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Minority Youths and Juvenile Justice

Disproportionate Minority Contact After Nearly 20 Years of Reform Efforts

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This article describes the current status of minority youths in juvenile justice systems. With nearly 20 years of federal support, there has been considerable research attention to identifying, explaining, and reducing the disproportionate minority contact with juvenile justice systems. Although progress is evident, the achievements of the Disproportionate Minority Contact (DMC) initiative have made it clear that the questions are more complicated than initially appeared. The answers do not appear in simple comparisons of youths by race but require “similarly situated” youths who differ only by minority status. Assuring that youths are similarly situated requires knowing their status on many complex and interrelated factors that exist across multiple levels of individuals, families, communities, and juvenile justice systems. The ways in which DMC can be reduced also require addressing parity in opportunities and expectations, both in the community and throughout juvenile justice systems.

Keywords: *minority overrepresentation; disproportionate minority contact; race; ethnicity*

Early in the 20th century, sentencing statistics from across the country were compiled, and the results showed that people from minority groups were incarcerated and given lengthy prison sentences at a rate much higher than expected based on their presence in the general population. One expert explained this disproportionate representation of minorities in contact with criminal justice (now referred to as DMC) as follows:

The statistics presented hide a number of possible variables, such as differences among these race and nativity groups in such factors as recidivism, aggravating circumstances, etc., which might produce differences in the length of sentences attributable to no prejudice on the part of the judge. Although these factors may play a role, they are probably not responsible for the great and relatively constant variations observed. These we must largely attribute to the human equation in judicial administration and as evidence that equality before the law is a social fiction. (Sellin, 1935, p. 217)

It is likely that Thorsten Sellin’s audience accepted his interpretation of judicial bias. He was, after all, a leading authority on crime and criminal justice at a time on the heels of the Progressive Movement, when scholarly views on social problems and their solutions were highly valued. Although Sellin was also writing at a time when nearly all states had recently

implemented independent juvenile courts and custodial facilities, the issue of minority disparity in juvenile justice would not become a prominent concern for many decades.

Now, early in the 21st century, DMC with juvenile justice systems is a national policy issue. In the mid-1980s, researchers with the National Council on Crime and Delinquency (NCCD) brought the issue to the attention of federal legislators by presenting findings from the Children in Custody surveys of the country's juvenile facilities, which identified confined youths overwhelmingly as children of color (Krisberg, Fishman, Eisikovits, Guttman, & Joe, 1987; Krisberg, Schwartz, Lisky, & Austin, 1986). Congress acknowledged the disparity problem and responded. Since then, much of the research and policy attention given to DMC has been the result of federal funding connected to three amendments of the Juvenile Justice and Delinquency Prevention Act of 1974 (JJDP Act) regarding how states can access federal funding for juvenile justice initiatives. In 1989, the first amendment earmarked a portion of the formula funding program targeted to reduce overrepresentation of minority youths confined in secure detention and other residential treatment facilities. Second, in 1992, attention to disproportionate minority confinement became an additional core requirement for state participation in the JJDP Act. Finally, in 2002, the definition of DMC was expanded beyond secure confinement to include contact with the system.

With these three amendments, Congress provided both the "carrot" in the form of financial incentives and the "stick" in terms of requirements for eligibility for states to assess the extent of minority overrepresentation in juvenile justice systems. Because most states participate and receive federal funding via the JJDP Act, these amendments have inspired considerable research and development of programs and policies aimed at understanding and reducing overrepresentation of minority youths in juvenile justice systems.

When the NCCD researchers and Congress first envisioned DMC reform, the problem of racial inequity in confinement and the way to correct it seemed fairly straightforward. State officials were encouraged to identify the disparities, locate the sources—which would probably involve the discretion of officials—and then implement policies to restructure the process in a way that would eliminate discretion and bias. Experience with racial disparity of adults in criminal courts had been addressed throughout the 1980s by limitations on discretion through institutionalized sentencing guidelines and mandates, so it seemed logical in the 1990s that the next step toward equity in juvenile justice was to extend standardized, uniform case-processing policies to juvenile court officials. However, in nearly 20 years of concerted DMC reform initiatives, scholars have learned that identifying, explaining, and remedying disparity problems is much more complicated than it initially appeared. This article describes the current status of the DMC reform initiative, including issues in identifying disparity and understanding why minority overrepresentation continues to be observed.

Identifying the Level of DMC

Identification of DMC is fundamentally a comparative research endeavor. The aim is to compare the proportions of minority youths in juvenile justice systems to their proportions within the general population. Krisberg and his NCCD colleagues combined information from detention centers and reform schools across the country to show the high levels at which youths of color were located in custody (Krisberg et al., 1986; Krisberg et al., 1987). Many

Table 1
Disproportionate Minority Contact With Juvenile Justice in the United States—2002

A. Total Referrals

	Total Juvenile Population	Total Juvenile Referrals	Detainees	Formal Hearing	Adjudicated	Placed Out of Home	Waived, Criminal Court
White	78%	67%	60%	64%	68%	63%	62%
Black	16%	29%	36%	32%	29%	33%	35%
Other	6%	4%	4%	4%	3%	4%	3%

B. Total Referrals for Violent Delinquency

	Total Juvenile Population	Violent Crime Referrals	Detainees	Formal Hearing	Adjudicated	Placed Out of Home	Waived, Criminal Court
White	78%	60%	56%	57%	61%	58%	55%
Black	16%	37%	41%	40%	36%	38%	41%
Other	6%	3%	3%	3%	4%	4%	4%

Source: Stahl, Finnegan, & Kang, 2005.

Note: Hispanic youths are not separately identified but placed within categories by race.

subsequent comparisons rely on juvenile court records to identify the level of DMC in a specific state. Many of the state juvenile court statistics are compiled to estimate the national level of DMC by the National Center for Juvenile Justice in Pittsburgh, although this national repository of juvenile court data does not include all individual court jurisdictions, and there is some variation in reporting because of procedural differences across states. Statistics calculated from these state and national sources consistently identify minority youths, particularly African Americans, as overrepresented in juvenile justice systems.

For several stages of juvenile justice, the level of DMC for African American youths is shown in Table 1 for 2002, the most recent year for which national data on juvenile courts are available. Table 1a shows that although Black youths represent 16% of the total U.S. juvenile population aged 10 to 17, they account for 29% of the cases referred to juvenile courts, 36% of youths detained, 32% of those processed formally, 29% of the adjudicated delinquents, 33% of the out-of-home dispositions, and 35% of the youths waived for criminal court processing. At each of these stages, therefore, Black youths are overrepresented. At all but one stage following initial referral to the juvenile justice system, the level of overrepresentation escalates. The disparity situation is even more pronounced among juvenile referrals that are specifically for violent delinquent offenses (shown in Table 1b).

Although racial imbalance in the current national picture is disappointing and underscores the importance of continued attention to DMC, it does not identify whether DMC is widespread in the United States or the result of acute difficulties in specific states. To observe this, there have been concerted efforts to assess DMC in nearly every state. Most of these state-level inquiries have been supported with federal funding and show minority groups—mainly African Americans, but often followed by Hispanics and Native Americans—

with disproportionately high involvement in juvenile justice (Bishop, 2005; Feyerherm, 1993; Hamparian & Lieber, 1997; Hsia, Bridges, & McHale, 2004; Hsia & Hamparian, 1998; Lauritsen, 2005; Leonard, Pope, & Feyerherm, 1995; Pope & Lieber, 2005; Sickmund, 2004). From these comparisons, we have also learned that the level of DMC varies considerably across states. For example, based on an index of disproportionality¹ that was calculated for 26 states, African American youths were overrepresented in juvenile justice in 25 states, with an average index score of 2.25 but a range from 0.6 to 3.9 (Hamparian & Lieber, 1997). Somewhat surprisingly, no discernible regional patterns are observed in the different levels of DMC across states (Sickmund, 2004).

The evidence that DMC exists in nearly every state provides confirmation that this is a nationwide problem. However, just as patterns within individual states do not mirror the overall nation, scholars also now recognize the need to identify nuanced local levels of DMC that may differ across individual jurisdictions. Although a few efforts to disaggregate the data to local jurisdictions exist, there has been no systematic effort to observe patterns of DMC differences generally within individual states.

Identifying Minority Youths of Concern

Discerning the level of DMC first requires that minority youths can be identified. For the DMC reform initiative, this identification has involved comparing minority groups with those whose enumerated status render them the majority. As such, minorities have been defined as racial and ethnic groups with fewer residents in an area than other majority groups. Given the country's history of segregation, it is not surprising that most of the DMC efforts have distinguished between Black and White youths.

It is worth noting that accurate identification of minority groups has been a challenge in the DMC initiative. When the DMC effort began, many juvenile justice systems either did not record racial identity or grouped all youths into two broad categories: sometimes White, non-White and other times Black, other. Most identification efforts were therefore restricted to imprecise comparisons of Black and White youths, with Hispanic, Native American, and Asian youths classified somewhat unsystematically depending on local practice. Local practice sometimes varied according to individual record practice; for example, "A" to represent Anglo, African American, Asian, or American Indian. Suffice to say it has taken considerable effort in two decades to move beyond identifying youths via a crude dichotomy of White and non-White or the equally imprecise categories of White, Black, or other and to have some information on ethnicity. Today, African American, Hispanic, Native American, and Asian are the labels commonly attached to minority groups in the United States, and nationally this is the current order in which these groups consistently appear overrepresented in juvenile justice (Bishop, 2005; Hsia et al., 2004; Pope & Leiber, 2005).

Minority groups also differ by location and time period, as we are reminded by Sellin's comparisons of foreign-born White, native-born White, and Negro groups. Although African Americans currently constitute the largest minority group nationwide, Hispanic populations are increasing rapidly and in parts of the United States already do, or soon will, outnumber White populations. The smaller Asian populations also are growing quickly

because of immigration. These demographic changes will introduce another element for consideration to identification of DMC: whether minority groups are best distinguished by lesser numbers or by lesser opportunities and status accorded by socially constructed indicators (e.g., Hawkins, 2003; Omi & Winant, 1994).

Reliable empirical data from many sources in the past 20 years provide convincing evidence that minority youths, particularly African Americans, are disproportionately overrepresented in U.S. juvenile justice systems. Although the national juvenile court statistics for 2002 reported in Table 1 differ in terms of age and minority groups being compared, they show very nearly identical percentages of overrepresentation to the adult sentencing statistics observed more than 70 years ago by Sellin (1935). This consistency in identification of DMC begs the important question of "Why?" And, although there are probably some experts today who would offer a conclusion identical to Sellin's blaming the biased officials, most scholars now agree that such an explanation based on these percentages alone is short-sighted and that the caveats Sellin suggested, as well as others, all contribute to the overall explanation. In the next section, explanations for DMC, including known caveats, are discussed.

Explanations for DMC

Unfortunately, discussion of current explanations for DMC must begin with a disclaimer that the evidence accumulated thus far does not yet enable us easily to articulate the specific causes, nor is there sufficient agreement on the levels of association and linkages between factors to say that those answers are apt to be available soon. This lack of articulation led authors of the National Research Council report *Juvenile Crime, Juvenile Justice* to note the "scant research attention that has been paid to understanding the factors contributing to racial disparities in the juvenile justice system" (McCord, Widom, & Crowell, 2001, p. 258). This criticism, however, is overly harsh because considerable scholarly attention has been directed at explaining DMC. The lack of resolute causal pathways is because of obstacles in identification already discussed and to the extreme difficulties in doing research that tries to disentangle the effects of complex, multilevel, and interrelated factors. This section highlights what is known about youths and juvenile justice systems that are factors in explaining why DMC continues unabated in the United States.

To understand what causes DMC, the comparison of youths from minority and majority groups must be extended beyond what is necessary for identification. Scholars must not only compare minority and majority youths but also compare these youths who are otherwise the same. If they are not the same—or at least "similarly situated"—then DMC may really occur as a result of the other ways in which they differ. Recognizing the need to define *similarly situated* helps to clarify that minority status is not merely numerical but also based on different social-status traits related to quality of life, opportunities, and values. Without adequate comparability, attempts to explain DMC constitute the quintessential difficulty in comparing apples and oranges. Fortunately, during nearly 20 years of DMC research, consensus has emerged regarding many elements needed to define similarly situated groups of youths.

Definitions of Minority Status

The first considerations are (a) What does it mean to be a member of a race or ethnic minority group? and (b) What part of that identity is relevant to creating DMC? Comparing White to non-White youths based only on skin color may have a historical basis in segregation and discrimination that were reinforced by policies and law, but explanations today require more information. African American, Hispanic, and Native American are the labels commonly attached to minority groups in the United States, and this is the order in which these groups currently are overrepresented in juvenile justice. However, when we use such a broad categorization of people, it is impossible to discern differences based on culture, language, country of origin, and skin color. For example, the label of Native American encompasses indigenous people with wide-ranging cultural traditions and lifestyles, extending from Florida to Alaska, including rural reservations and city residents. Similarly, regardless of the generations of U.S. citizens, Hispanic often is applied to people of all races from Central and South America, including those from countries in which the dominant language and ancestry is not Spanish. Asian is used to refer to Americans whose families originated in one of several countries in a vast continent but who otherwise differ in many ways. Even the popular term "African American" can be a misnomer when applied to people only by skin color.

In 2000, the U.S. Census introduced new race and ethnicity classifications that allow for self-identification from many and multiple categories. Other federal agencies are expected to follow this scheme so it is likely soon to affect how youths are identified in juvenile justice systems. The new classification is more complicated and difficult to reconcile or compare with the larger imprecise groups from the former systems so it will likely become impossible to make reliable observations of trends in levels of DMC. Beyond simple identification, however, the new race and ethnicity distinctions should help to initiate some clarity in terms of personal identities linked to cultural heritages, race, and country of family origin. This self-identity could prove very valuable in helping to observe how, and understand why, minority youths differ from others.

Beyond native culture, we also need to consider whether race and ethnic identity is connected to contemporary society in other ways, and thereby group affiliation can serve essentially as proxy indicators of these other social traits. Poverty is one such low status for which race might serve as a plausible proxy. We know, for example, that African American, Hispanic, and Native American youths are disproportionately represented among subgroups in the United States whose places in society have been characterized as "the underclass" (Currie, 1985) and "the truly disadvantaged" (Wilson, 1987). In comparison to those who live with privileged status in society, opportunities and experiences that contribute to success are blocked for disadvantaged poor youths, their families, neighborhoods, and communities (Edelman, Holzer, & Offner, 2006; Mincy, 2006; Patterson, 2006). There is a local focus to poverty with some residential patterns that have historical roots in immigration, slavery, and segregation, whereas others reflect urbanization and regional employment opportunities that serve as community-level barriers to success. This concentration of the poor creates a "spatial mismatch" between residential patterns and social capital, which precludes the resources, or "collective efficacy," needed to foster individual success (Jargowsky, Desmond, & Crutchfield, 2005; Morenoff, Sampson, & Raudenbush, 2001; Sampson, Raudenbush, & Earls, 1997).

Crime and targeted police patrolling of minorities and lower-class neighborhoods are among the consequences of these confluences with poverty. Thus, the uneven distribution of “at-risk” status associated with poverty should lead us actually to expect overrepresentation of youths from minority groups involved in crime and as targets of police surveillance. Moreover, this has always been true, as historical accounts of social inequities and DMC with juvenile justice convey (Bernard, 1992; Feld, 1999; Schollossman, 1974; Tanenhaus, 2004).

What makes current status inequities in the United States different from some in previous eras is the longevity of minority status among some groups. Whereas in the past, the great “melting pot” of prosperous America facilitated the assimilation of many immigrant minorities, most of them White, today the status boundaries seem more fixed and the “dream” less real for many Americans (Messner & Rosenfeld, 2007). Indeed, ways in which blocked opportunities and unmet aspirations can grow and facilitate each other may reach a point that the underclass status becomes permanent. Elliott Currie (1985) warned that just such an acute situation was already “endemic” more than 20 years ago. Hopefully, his pessimism was too hasty, as the decline in juvenile arrest rates from the mid-1990s through 2002 was proportionally greater for Black youths than White youths (Stahl et al., 2005). Even with small gains, however, if societal ills that differentially affect minority groups continue unabated, then overrepresentation of underclass minority groups involved in crime will also remain a fixed national trait.

Although some risk exists because of structural disadvantage, it also is true that some subcultural values and beliefs contribute to disparities (e.g., Patterson, 2006). Within-group differences, such as those based on age, gender, language, and religion, also can affect risk. Thus, we know that social-structural conditions, personal values, and attendant quality of lifestyles can differ considerably even among youths who appear similarly situated on factors considered important by juvenile justice officials (Lauritsen, 2005). The extent to which these differences both relate to minority status and affect official decision making within juvenile justice systems is another factor complicating the explanations of DMC. This is the crux of the difficulty according to Barry Feld (1999), who stated,

Similarly situated offenders, defined as “similar” on the basis of their present offense or prior record, can receive markedly dissimilar dispositions because of their differing “needs.” Because the individualized justice of the juvenile court classifies youths on the basis of their personal circumstances, then in a society marked by great social, economic, and racial inequality, minority youths consistently find themselves at a disadvantage. (p. 284)

To be sure, understanding what subgroup distinctions among Americans really mean is part of a growing debate within the United States that seems to have escalated since the terrorist attacks of 9/11/01. The melting-pot metaphor has been challenged by ideas of multiculturalism, such as the “salad bowl” or “cultural mosaic” images of diversity. Multiculturalism, particularly as it flows from immigration, also has been criticized. For example, political scientist Samuel Huntington (2005) suggests that Latino immigration and, to a lesser degree, Asian immigration pose a serious threat to American identity, which he equates as “Anglo Protestant culture.” Cultural anthropologist Claudio Lomnitz (2005) countered that

the move to imbue national identity with a specific and fixed content is a maneuver to shape what Justice Scalia has tellingly called the American “race.” This move does not bury the racial tensions that ravaged America—it only displaces them. Once you define the American race, once you define who is inside and who is outside, and once you are inebriated with a sense of moral superiority and collective entitlements, you can go about your business of ruling the world.

Juvenile Justice Objectives and Discretion

A second area of consideration in explaining DMC involves how the juvenile justice systems actually operate and whether there is differential processing of minority youths. Several scholars have traced the origins of juvenile justice more than a century ago to just such moral superiority as now concerns Lomnitz, then aimed at controlling the children of others (Bernard, 1992; Platt, 1969; Schollossman, 1974; Tanenhaus, 2004). Founders adapted England’s *parens patriae* doctrine to enable officials to impose their views on proper parenting as preferable. Despite some reforms to promote due process, this value-laden system is able to continue today given the individualized orientation, discretionary procedures, and informality that remain sacrosanct throughout all stages of most juvenile justice systems. In light of the historical evidence and current opportunities, it seems almost inevitable that at least some DMC is the result of policy initiatives rooted in distorted, ethnocentric views of what is in the best interests and appropriate for children, particularly children of parents accorded lesser social status.

Juvenile justice officials currently have several objectives to guide their decision making. It is possible for police and court officials to interpret youths in some situations as more in need of a lesson or sanction; thus, they adhere to a punitive disciplinarian approach. This approach has been encouraged too; since the early 1990s, more punitive responses to juvenile crime have been institutionalized in policies in every state. These policies narrow the ages that define a juvenile, exclude some offenses from juvenile court jurisdiction altogether, and provide for specific and enhanced penalties for other situations. In a purely punitive or retributive system, DMC would exist if minority youths were judged as the youths who were those guilty of the most heinous acts and most in need of lessons in personal accountability. Indeed, there is some evidence to support this explanation of DMC, as many of the behaviors that dictate these more punitive responses, such as robbery, weapon possession, gang affiliation, or drug trafficking, are also those for which young African American and Latino males living in urban areas are more often depicted as culpable by media, reported by neighbors, and arrested by police (Feld, 1999, 2005; Lauritsen, 2005).

Rather than punitive just deserts, however, juvenile justice systems were founded and officials continue to articulate responses to youths based on interpretations of youths’ needs for services. That youths are not similarly situated in terms of what they need to succeed in American society—and, in particular, that minority youths disproportionately have more personal deficits that are being addressed by juvenile justice services—is another plausible explanation for DMC. This is the justification commonly offered by court officers, judges, and others working within the system, many of whom consider such practices not only defensible but enlightened (e.g., Frazier & Bishop, 1995, p. 32). Rarely has a system of justice been criticized for helping offenders too much, however well intentioned; thus, DMC might also occur simply because systems more often fail with minority youths in their aim of helping children overcome their adversities (e.g., McKelvey, 1977).

Although it seems easy to fault a system that responds more punitively to minority youths than to other youths who commit similar offenses, it is more difficult to criticize a system in which disparities exist because of efforts to aid that are overextended to minority youths. Rather than remaining complacent with a treatment-oriented system, it is important to recognize that although the goals of punitive discipline and benevolent protection are quite different, the effect of both can be the most restrictive custody and institutionalization of youths; one to impose the most punishment and the other to facilitate access to the most intensive services.

Although difficult to observe through police or court records, both more punitive responses to and more services required for some minority youths help to explain DMC. The ambiguity in understanding how juvenile justice interventions contribute to inequity is made more difficult by the flexibility afforded officials in selecting both the orientation and the response on a basis of case-by-case decisions. This type of discretion is unique to juvenile justice and virtually impossible to observe in case records or public hearings. Given patterns of DMC that remain after youths who are similarly situated for known offending, prior record, and personal needs for services are compared, it seems likely that in many juvenile justice systems, the goals of providing services and imposing punishment are both evoked but selectively and in different situations, with the result being more restrictive, more intensive, and more custodial interventions with minority youths. This is the position advanced by Barry Feld (1999), who criticizes this inappropriate coupling of services and punishment, because “in the ‘worst of both worlds’ of juvenile justice, however, courts and legislators pick and choose between competing ‘liberationist’ and ‘protectionist’ policies in order to maximize the social control of young offenders” (p. 110).

After nearly 20 years of efforts to understand the causes of DMC, it is quite clear that the role of case processing cannot be explained simply, as Sellin (1935) did, by directly faulting biased and discriminating actions of prejudiced officials. To be sure, case processing is a human enterprise that remains primarily discretionary in juvenile justice, so the foibles of individuals in positions of authority can contribute to disparate treatment of minority youths. The subjectivity with which officials can impose their biased views need not be malicious or even intentional and typically appears in more subtle ways, such as the tone and value of word choices used in narratives that differ for similarly situated cases with youths from different groups (Bridges & Steen, 1998; Inderbitzin, 2005; Steen, Bond, Bridges, & Kubrin, 2005). Most research also has not isolated direct racial or gender bias attributable to White male officials; Black officials implement the same interventions as White officials with Black youths and likewise for female officials with girls (Kempf-Leonard, Pope, & Feyerherm, 1995). Thus, although both (a) the different goals that can be pursued and (b) the discretion that enables officials selectively to implement these goals do contribute to DMC in juvenile justice, other systemic factors that affect DMC are (c) the sequential process of the system and (d) the local institutional culture. The roles of these features of juvenile justice processing are discussed next.

Stages, Processing, and the System of Juvenile Justice

In addition to the officials in positions of authority, the ways in which youths actually are treated within juvenile justice systems is also important for explaining DMC. In particular, if

biased processing negatively affects minority youths, where procedurally is the bias manifest? In 1935, Sellin compared sentencing decisions to see differences between groups in incarceration and sentence length. The DMC initiative was inspired by research that highlighted the prevalence of children of color in custodial institutions (Krisberg et al., 1986; Krisberg et al., 1987). Most DMC investigations of disparity among juveniles have focused on adjudication or disposition because if a single stage is blameworthy, then it makes sense that it is the stage with the formal and final decision, especially when incarceration or isolation from families and communities are at issue.

However, when the final adjudication outcomes of similarly situated youths on offense, prior record, and personal needs are compared, studies show mixed results in terms of disparity but “findings of minority disadvantage are less common [than when other earlier stages are examined]” (Bishop, 2005, p. 53). These results have led some researchers to dismiss the explanation of biased officials in favor of behavioral differences in offending among youths as the reasons DMC is observed in initial statistics (e.g., Tracy, 2005). Any interpretation based on a single stage is apt to be premature without adequate assurances that youths who are similarly situated at adjudication have been properly specified. If there are ways in which officials at one stage in juvenile justice handle youths and their cases differently, then this initial handing affects the ability later in the process to have similarly situated cases and youths. This apples-and-oranges comparison is difficult to disentangle, and although scholars have not reached consensus on how the contributions of case processing to DMC ideally should be measured, there is agreement on many elements that must be considered.

First and most important, there is recognition that all juvenile justice systems include a series of interrelated stages and decisions that affect youths. These stages have long been referred to as a “system of justice” (President’s Commission on Law Enforcement and Administration of Justice, 1967a, 1967b), but the systematic aspects of processing cases and youths have not yet been pursued sufficiently to explain DMC (Bishop, 2005). These stages and decisions involve several officials from different offices or agencies driven by different funding sources with varying organizational goals. As such, the confluence of stages and decision-making officials do not always function with smooth flowing coordination.

One way in which decisions throughout the system can be interrelated and affect DMC is a cumulative effect that may grow like a downhill snowball to disadvantage minority youths. If the outcomes of early-stage decisions create an inequity, then that result can influence decisions at subsequent stages in ways that create additional risks of differential processing or exacerbate differences that already exist. For example, let’s say youths actually behave in similar ways, as many self-report surveys suggest (Lauritsen, 2005). However, police officers, who are either asked to by fearful residents or in response to previous arrest rates, patrol more actively in poor neighborhoods in which minority youths reside in greater concentration. Such patrolling results in more arrests of minority youths than would occur if patrolling and arrests were evenly distributed throughout the population. Given that minority youths enter the system via arrests or referrals at an elevated level, their greater representation may serve to confirm any preconceptions held by officials about minority youths; thus, we see how the DMC snowball might come to grow. Unfortunately, it is virtually impossible really to know whether youths’ behavior or police officers’ behavior have the greater effect on initial disparities. For both groups, behaviors are not always

directly observable, and concerns about validity of offense measures exist for self-report surveys and police data on calls for service and arrests, which are the main sources of data.

Even within a single court organization, the effects of early stages on later stages are difficult to disentangle. An example of this is what early DMC research identified as the requirement to consider connections between pre-hearing detention and adjudication (Bridges, Conley, Engen, & Price-Spratlen, 1993; Kempf et al., 1990). The cause for concern is two known robust relationships. First, restrictive outcomes at adjudication are more likely for youths detained at intake. Second, prehearing detention is disproportionately borne by minority youths (Krisberg et al., 1986; Krisberg et al., 1987). As a consequence, DMC at adjudication may be the result of negative effects of being detained, either because minority youths actually were more deserving of custody or because judges followed shortcut perceptual cues or stereotypes that they must have seen. In either case, DMC at adjudication can either reinforce the early disparity or have a greater cumulative effect, as is shown in Table 1, with elevated DMC rates for Black youths both at out-of-home placement and waiver to criminal court following higher percentages of detention.

A second consequence for youths from a series or system of decisions in juvenile justice is that at each stage, there is an exit route provided for some youths. It is impossible to explain DMC without fully understanding both how some youths and cases proceed within the system and how attrition occurs for other youths and cases. The groups that proceed are not necessarily the opposite of those that exit because many factors are weighted differently at each decision. For example, multiple judges who exercise punitive and protective approaches differently affect various case-processing routes. Similarly, decision makers who focus on offenses and prior record differ from those who base judgments on youths' personal needs. These are just some of the many ways youths and their cases can vary in attrition or progression within juvenile justice.

If attrition at an early stage is the result of differential treatment that makes it less likely for minority youths, then the total group of youths who proceed to the next stage are substantively different. They include only serious offenders and those with gravest needs from the majority group but youths from minority groups whose risks and needs are more varied; thus, the youths are otherwise *not* similarly situated (Leonard & Sontheimer, 1995). At later stages, if no direct relationship is observed for minority status, it may actually be expected given the different distributions of risks and needs. It would be inaccurate to conclude equity in treatment, however, if the comparisons fail to consider the differential selection process (Heckman, 1979), another apples-to-oranges difficulty. In terms of understanding the effects of attrition and subsequent selection bias in the sequence of juvenile justice, it is worth considering the many factors that affect victims reporting crimes, police arrest and referral decisions, intake, prosecution or petition, adjudication, and disposition.

Finally, to underscore how complicated the explanatory role of case processing in DMC, scholars recognize that local culture of the system can affect youths as much, or even more than, characteristics of the youths, offenses, biased officials, or even the state laws and juvenile justice policies. This local institutional culture has been labeled "justice by geography" (Krisberg, Litsky, & Schwartz, 1984) because, although juvenile codes apply statewide, there is compelling evidence that actual implementation differs by location. Several rationales have been offered for these jurisdictional differences, including size and nature of caseloads (Emerson, 1983;

Tepperman, 1973), bureaucratization (Stapleton, Aday, & Ito, 1982), efficiency (Eisenstein & Jacob, 1977), and urbanization (Kempf et al., 1990; Leonard & Sontheimer 1995).

Jurisdictional practices contribute to DMC because youths from minority groups are more apt to live in certain regions, cities, or local areas (Jargowsky et al., 2005). This “spatial mismatch” is evident, for example, when busy metropolitan courts, which process cases quickly and formally and focus on criteria related to the offense rather than personal needs, also function within locations with high concentrations of minority youths. In contrast, rural courts process fewer and less heinous offenses and have fewer employees, fewer resources to support custody, and more flexibility to respond to the personal needs of the predominantly White youths they process. Fortunately, scholars now recognize the need to apply useful ecological perspectives to understand local conditions that put minority youths at a differential risk of juvenile justice interventions (Hawkins, Laub, & Lauritsen, 1998; Hawkins, Laub, Lauritsen, & Cothorn, 2000), and there are new multilevel statistical techniques to enable researchers to apply these multilevel theories to examine how “justice by geography” contributes to DMC (e.g., Bray et al., 2005).

Summary and Conclusion

After nearly 20 years of the federally supported DMC initiative in juvenile justice, levels of minority overrepresentation remain uncomfortably high in most states and at the national level. Although some progress is evident, there are no agreed-on reduction strategies nor even complete accord on how best to explain the inequities. Rather than concrete answers, what rigorous scholarly inquiries have achieved is stimulating more questions and suggesting better techniques for future research. There is persuasive evidence that identifying where disparities exist and isolating the reasons for these differences require considerably more information and of higher quality than routinely exists in available sources data. The task requires comparison of youths who are similarly situated except for their group affiliation. Initial DMC investigations featured Black/White comparisons, followed by advances that controlled for offense, prior record, and some personal needs. The results consistently highlight the need for more precise specification of similarly situated youths because the causes of DMC are complex, interrelated factors from multiple levels of influence involving the individual, family, communities, and systems of justice.

Better understanding of the causes of DMC will come from improvements in three areas. First, we must understand what characteristics of minority status merit attention. The relevance of status is not merely skin color or ancestry but how these relate to cultural values, current opportunities, and perceptions of group characteristics. There are also within-group differences based on gender, age, and experiences. Minority status is not constant but varies by time and location, so our investigations must take context into consideration.

Second, we need to apply uniform definitions to youths’ offending and assessments of their personal needs. This uniformity is critical at the point of initial identification because of the impact that early decisions can have on later stages of the system. Neither self-report surveys nor police records are adequate single sources for this identification because of potential biases inherent to methods of collecting these data.

Only with these two improvements—appropriate identification of comparison groups and valid initial observations—is it then possible to assess the role of juvenile justice decisions in differential treatment. In this third area, there must be better ways to measure juvenile justice decisions. We must examine elements in case processing decisions; these include the goals or intentions of the decision maker, the weight given to relevant factors, and whether these factors are identified from accurate information or shorthand perceptual cues that might instead reflect stereotype or personal biases. Ideally, this information should be known for decisions throughout the process, from initial observation and referral, to intake, adjudication, and disposition.

Future scholarly efforts to explain DMC should make use of the knowledge attained from nearly 20 years of previous investigations. Progress is sufficient to identify many factors related to individuals, families, communities, and juvenile justice systems that contribute to DMC. We also know that these factors relate in ways that are complex, interrelated, and important on multiple levels. It is unrealistic, however, to expect that current limitations of resources, sources of information, and analytical techniques can be overcome sufficiently to fully specify in statistical comparisons youths who, apart from minority status, are otherwise truly similarly situated. Just as social science cannot provide a complete picture of the DMC problem, neither can policy reforms facilitate absolute solutions. However, these shortcomings should not preclude efforts to reduce disparities.

The path to more equitable patterns in juvenile offending and uniform juvenile justice experiences includes more parity in opportunities and expectations. This parity begins with rational policy decision making (e.g., Gottfredson & Gottfredson, 1980), including an explicit goal to reduce DMC, fair and feasible options, and relevant information to support implementation.

DMC is a problem throughout the United States, so part of the solution should be facilitated at the national level. This is not to suggest radical social change but rather reasoned policy stances for routine implementation that will help revitalize core American values. It is worth remembering that our country was founded on a value of freedom, and this ability to be free was a compelling feature that attracted many immigrants to leave their homogenous homelands to settle in the United States. The adventuresome spirit and willingness to risk life in a new country that previous generations shared made it possible for us to have different values now; for example, some of us favor the comfort of commonalities in the “melting pot,” whereas others value preserving differences associated with our multicultural heritages. The ability to have these different values is a fundamental part of U.S. nationality.

In encouraging national unity, there would likely be considerable progress in reducing DMC if we could have consensus on a minimum level of “well-off-ness” desirable for all citizens to achieve and then actively work toward enabling those who now have blocked opportunities also to reach that level. This standard would best be achieved through public policy and private efforts aimed locally to improve schools, health care, neighborhoods, and job opportunities (Currie, 1985; Jargowsky et al., 2005; Messner & Rosenfeld, 2007). It would be easier to accept this as a national goal when citizens feel connected to each other and consider heterogeneity a benefit to being American. To encourage this national unity, all policies should reflect values that are welcoming, supportive, and neutral on personal traits. With effective programming targeted appropriately and with adequate support, not only would disadvantaged minority groups prosper but all citizens should as well.

DMC is not only a national problem, however, so regional, state, and local communities must also work to overcome structural barriers to opportunity and equity and to understand values among subcultures that preclude success for some minority groups. Such community-level collaborations are easier now that technology enables shared data, video conferencing, and Internet “chats” regardless of proximity. These capabilities for communication of relevant information and improved opportunities for feedback in a very real sense equate to greater access for change. Hopefully, this change will take the form of local policies to promote parity in opportunities and celebrating community values, as both are important parts of the solution to DMC.

In addition to changes within the community aimed at cultural tolerance, celebrating diversity, and removing structural barriers to individual success, solutions to DMC require institutional-level reform of juvenile justice systems. Barry Feld (1999) has advocated abolition of juvenile justice systems in favor of criminal justice because he considers social welfare and just deserts punishment to be incompatible goals, and youths from minority groups are disadvantaged by both. According to Feld,

From their inception, juvenile justice policies inexorably expanded the authority of the state to intervene in the lives of poor and minority youths, failed to address the economic and social circumstances that give rise to their disproportionately overrepresentation in the justice system, and thereby perpetuated injustice and inequality. (Feld, 1999, p. 285)

To be sure, the discretion afforded to victims at reporting offenses, police officers at referral, and court officials at intake, detention, petition, adjudication, and disposition begs for a better setting in which case-processing decisions for juveniles can be made.

However, rather than abolish the juvenile justice system, which Hirschi and Gottfredson (1993) commend as exemplary in comparison to the adult venue of criminal justice, it seems preferable to retain and improve the institutional mechanisms for intervention with youths. Benevolent protection and personal accountability objectives must both be retained but uncoupled and each made explicit aims of juvenile justice procedures. The structural framework also must become more transparent, with consistency in application of procedures and more accountability of official decision making. Officials deserve to have more and better choices available in their structured decisions, including culturally competent assessment and classification instruments and reliable information about the adequacy of service and sanction options. Although this rational decision-making framework has long been implemented in various criminal justice settings (Gottfredson & Gottfredson, 1980), it has yet to be applied to policies and procedures within juvenile justice.

Thus, although the solutions for DMC are nearly as complex, multilevel, and interrelated as the factors that give rise to the problems, the considerable benefits would be well worth the efforts. The future is hopeful, as Hawkins and Kempf-Leonard (2005) identified, saying,

Conceived correctly, a responsive and accountable juvenile justice framework will encourage a more responsive community environment, which will lead to a racially and ethnically more equitable distribution of youths who understand what is expected of them and who have the skills to fill the citizenship roles expected of them. (pp. 441-442)

Note

1. For purposes of standardization and comparison across jurisdictions, this index is calculated by percentage of minority youths present at a specific stage of juvenile justice divided by the percentage of total minority youth population aged 10 to 17. A value of 3 for a juvenile justice stage means that the presence of the minority group is 3 times that of their presence in the general population.

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