

DISPROPORTIONATE MINORITY CONFINEMENT: CONFRONTING RACIAL AND ETHNIC DIFFERENCES IN ASSESSMENTS OF JUVENILE CULPABILITY

Adolescent Development and Juvenile Justice

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- Disproportionate minority contact (DMC) with juvenile justice systems remains a national problem, even after nearly 20 years of federal and state attention. Research has identified overrepresentation of minority youths in contact with police and court officials and in confinement in nearly every state. African-Americans are often involved in juvenile justice at more than twice their presence in the general population ages 10-17.

Disproportionate Minority Contact with Juvenile Justice in the U.S. for 2002

All Referrals	Juvenile population	Juvenile Referrals	Detained	Formal Hearing	Adjudicated	Placed out of home	Waived
White	78%	67%	60%	64%	68%	63%	62%
Black	16%	29%	36%	32%	29%	33%	35%
Other	6%	4%	4%	4%	3%	4%	3%

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

Source: Stahl, A., Finnegan, T., & Kang, W. (2005). <http://ojjdp.ncjrs.org/ojstatbb/ezajcs/>

- Analysis of black-white differences alone fails to capture the breadth and depth of racial and ethnic differences in juvenile justice systems. Recent data suggest that Latinos, Native Americans, Asian Americans and Pacific Islanders are also disproportionately represented in some contexts. There also are differences in levels of overrepresentation for sub-groups within each of these larger populations, e.g., native Blacks versus foreign-born Blacks, Cuban Americans versus Mexican Americans, Vietnamese Americans versus Japanese Americans, etc. Increasingly, researchers have also pointed to the disproportionate presence of economically disadvantaged native whites within the system.
- The juvenile justice literature has been characterized by an either/or paradigm designed to explain why minority youths are disproportionately represented in the system. Minority youths are depicted as more likely to engage in problematic behaviors that warrant treatment and punishment or they are seen as targets of racial and ethnic discrimination on the part of decision makers. It is now clear that both phenomena are at work; laws and public policies aimed at responding effectively to both causal factors are needed.
- The relationship between race and ethnicity and juvenile crime is complex and contingent upon type of offense. The most commonly occurring crimes show few group differences, while less frequent and serious crimes of violence show generally higher levels of Black and Latino involvement. Group rates of homicide vary considerably across cities, indicating greater variation within race and ethnic groups than between.

Patterns of juvenile offending in Arrest data	Sources of confirmation
Homicide: Black youth most overrepresented Latino youth overrepresented in some locations Native American youth overrepresented	Witness reports, case evidence
Nonlethal violence: Black youth overrepresented	Victim reports, self-reports, Parent & teacher reports
Property crime: Overall, minimal differences across groups	Self-reports
Alcohol violations: White & Native American youth overrepresented	Self-reports for white youths
Drug abuse violations: Black youth overrepresented	Self-reports contradict arrest data (White youth higher)
Weapons violations: Black youth overrepresented	Self-reports (Hispanic youth also higher)

The discrepancy between data sources for drug abuse violations is consistent in several sources. If we assume that self-report data are valid for drug violations, then the proportion to black youth arrested is twice as high as expected. There have been tougher sanctions for drug offenses during the same time

- The relationship between race and ethnicity and juvenile justice processing is also complex and contingent upon measuring “similarly situated” juvenile offenders who differ only by minority group membership. Such comparisons are difficult to achieve, requiring more information about youths, their families, communities, and encounters with police officers and court officials than is readily available in sources of data kept by juvenile justice systems.
- Some differential treatment is due to characteristics inherent to juvenile justice. First, discretion and dual goals within the system enable police and court officials selectively to implement either punitive sanctions or benevolent services, both of which result in more restrictive, intensive, and custodial interventions for minority youths. Second, the consequences of decisions made at initial contact with police and intake officers influence how judges intervene, often with a cumulative disadvantage for minority youths. Third, local procedures equate to “justice by geography” with urban courts, serving areas where minority youths disproportionately live, operating more harshly.
- On the other hand, larger societal factors also account for some of the difference. For example, race has had two distinct and contradictory influences on juvenile justice policy and practice during the second-half of the Twentieth Century. First, the North went South, and then the South went North. During the 1950s and 1960s, segregation and Jim Crow laws impelled the Supreme Court to impose national legal and equality norms on southern states. Decisions such as *In re Gault* generated a “due process revolution” in juvenile justice that fostered a procedural convergence between juvenile and criminal courts and legitimated increasingly severe delinquency sanctions that now fall disproportionately on minority offenders.
- During the 1970s - 1990s, conservative Republican politicians pursued a “Southern strategy,” used “crime” as a code-word for race for electoral advantage, and advocated “get tough” policies which ultimately affected juvenile justice administration throughout the nation. The surge in black youth homicide rates during the late-1980s and early-1990s led to a “crack down” on youth crime through modification of juvenile court sentencing and transfer laws which amplified racial disparities.
- It is also true that researchers have disproportionately studied violent crime and arrest data. One unintended consequence of this focus is the possibility that patterns we observe for violence are generalized to other crime types, thereby perpetuating false stereotypes about levels of minority involvement in crime.
- Thus, some of the racial disparity in the treatment of adolescent offenders might be due to racial stereotypes that associate being African American with negative traits such as violence and aggressiveness.
 - When racial stereotypes operate in the juvenile justice system, the shared belief that adolescent offenders are immature, malleable, and less culpable than adults is superseded by the belief that African American adolescent offenders are violent, dangerous, and possess adult-like negative intent.
 - Research from social psychology has shown that stereotypes are often activated and used outside of conscious awareness (i.e., automatically and unintentionally) by prejudiced and non-prejudiced individuals alike and by members of different racial/ethnic groups.
 - Unconscious racial stereotypes can then lead to more perceived culpability among youthful offenders of color and more punitive decision making
 - Even unconscious racial stereotypes are amenable to change. For example, perceivers can learn to suppress stereotypes, activate counter-stereotypes, and focus on relationship building. Such strategies can become part of the training and continuing education of decision makers in the juvenile justice system.
- In sum, research has indicated that the causes of disproportionate minority confinement (DMC) are more complicated than either racially biased treatment from officials or minority youths who commit more, and more heinous, offenses. The explanation for DMC includes a combination of factors affecting both the culpability of youths and officials. For a comprehensive assessment of these factors, see **Our Children, Their Children: Confronting Racial and Ethnic Differences in American Juvenile Justice**, edited by D.F. Hawkins and K. Kempf-Leonard, University of Chicago Press, 2005.