Youth of Color in the Juvenile Justice System

Racial and Ethnic Disparities (R.E.D.) is a priority of the Washington State Partnership Council on Juvenile Justice (WA-PCJJ). Washington State data collected on youth in the juvenile justice system reveals that youth of color are disproportionately represented as they progress through the juvenile justice system.

Walk into juvenile delinquency courts throughout the state and you will usually find the number of children of color who appear there are far out of proportion to their numbers in the surrounding community. For decades, they have been over-represented (and treated more harshly for the same behavior as their non-Hispanic white counterparts) at every stage of the delinquency process from arrest and confinement to transfer to the adult system. Causes are varied and are often resistant to change.

Improved data collection and analysis in many localities has helped spur the development of strategies to reduce disparities among youth who come in contact with the juvenile justice system. The work is paving the way for a more equitable juvenile justice system that will treat youth fairly regardless of their race or ethnicity.

A report released by the Sentencing Project in August 2014, "Race and Punishment: racial perceptions of crime and support for punitive policies" concludes:

- White Americans are more punitive than people of color.
- Whites misjudge how much crime is committed by African Americans and Latinos.
- Whites who more strongly associate crime with racial minorities are more supportive of punitive policies.
- Media crime coverage fuels racial perceptions of crime.
- Policymakers' actions and statements amplify the public's racial associations of crime.
- Criminal justice practitioners also operate with and reinforce racial perceptions of crime.
- Racial perceptions of crime have distorted the criminal justice system.
- Racial perceptions of crime have undermined public safety.

This report concludes with recommendations for how the medial, researchers, policymakers, and criminal justice professionals can address and mitigate the effects of racial perceptions of crime, and lay the groundwork for more just crime control policies.

The Washington State Partnership Council on Juvenile Justice has once again selected Racial and Ethnic Disparities as its number one priority.

Note: *The fact that youth of color are involved with the juvenile justice system at disproportionate rates has often been referred to as "disproportionate minority contact" (DMC). However, regional and national demographic shifts make it more appropriate to refer to the phenomenon as "racial and ethnic disparities (R.E.D.), without reference to "minorities".*

Background

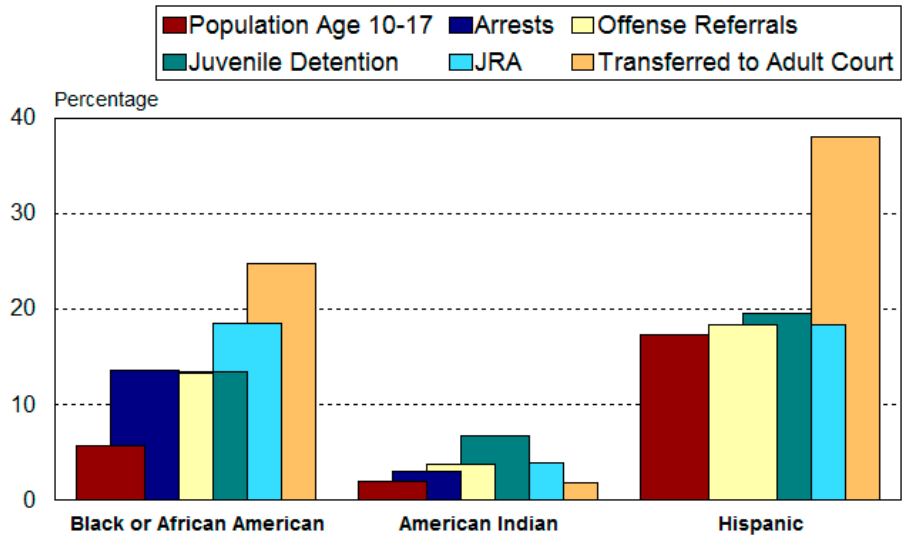
DMC became a JJDP Act core requirement in 1992. The state advisory group (SAG) responded to the requirement, and sought to assess the representation of minority youth in the juvenile justice system and, where disparity existed, develop policies and strategies that would address the problem. Since 1992, the SAG projects, along with research sponsored by the SAG and the other state and local entities, have examined the nature and extensiveness of disproportionality.

The projects have prompted state legislators and agency officials to implement laws and other measures designed to reduce minority over-representation in the state's juvenile courts. Overall, the laws and measures, along with initiatives launched by county juvenile justice officials, have yielded significant changes in how courts administer juvenile justice and in how the state has responded to the challenges faced by minority youth.

Washington State Data

According to 2012 estimates, Washington State's juvenile (age 10-17) racial composition was 63.9 percent White and 36.1 percent minority youth (5.9 percent Black, 1.9 percent American Indian, 8.8 percent Asian, and 19.4 percent Hispanic of any race). In three eastern Washington counties (Adams, Franklin, and Yakima) the percentage of non-white youth is more than 65 percent of the total youth population.

The over-representation of Black, American Indian and Hispanic Youth in WA's Juvenile Justice System in 2012*



* Provides a comparison of representation at system decision points to each racial category's respective proportion/percentage of the juvenile population in WA State. Reporting of ethnicity (Hispanic/Non-Hispanic) is not required in the reporting of arrests to UCR.

Research data collected by the WA-PCJJ/OJJ examine race and ethnicity as factors influencing decisions at various contact points within the juvenile justice system. Data confirms that youth of color are disproportionately represented as they progress through the juvenile justice system. The differences between youth of color and white youths' representation becomes amplified with each successive decision point.

In this data, an index value of 1 would indicate that the rate of contact was essentially the same as it was for white youth. An index that is statistically significant is one that is unlikely to have occurred as a random process. This is a first step in examining disparities and serves as an ongoing set of "vital signs" for managing the juvenile justice system. This data is referred to as Relative Rate Index (RRI).

The following **statewide** observations were made from the data for 2012:

- Generally, DMC does exist at all levels of the juvenile justice system in Washington State.
- Asian arrest RRI is lower than the White population (.29).
- African-American youth arrest RRI remains higher than any other ethnic/racial category at 1.96.
- Native American arrest RRI is 1.26.
- All minority youth are referred to juvenile court at a much higher rate than White youth, with Americian Indian, Asian and African American youth reentering at the highest rates of 1.78, 1.7 and 1.63 respectively.
- The RRI shows that non-White youth are diverted significantly less often than White youth.
- American Indian and African American youth are disproportionately securely detained at a rate of 1.64 and 1.19 respectively.

In 2012, non-white youth accounted for:

- 19.6 percent of all juvenile arrests *(does not include Hispanic which are not captured on Uniform Crime Reports (UCRs) or the National Incident Based Reporting System (NIBRS) used by law enforcement; Hispanic youth are typically categorized as White at arrest);*
- Approximately 41.4 percent of all juvenile court offense referrals;
- 44.5 percent of juveniles held in county detention facilities;
- 58 percent of juveniles held in JRA state facilities.

Collateral Consequences

Because youth of color disproportionately enter and move through the juvenile justice system in Washington State, youth of color are disproportionately affected by the collateral consequences of involvement with the system. Youth who transition out of secure confinement encounter substantial challenges in gaining employment, finding housing, getting an education, and accessing medical and mental health care. Plans are rarely in place to support youth as they attempt to move past their convictions. Moreover, youth are frequently unaware of the consequences of their actions within the court system; a guilty plea, for instance, may be offered to expedite the process but may be accompanied by an assortment of problems years later, many which result in recidivism.

Youth who are transferred to the adult system face additional problems. Juveniles incarcerated in adult facilities are 30 percent more likely to be re-arrested than those retained in the juvenile justice system, both sooner and for more serious offenses. These youth receive significantly less access to age-appropriate rehabilitative, educational, or vocational services than they would in the juvenile justice system. This sets them up for failure upon release. Additionally, programs offered in the adult system are not structured for juveniles, and correctional officers are often not aware of developmental differences between adults and youth, who require specialized handling and treatment. As a result, youth housed in adult facilities and released as young adults exhibit more negative outcomes than if they had been held in a juvenile facility.

The following are aspects of our system that result in involvement in the system and collateral damages for our youth that we work to "rehabilitate" with the notion that young people who become delinquent are amendable to reform:

- Sale and distribution of juvenile records (see Record Sealing Bulletin for additional information)
- Zero tolerance and other school push-out policies
- Challenges to re-enrollement
- Barriers to employment & housing
- Eviction and homelessness
- Placement on a National or State Sex Offender Registry

DMC Assessment

The WA-PCJJ contracted with the University of Washington to conduct a DMC assessment, as required by OJJDP. This assessment includes information on DMC efforts that have been undertaken and the results of those efforts, as well as identifies areas of DMC and possible reasons for the disproportionality. A final report from the assessment contract was released in February, 2013.

The report makes the following recommendations:

1. Increase the number of jurisdictions with a sophisticated understanding of DMC.
2. Verify the validity and reliability of data collected on race/ethnicity.
3. Work to increase buy-in and ownership (belief that it is their responsibility to address DMC) across all stakeholder groups.
4. Build cross-system coalitions within each jurisdiction to address DMC reduction efforts, or integrate DMC reduction efforts with an existing group.
5. Strengthen efforts to involve communities of color in the functioning of the justice system.
6. Collaborate with tribes in appropriate jurisdictions.
7. Implement and sustain changes to policies, practices, and procedures that may reduce disproportionality.
8. Implement and sustain evidence-based behavioral health programs while increasing the enrollment of youth of color in these programs focusing on access, effectiveness and relevance.
9. Strengthen and coordinate statewide leadership on DMC reduction.

The full report is available on line at: www.dshs.wa.gov/pdf/ojj/DMC/DMC_Final_Report_2013.pdf

Strategies:

The WA-PCJJ has funded various projects in the past several years to address racial and ethnic disparities in the juvenile justice system. Several have proved promising and have continued on. Additionally, WA-PCJJ adopted the Juvenile Detention Alternatives Initiative (JDAI) (an initiative started by the Annie E. Casey Foundation) as a strategy for reducing the number of youth held in detention as well as reducing racial and ethnic disparities. Information regarding JDAI in Washington as well as several promising programs is found below.

Juvenile Detention Alternatives Initiative:

In 2004, the former State Advisory Group chose JDAI to address detention reform in the state: develop a more focused and outcome-driven agenda, and use a proven model and framework to improve the juvenile justice system (that addresses both DSO and DMC) and promotes alternatives to secure detention. The WA-PCJJ adopted JDAI as a strategy for system improvement, detention reform, and addressing racial and ethnic disparities in Washington State. The WA-PCJJ continues to support JDAI as a system improvement initiative working toward detention reform in our state.

In Washington, JDAI provides a template to eliminate the inappropriate or unnecessary use of secure detention, particularly for status offenders. Youth who do not pose a threat to community safety are referred to other community resources, outside of a detention facility, while their charge is processed. The purpose of the initiative is to review court procedures and to use a data-driven process to see if certain juveniles might be better served by the use of alternatives, rather than detention. **The goal of JDAI is to provide the right service to the right juvenile at the right time, and to hold (in detention) only those juveniles that must be held in locked detention to protect the community.**

Since 2004, ten WA state counties have joined with 250 counties in 40 states to replicate the Juvenile Detention Alternatives Initiative (JDAI). Today WA State JDAI sites represent 73% of our state's youth ages 10-17. Using the eight strategies of JDAI, these counties have reduced reliance on detention by 57% which has allowed the closing of detention wings and reassigning staff to alternative programs.

Initially, our state received significant grant funding from the Annie E. Casey Foundation, and also utilized federal grant funds awarded by the WA-PCJJ for "start-up" programming for Washington's JDAI. Currently, State funding via legislative proviso and a small annual Annie E. Casey Foundation grant are partnered with federal Title II funds allocated by the WA-PCJJ to fund JDAI annually.

A State Steering Committee has been established to direct the operation of JDAI for the current sites and to provide resources and guidance for new sites showing interest and readiness. A quality assurance plan has been implemented that includes a statewide coordinator, and coordinators in each county to replicate the initiative with fidelity to promote the many benefits JDAI has demonstrated.

Counties replicating JDAI have demonstrated lower rates of juvenile crime (57.75 felony filings per 10,000 youth compared to 79.54) and have been successful in reducing the number of youth of color detained, with 52% fewer youth of color detained each day. Sites continue to address disproportionality of youth of color in detention.

JDAI has proven to be cost effective for WA State by reducing the number of youth committed to state institutions: JDAI counties commitment rate is 8.25 per 10,000 youth compared to 14.61 for other counties. This lower rate of commitment amounted to a $7.5 million savings in 2012.

While this is good news, the overall proportion of detention admissions for youth of color, compared to white youth, has increased (from 42% to 51%). The average daily population proportion of youth of color has also increased (from 48% to 55%).

The WA-PCJJ continues to work closely with JDAI sites to address DMC and reduce the identified disproportionality. Additional information regarding JDAI site outcomes can be found in the Programs & Priorities section of this report.

For additional information on JDAI please see the Steering Committee publication on the website "Improving Our Juvenile Justice system: Washington's JDAI" - www.dshs.wa.gov/ojj.

Girls in the Juvenile Justice System

In Washington during the past five years, the percentage of total juvenile arrests represented by girls has increased by 6 percent even though the number of girls arrested has shown a steady decrease. Although the number of girls arrested in 2012 was the lowest in over five years (5,537), the percentage of arrests represented by girls was the highest in the past five years (31.6%).

During 2012 females accounted for approximately:

- *31.6 percent of all juvenile arrest*
- *21.6 percent of all juvenile arrest drug and alcohol offenses*
- *37.1 percent of all juvenile arrest for property offenses*
- *21.6 percent of all juvenile arrests for violent offenses*
- *31.1 percent of all juvenile arrests for "all other" offenses*

According to the Federal Bureau of Investigation's Uniform Crime Reporting (UCR) Program, between 1991 and 2000, the number of juvenile females arrested increased more (or decreased less) than male arrests in most offense categories (Snyder, 2002). By 2004, girls accounted for 30 percent of all juvenile arrests. However, questions remain about whether these trends reflect an actual increase in girls' delinquency or changes in societal responses to girls behavior. To find answers to these questions, the Office of Juvenile justice and Delinquency Prevention convened the Girls Study Group to establish a theoretical and empirical foundation to guide the development, testing, and dissemination of strategies to reduce or prevent girls' involvement in delinquency and violence.

According to the Girls Study Group report "Understanding and Responding to Girls' Delinquency" – "On the whole, girls' delinquent acts are typically less chronic and often less serious than those of boys (Snyder and Sickmund, 2006). Minor offenses predominate among female delinquency offenders."

The report concludes: Although additional research is critically needed, it is clear that factors such as economic disadvantage, exposure to violence, experiences with physical and sexual child abuse and maltreatment, and lack of positive parental supervision affect the development of delinquency for both girls and boys. Early puberty, coupled with stressors such as conflict with parents and involvement with delinquent (and often older) male peers, is a risk factor unique to girls. These factors must be addressed in efforts to understand and address girls' delinquency. Finally, two aspects of the justice system also merit examination: arrest policies that widen the net (especially those dealing with conflicts between adolescent girls and their parents) and detention of girls because community-based alternatives are lacking.

Information from Washington's Administrative Office of the Courts indicates the top five reasons for girls' detention in 2012 were:

- *Assault 4*
- *At-Risk Youth (Violation of a Court Order)*
- *Probation Violation*
- Truancy (Violation of a Court order)
- *Theft 3*

These reasons for girls' detention appear to be consistent over the past five years (2008-2012). Assault 4 has remained the number one reason for girls' detention over the past five years.

Based on 2012 data, girls represent 47 percent of the filings for At Risk Youth Petitions; 61.5 percent of the filings for Child in Need of Services; and 46.7 percent of the Truancy filings. This data is relatively unchanged from 2011.

Research points to significant differences in the male and female population that call for a gender-specific approach:

- Girls commit far fewer violent offenses - about one-quarter the rate of boys. Girls are more likely to be arrested for property crimes and status offenses (running away, liquor law and curfew/loitering violations). When girls are violent, it is more likely to be against a family member than for boys.
- Girls, more than boys, enter the juvenile justice system with a disturbing history of emotional, physical, and sexual abuse - with estimates as high as 78% or higher of incarcerated girls. Instead of receiving counseling and mental health services, girls are often re-traumatized through dehumanizing treatment and isolation. Girls are also more likely than boys to be sexually victimized while in a facility.

- Girls are disproportionately arrested for running away, accounting for 59% of runaways. Girls often run away to flee violence or other abuse in the home, and are known to "self-medicate" through alcohol and other illegal substances. Under current law, runaways who violate parole (e.g., run away again) can be - and frequently are - incarcerated.
- Adolescent girls have different health needs than boys, including health education, gynecological exams, and in some cases, pregnancy-related healthcare. Girls in the juvenile justice system face a substantially higher risk for reproductive health problems compared to girls outside of the system.

According to a study done by the Girls Justice Initiative, 89% of the 118 attorneys and 61% of the 97 judges interviewed across the country agree that girls in the juvenile justice system do not receive adequate services. This report offers best practices starting from how to communicate with girls when first enter into the juvenile justice system, to how to best serve them after they leave in order to reduce recidivism rates and address the circumstances that led to their incarceration.

In 2008 a group of juvenile justice practitioners and service providers began discussing pathways for girls into the juvenile justice system and evidence based treatment options for gender responsive services in Washington State. Since its initial meeting, the Justice for Girls Coalition of Washington has surveyed professionals throughout the juvenile justice system to determine what training practitioners and administrators would like in order to improve gender responsive services for girls. They are currently working with the Office of Juvenile Justice and Delinquency Prevention to bring in training for gender responsive core processes.

The Coalition also published a booklet - ***Working with Girls in the Juvenile Justice System, A guidebook for Practitioners***, which has been widely distributed around the state.