

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.
- Policy makers' 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 media, researchers, policy makers, 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

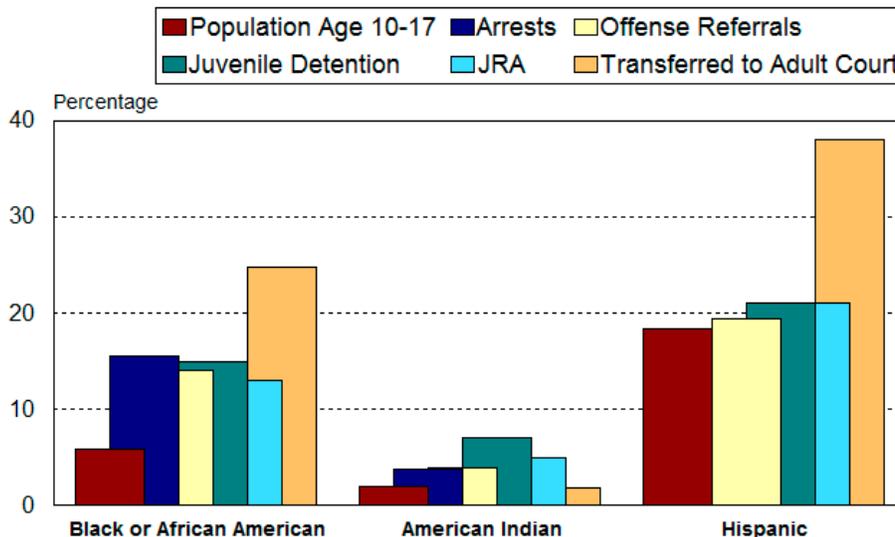
DMC became a JJDP Act core requirement in 1992. The state advisory group (SAG) responded to the requirement, and sought to assess the representation of minority youth in the juvenile justice system and, where disparity existed, develop policies and strategies that would address the problem. Since 1992, 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 2013 estimates, Washington State's juvenile (age 10-17) racial composition was 64.9 percent White and 35.1 percent minority youth (5.8 percent Black, 1.9 percent American Indian, 9 percent Asian, and 18.3 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 2013*



* 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 2013:

- Generally, DMC does exist at all levels of the juvenile justice system in Washington State.
- African-American youth arrest RRI remains higher than any other ethnic/racial category at 2.24.
- Native American arrest RRI is 1.42.
- All minority youth are referred to juvenile court

at a much higher rate than White youth, with American Indian, Asian and African American youth reentering at the highest rates of 1.66, 1.53 and 1.23 respectively.

- The RRI shows that non-White youth are diverted significantly less often than White youth.
- Hispanic and African American youth are disproportionately represented in cases transferred to adult court.

In 2013, non-white youth accounted for:

- 21.5 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 40.3 percent of all juvenile court offense referrals;
- 47 percent of juveniles held in county detention facilities;
- 55 percent of juveniles held in JR 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-enrollment

- 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:

It is well established that youth of color are significantly overrepresented in the juvenile justice system in Washington. These disparities are the result of numerous inter-related factors, some of which exist within the structures of current juvenile justice policies and practices and some of which are influenced by unconscious and implicit biases.

Addressing and reducing disparities requires a multifaceted approach. Juvenile justice system stakeholders must examine whether current policies and practices are a factor that, intentionally or not, contributes to higher numbers of youth of color becoming involved in - or penetrating more deeply into - the juvenile justice system. Additionally, research clearly indicates that implicit biases impact justice decision-making. According to Mahzarin Banaji, one of the Harvard researchers who studies implicit bias, most people judge according to unconscious stereotypes and attitudes or implicit prejudice. Decision-making in all youth-serving systems is highly susceptible to bias. Finally, developing and implementing new or different strategies to ensure that all youth are treated in a fair and equal manner requires authentic engagement with stakeholders and communities who are impacted.

To that end, the WA-PCJJ launched an Initiative to reduce Racial and Ethnic Disparities in Washington's juvenile justice system. The R.E.D. Initiative goals are to: reduce the disparities experienced by youth of color coming into contact with the juvenile justice system and reduce implicit bias in policies, practice, and decision-making.

The WA-PCJJ issued a Request for Proposals (RFP) to fund two planning grants. The WA-PCJJ sought to fund proposals that are designed to develop community capacity for institutional and community change and a road map to accomplish this change; proposals that demonstrate the local, long term commitment and political will to address identified racial and ethnic disparities (with a focus on the arrest and referral decision points); proposals that include stakeholders from the community, a process for community engagement and that will work with a consultant to identifying the root causes for identified disparities and develop the plan to initiate change.

Selected initiatives that can successfully demonstrate their readiness to implement a racial and ethnic disparities plan with long term commitment from stakeholders and a high level of community engagement may be eligible for up to two years of additional funding for plan implementation, dependent on availability of federal funds.

Two sites were selected to receive the one year planning grants: Clark County and Spokane County juvenile courts. Both projects are scheduled to begin in July 2015.

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 (R.E.D.).

Since its inception, the detention admissions for youth of color have been reduced by over 38 percent (from 6,875 annually to 4,238). Additionally, the average daily population of youth of color has been reduced by approximately 56.5 percent (from 260 annually to 113)..

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 R.E.D. 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

Around the country, girls make up a growing percentage of the juvenile justice population, and research and practice shows that their needs are not being met by a juvenile justice system that was designed for boys.

Research has shown that the typical girl in the system in a non-violent, very low risk to the public but with very pressing personal needs - such as trauma, violence, neglect, mental and physical health needs, pregnancy, family conflict, etc.

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. The number of girls arrested in 2013 was the lowest in over five years (5,317). Girls represented 31 percent of the total juvenile arrests.

According to the federal Office of Juvenile Justice and Delinquency Prevention (OJJDP) "Girls and the Juvenile Justice System Policy Guidance": *Today, nearly 30 percent of juveniles arrested are girls or young women and their share of arrests, detainment, and court cases has steadily increased over the past two decades. Unfortunately their stories remain unchanged.*

Many girls experience violence, trauma, poverty, and racial, ethnic and gender bias that can lead to their involvement in the juvenile justice system. We believe that the needs of girls must be addressed in a developmentally appropriate manner. This means recognizing a young woman's diverse pathways into and across systems and reducing her involvement so only those who pose a serious threat to public safety enter the juvenile justice system. Then, for those very few girls and young women, it means reducing reliance on secure placement and increasing gender and culturally responsive, trauma-informed, and developmentally appropriate approaches. We recognize that for girls and young women, this requires a national commitment to creating healthy social environments with family, peers, community, social institutions, and society. (<http://www.ojjdp.gov/policyguidance/girls-juvenile-justice-system>)

Information from Washington's Administrative Office of the Courts indicates the top five reasons for girls' detention in 2013 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.

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.
