POLICIES & PRACTICES THAT UNFAIRLY SHIFT YOUTH OF COLOR INTO THE JUVENILE JUSTICE SYSTEM

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How Far Have We Come?

- Part of the federal mandate for 22 years
- Early federal guidance suggested that DMC would be improved with prevention and early intervention programming for youth
- States lacked the infrastructure to measure DMC, much less reduce it for some time
- Most states continue to assess DMC but face challenges in connecting causes of DMC to solutions
- Arrest point remains the least studied decision point
- Outside foundations have provided guidance, support, and assistance to states and local jurisdictions
- Select local efforts show DMC reductions
  - 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%
COMMONLY IDENTIFIED CAUSES OF DMC

- Selective enforcement of delinquent behavior
- Differential opportunities for prevention and treatment
- Institutional racism
- Indirect effects of socioeconomic factors
- Differential offending
- Biased risk assessment instruments
- Differential administrative practices
- Unequal access to effective legal counsel
- Legislative policies that disparately impact youth of color
COMPARISON OF AFRICAN AMERICAN AND WHITE REPRESENTATION AT VARIOUS DECISION POINTS IN THE JUVENILE JUSTICE SYSTEM


LOOKING OUTSIDE THE SYSTEM

• Most of the work on reducing DMC has focused on issues inside the system.
  • 9 decision points
  • Self-report data
  • Relative Rate Index (RRI)

• Very little attention is focused on factors outside the system that unfairly route youth of color to the juvenile justice system.
  • Education
  • Health
    • Mental health
    • Substance abuse
    • Medical care
  • Community support
  • Foster care
LOOKING OUTSIDE THE SYSTEM

- What policies and practices are operating in your area, county, or state that unfairly treat youth of color and lead to a high chance of involvement in the juvenile justice system?
• Acknowledgement that many factors that work to produce and maintain racial inequities in America today.

• Several aspects of our history and culture that have allowed the privileges associated with “whiteness” and the disadvantages associated with “color” to endure and adapt within the political economy over time.

• It also points out the ways in which public policies, institutional practices and cultural representations reproduce racially inequitable outcomes.
Some Policies Outside the Juvenile Justice System That Unfairly Impact Youth of Color

• School pushout policies
• Police in schools
• Zero tolerance policies
• Federal housing and welfare bans for those with felony drug convictions
• Three strikes laws that include juvenile convictions as a “strike”
• Medicaid termination
Police in Schools

- School-based arrests have soared in the past decade, and there are unclear lines between schools and police about who has the authority.

- The growth of School Resource Officers from 1997 to present has almost doubled, in part because of federal incentives
  - 1997: 9,446 SROs nationwide
  - Today: 17,000

- The decision about when a student’s conduct becomes criminal is very subjective.

- The presence of police in school disempowers teachers to apply appropriate discipline
Rate of student reported non-fatal crimes against students (12-18) per 1,000: 1992-2007
WHO IS WATCHING AFTER THE STUDENTS?

5,246  The number of law enforcement officers in public schools in NYC during the 2008-2009 school year

Vs.

3,152  The number of guidance counselors in NYC schools during the 2008-2009 school year
SCHOOL PUSHOUT

- Federal policies
  - Gun-Free Schools Act (20 U.S.C. Chapter 70, Sec. 8921)
    - Mandates school expulsion for 1 year following referral to criminal or juvenile court for possession of a weapon.
  - Led to quick enactment of similar laws at the state level
    - More likely to exist in low-income, inner city schools where youth of color attend.
HIGH SCHOOL DROPOUTS MUCH MORE LIKELY TO ENTER THE JUVENILE JUSTICE SYSTEM

• One in 10 male high school dropouts between ages of 16 and 24 is incarcerated on any given day

• 68% of prison inmates are high school dropouts

• School engagement is as important if not more important than school attendance

• Youth of color are more likely to experience an undiagnosed and untreated learning disability
• What school-related policies can you think of that contribute to DMC?
FOSTER CARE SYSTEM

- More than 500,000 young people are in the foster care system today
- 37% of all kids in the foster care system are African American
- Likelihood of entry into foster care as infants is 3 times higher for African American babies compared to white babies.
- The ages at which disparity is the greatest are infancy and adolescence (13-17)
Connecticut officials estimate 75% of youths in the state's criminal justice system were once in foster care.

In California, 80% of the adults in the correctional facilities “are graduates of the state; the juvenile justice, the child welfare, the mental health and the special education systems.

A recent study issued by researchers at the University of Chicago and University of Washington released in May of 2010 found that nearly 60 percent of young men who had been in foster care had been convicted of a crime, compared with 10 percent of young men who had never been in care. For women, three-quarters were on public assistance by age 24. The new study is the largest, and most comprehensive study of young adults leaving foster care in two decades.
FOSTER CARE AND THE JUSTICE SYSTEM

• How does the foster care system interact and intersect with the juvenile justice system in your area?

• What is being done?

• Do the systems communicate with each other?

• Do you know what amount of overlap is between the two systems?
• Black youth drink alcohol much less frequently than white youth
  • According to the National Household Survey on Drug Abuse (2003), 19.8% of African Americans between ages 12 and 20 used alcohol in the past 30 days, compared to 31.6% of Whites.
  • Almost eleven percent of African American youth reported “binge” drinking in the past month, compared to 21.7% of Whites.

• Black youth report approximately that same level of illicit drug use as white youth

• Non-criminal justice treatment opportunities for black youth are substantially lower than for white youth
• DMC often occurs because of the inappropriate use of detention to access needed treatment

• Involvement in the juvenile justice system creates collateral consequences
  • Reenrollment in school
  • Reinstatement of Medicaid benefits
  • Disconnection from peers
  • Shame
  • Employment barriers
• How many kids who enter the system have mental health problems? (Depression, Bipolar, etc.)

• How many kids who enter the system have ever been treated by a psychologist? Been to treatment center for a substance abuse problem?

• Do the systems communicate with each other? Share data?
SOLUTIONS

- Racial impact statements: look before you leap
- Strengthen the JJDPA
- Reverse policies and practices that produce DMC
Racial Impact Statements

- Regardless of cause, disparate racial impact should be avoided. The collateral consequences of unnecessary involvement in the juvenile justice system are long-standing.

- Similar to environmental impact statements

- Require policymakers to examine all pending legislation and policy changes with an eye toward possible consequences based on race.

- States that have enacted or will introduce legislation in the coming year:
  - Connecticut
  - Iowa
  - Minnesota
  - New York
  - Texas
  - Oregon
Senate Bill 678 suggests that the DMC core protection should be strengthened by requiring States to take concrete steps to reduce racial and ethnic disparities in the juvenile justice system.

States should be required to:
- Establish coordinating bodies to oversee efforts to reduce disparities;
- Identify key decision points in the system and the criteria by which decisions are made;
- Create systems to collect local data at every point of contact youth have with the juvenile justice system (disaggregated by descriptors such as race, ethnicity and offense) to identify where disparities exist and the causes of those disparities;
- Develop and implement plans to address disparities that include measurable objectives for change;
- Publicly report findings; and
- Evaluate progress toward reducing disparities.
REVERSE DISPARITY CAUSING POLICIES AND PRACTICES; ENACT POLICIES THAT LEVEL THE PLAYING FIELD

- Zero tolerance
- Over-policing in schools
- School pushout
- Indigent defense
- Community-based programming and early interventions
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