THE SENTENCING PROJECT
RESEARCH AND ADVOCACY FOR REFORM

DISPROPORTIONATE MINORITY CONTACT

Introduction

The juvenile justice system must be fair and must be perceived as fair in order to be effective. Yet it has long been the case that youth of color have much more frequent contact with the justice system than white youth, a disparity that is not fully explained by differences in delinquency. In nearly all juvenile justice systems youth of color also remain in the system longer than white youth. While black youth account for 17% of the youth population, they represent 28% of juvenile arrests, 37% of the detained population, 38% of those in secure placement, and 58% of youth committed to state adult prison.[1]

Causes and Correlates of Disproportionate Minority Contact (DMC)

Research points to several contributors to DMC. While any one of these contributors could lead to DMC on its own, it is more often the case that multiple contributors work simultaneously to increase representation of youth of color in the juvenile justice system. The most commonly identified factors are:

- Selective enforcement of delinquent behavior;[2]
- Differential opportunities for treatment;[3]
- Institutional racism;[4]
- Indirect effects of socioeconomic factors;[5]
- Differential offending;[6]
- Biased risk assessment instruments;[7]
- Differential administrative practices;[8]
- Unequal access to effective legal counsel;[9] and
- Legislative policies that disparately impact youth of color.[10]

In addition to these contributors to DMC, some explanation for the persistence of DMC has recently been attributed to well-intentioned misuse of the juvenile justice system to meet the needs of youth who would otherwise not receive services such as mental health treatment.[11] Detention for the purpose of accessing services is not the intended purpose of the juvenile justice system and leads to many long-lasting collateral consequences for youth.

Legislative and administrative policies such as school-related "zero tolerance" policies can create additional drivers for the racial and ethnic disparity in the juvenile justice system.[12] These policies are more likely to exist in urban low-income school districts that include large numbers of youth of color.[13] This process of criminalizing school infractions through zero tolerance policies has had an especially negative impact on youth of color.[14]

Policies and practices that have a disparate impact on youth of color, even though they may be unintentional, have long-standing consequences at the individual and community level. Contact with the justice system reduces options for education, housing, and employment, and also weakens the stability of communities of color and results in a deepening of the divide between whites and nonwhites.[15]

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Models for Success

> *In California, we recognize that reducing racial and ethnic disparities is a uniquely local issue. However, in California we also realize that without guidance, local jurisdictions are unclear how to tackle the issue of racial and ethnic overrepresentation. A committee that is designated exclusively to reducing disparities is necessary to provide critical guidance and support for local jurisdictions in their work to reduce disparities.*
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> -Shalinee Hunter, California State DMC Coordinator

Eliminating racial and ethnic disparities in the juvenile justice system is indeed a daunting task, but modest successes have been observed in reducing unwarranted disparities for youth of color. The sharing of these successes is a critical component of DMC work so that effective strategies can be replicated in similarly situated environments. Promising strategies to reduce DMC share a number of traits. First, they have community support; they tend to originate from local community concerns and include stakeholders from the community who have been affected by minority over-representation. [16] The W. Haywood Burns Institute's work with system stakeholders in Baltimore, Maryland led to the development of policies that ultimately lowered the number of youth who were held in secure placement for failure to appear in court. Once a system was implemented to remind youth of an upcoming court date, the secure detention of African American youth dropped by almost 50%.[17]

Second, the strategies consistently rely on data from a variety of sources to identify where efforts should be undertaken and whether these need to be modified over time.[18] For example, if it is determined that referrals to the police from school-based incidents are racially disproportionate, this could mean that school-based law enforcement strategies are contributing to DMC. For instance, the DMC workgroup in Peoria County, Illinois examined data from school referrals to the police and determined that the county's DMC was aggravated by school discipline policies that had a disparate impact on youth of color. Peoria County successfully reduced disproportionate referrals of youth of color to the juvenile justice system by working with the school system to strengthen school-based conflict resolution protocols.[19]

Third, effective strategies are transparent about both successes and setbacks, and acknowledge that important lessons can be learned from both. And finally, DMC workgroups are committed to a long-term investment in lowering DMC that relies on evidence-based practices and follow-through with sustainable initiatives. The Annie E. Casey Foundation's Juvenile Detention Alternatives Initiative (JDAI) has been working in over 100 sites for more than 15 years to reform juvenile justice systems through supporting detention alternatives. As a result of these efforts, the average daily population of youth detained has dropped as much as 65% in some jurisdictions, including a sizable reduction of detention for youth of color. As of 2007, there were 873 fewer youth of color in detention in JDAI sites compared to before JDAI was working in these jurisdictions, while in locations without JDAI investment, the numbers of minority youth in detention have continued to increase.[20] DMC must remain a priority in order for communities to observe sustained drops in overrepresentation.[21]

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