools. In Santa Cruz, a risk assessment instrument was used to detain only high-risk offenders; alternative programs and procedures were developed for low- and medium-risk youth. Partnerships with community organizations to provide culturally responsive alternatives to detention were critical, such as recognizing the importance of having a bilingual staff and staff with close community ties and life experience that help them relate to youth, to facilitate prompt transfers from detention.

Burns Institute

The W. Haywood Burns Institute works to improve and protect the lives of minority youth by ensuring fairness in juvenile justice systems. Focusing on local sites, the Burns Institute incorporates neighborhood involvement and stakeholder alliances to ensure that community representatives are directly supervising disproportionate minority contact reduction within their communities. The Burns Institute has worked in more than 30 jurisdictions nationally and has successfully reduced disparities. The Institute also established the Community Justice Network for Youth through 140 organizations in 21 states. Its mission is to promote the availability of effective, culturally appropriate interventions for youth in minority and poor communities.

State Action

During the 1990s, states began enacting policies that prescribe methods for curbing disproportionate minority contact. In 1993, Washington became the first to pass such legislation by linking county funding to programs that address overrepresentation, improving data collection, and implementing

cultural and ethnic training for judges and juvenile court personnel. Subsequent Washington laws required overrepresentation reporting by state agencies, implementing pilot programs to reduce inequality in the juvenile prosecution, and developing detention screening instruments.

Other states followed with similar efforts in the late 1990s and early 2000s. In response to high disproportionate minority contact rates, Connecticut formed a 20-member inter-branch Commission on Racial and Ethnic Disparity in the criminal justice system to explore ways to reduce the number of African-Americans and Latinos in the system, including the juvenile justice system. In North Carolina, the Governor's Crime Commission created a Disproportionate Minority Contact Committee to evaluate overall disproportionate minority contact and make recommendations to reduce racial disparities.

Missouri took steps to require the state court administrator to develop standards, training and assessment on racial disparities. Oregon established the Office of Minority Services as an independent state agency and formed pilot programs to initiate cultural competency training and detention alternatives. Oregon is also in its tenth year of conducting an annual governor's summit on minority overrepresentation in the juvenile justice system; attendees include judges, attorneys and others.

Recent Activity

In 2007, South Dakota established pilot programs in three cities to address disproportionate minority contact. The arrest rate for Native American youth in South Dakota is almost two and one-half times greater than their white peers; they also are overrepresented in other areas of the state juvenile justice system. Federal funding from the JJDPa is helping South Dakota implement the programs. They focus on Native American cultural awareness and agency cultural assessment training for juvenile justice practitioners and service providers.

In Iowa, a Youth Race and Detention Task Force established in 2007 is addressing disproportionate minority contact—particularly African-American youth—in juvenile detention centers. Wisconsin’s governor formed a Commission on Reducing Racial Disparities in 2007 that is to make recommendations for decreasing disproportionate minority contact within the state’s criminal justice system. The commission recently presented recommendations that include better data collection, cultural awareness, stronger eligibility requirements for public defenders, and adequate interpreters throughout the justice process.

Colorado’s judicial and executive branches held a summit in 2007 that was attended by more than 200 judges, judicial officers, prosecutors, child welfare administrators, and others to discuss the overrepresentation of minority youth in the state’s juvenile court system. The Colorado Court Improvement Committee also sponsored cultural competency training for juvenile court personnel to address disproportionate minority contact and raise awareness of culturally appropriate resources and approaches.

In 2008, Iowa became the first state to require “minority impact statements” for proposed legislation related to crimes, sentencing, parole and probation and for grants awarded by state agencies. Connecticut soon followed, requiring racial and ethnic impact statements for bills and amendments that could, if passed, increase or decrease the pretrial or sentenced population of state correctional facilities. Similar to fiscal impact statements, the new requirements seek to provide greater understanding of the implications a proposed law could have on minorities.

In Pennsylvania, the disproportionate minority contact subcommittee of the state advisory group has been working to improve the relationships between youth and law enforcement personnel in communities. Through a series of local forums, law enforcement officials and youth meet to learn from one another. In Philadelphia, local stakeholders

have extended this statewide project by developing a curriculum for the Philadelphia Police Academy on working with youth. It includes lessons on adolescent development and cultural competence. Role-playing allows cadets to practice in realistic scenarios that involve minority youth.

As of October 2007, the OJJDP’s formula grant information shows that 33 states have designated state-level disproportionate minority contact coordinators; 37 states have disproportionate minority contact subcommittees under their state advisory groups; and 34 states have invested financial support for local disproportionate minority contact reduction sites that are working on the issue.

STRATEGIES TO REDUCE DISPROPORTIONATE MINORITY CONTACT

As states continue to study and formulate disproportionate minority contact reduction policies, some common problems and effective strategies are emerging. Data collection is a common problem because race identification often is complex and personal. A standardized model for uniform data collection helps local data collectors accurately record and report information.

One important aspect of data collection is to recognize and record both race and ethnicity. Research suggests that, if ethnicity and race are not identified separately, Hispanic youth may be significantly under-counted. Guidelines from the National Center for Juvenile Justice and the Center for Children’s Law and Policy suggest a series of questions—in addition to self-identification, observation and other sources such as court documents—to help obtain the most accurate and detailed documentation. Reliable data are important to effective analysis and development of appropriate solutions to reduce racial disparities.

Awareness is a critical aspect of reducing institutional biases. The Models for Change initiative strives to raise awareness about disproportionate minority contact among community representatives, leaders, parents and others. Some states have sponsored seminars and training sessions for prosecutors, judges, agency personnel and others involved in the juvenile justice process. According to OJJDP, 15 states have implemented cultural competency training and/or organizational cultural competency assessments. Many counties, parishes and cities also have implemented awareness programs.

In line with JJDPAs' system-wide effort to addressing disproportionate minority contact, the Center for Children's Law and Policy and the Models for Change initiative suggest states analyze and address the problem at nine critical processing points. The Center for Children's Law and Policy encourages creation of an oversight body composed of stakeholders to identify where disparities exist, pinpoint unnecessary juvenile justice system involvement, and monitor implementation of reforms to address disproportionate minority representation.

Since attention to the use of secure detention is a critical point, focusing on it can help to reduce overrepresentation. A risk assessment instrument can help avoid overuse of secure detention, the holding of youth, upon arrest, in a juvenile detention facility, such as a juvenile hall, according to the Center for Children's Law and Policy. Reducing unnecessary detention of youth who pose little risk helps reduce minority detention and overrepresentation. The Juvenile Detention Alternatives Initiative has used risk assessment instruments with measurable success in their local site programs; particularly in Multnomah County, Oregon.

Appropriate use of alternatives to secure confinement of juveniles in correction facilities can be used to reduce disproportionate minority contact. These include community-based services and graduated parole violation sanctions. According to the Office of Juvenile Justice and Delinquency Prevention,

19 states currently use objective risk assessment instruments, and 25 states fund alternatives to detention. Many counties, parishes and cities also have implemented such reforms.

CONCLUSION

Disproportionate minority contact remains a complex issue for states. The overrepresentation of young people of color in juvenile justice systems prompts questions about equality of treatment for youth by police, courts and other personnel in criminal and juvenile justice systems. How these juveniles are handled can significantly affect their development and future opportunities. States attention to the issue, along with the research and resources of various private organizations, can strengthen efforts to reduce disproportionate minority contact and improve fairness for all youth in juvenile justice systems.

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The John D. and Catherine T. MacArthur Foundation is a private, independent grantmaking institution dedicated to helping groups and individuals foster lasting improvement in the human condition. Its juvenile justice initiative supports research, model programs, policy analysis and public education to promote more effective juvenile justice systems across the country. A new effort, Models for Change, seeks to accelerate system-wide change in Illinois, Louisiana, Pennsylvania and Washington, with the hope that the results will serve as models for successful reform in juvenile justice systems in other states. For more information or to sign up for MacArthur's monthly electronic newsletter, visit www.macfound.org.

The MacArthur Foundation supports a Research Network on Adolescent Development and Juvenile Justice at Temple University in Philadelphia, Penn. The network is building a foundation of sound science and legal scholarship to help inform the next generation of reform of juvenile justice systems. More information, including issue briefs on important adolescent development topics, is available at www.adjj.org.



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