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## Over-representation of Minorities in the Juvenile Justice System: Three Counties in Rural Texas\*

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**IN 1998, CONGRESS** amended the Juvenile Justice and Delinquency Prevention Act of 1974 by requiring that states receiving funding from Title II Part B Formula Grants program address the issue of disproportional minority confinement (DMC). Four years later, Congress further enhanced the DMC focus by elevating its status to that of a "core requirement." In effect, the mandate required states to assess the magnitude of DMC and formulate effective policies or risk losing as much as 25 percent of their State Formula Block funding.

As a result, research studies examining the over-representation of minorities in the juvenile justice system have increased during the past 20 years. Research findings, however, have been mixed, making the development of effective policies difficult (Lieber, 2002). A primary shortcoming of over-representation research has been the failure to include all relevant variables; researchers have designed juvenile research to mirror that on adult outcomes (Fader, Harris, Jones and Poulin, 2001). This approach neglects the central component of juvenile court decision-making.

In one of the most recent and comprehensive national studies of the problem of over-representation of ethnic minorities in the juvenile and criminal justice system, Jones (2000) found over-representation of youth of color at every point and the disadvantages worsened as they went through the system. Minority youth are more likely to be referred to juvenile court, be detained, face trials as adults, and go to jail than white youth who commit comparable crimes. (Shepard, 1995; Pope & Feyerherm, 1995; Wilson, Gillepsie, & Yearwood, 2001.) Racial disparities as well as selection and institutional bias in the process may contribute to minority over-representation in secure facilities and suggest that the perception of white police officers can contribute to minority over-representation. White police officers are more likely to arrest poor minorities because of the underlying belief that they are prone to participate in criminal activity. Additionally, seriousness of the current offense, prior offending, age as well as individual characteristics may affect referral decisions. Older minority males are more likely to be recommended for formal processing than are whites, younger adolescents and females (Bishop, Frazier, & Charles, 1996, Drakeford & Garfinkel, 2000).

Racial bias within the mental health system also plays a part. Black juveniles are more likely than their white counterparts to be incarcerated in correctional facilities rather than in a psychiatric facility, even after similar scores are reported on the child behavior checklist. According to Drakeford & Garfinkel (2000), mental health agencies fail to properly diagnose and assist African-American children who may have psychological disorders. This is supported by the National Coalition for the Mentally Ill, which reports that 60 percent of youths in the system have a mental health disorder and 20 percent a severe disorder. Because of the high rates of mental disorders among incarcerated youths in these facilities, Cellini (2001) sees the need for extensive evaluations. Bishop, Frazier and Charles, 1996, report lack of community support.

Racial bias has varying effects on whites and non-whites, with black youths more prone to formal processing because families may be unable to comply with agency policies for one or both parents to be present at adjudication hearings. Institutional bias regarding who will be referred to private treatment in lieu of formal processing also greatly disfavors minorities. Those from single parent homes and perceived as receiving insufficient parental supervision are more likely to be referred to court and placed under state control, according to Bishop, Frazier and Charles (1996) and Wilson, Gillespie and Yearwood (2001). Similarly, urbanization tends to increase imprisonment risks for blacks and other minorities, while it tends to decrease imprisonment for whites.

In the southwestern state where the study was conducted, the problem of minority over-representation was first investigated in 1990 in response to the federal government requirement that each state receiving funds from the Juvenile Justice and Delinquency Prevention Act determine the existence of this problem and propose ways of rectifying it. Charged with responding to the federal mandate was the Subcommittee on Minorities in the Juvenile Justice System, formed by the Office of the Governor's Criminal Justice Division. The findings of the Subcommittee (1992) were consistent with national studies. Although minority youth made up 49 percent of the state population aged 10-16, they constituted 66 percent of juveniles referred to court for delinquency offenses, and 73 percent of detained youth. An analysis by the state's corrections facilities found that 80 percent of youth committed to its care were minorities, with the commitment rate per population for black and Hispanic youth respectively eight and three times greater than that of white youth. The referral rate for black youths was three and a half times greater than for white youths. The referral rate for Hispanics was twice that of whites. Even after accounting for the higher referral rates for minorities, commitments for violent offending per felony referrals was 9.3 for blacks, 8.9 for Hispanics, and 4.8 for whites. For nonviolent youth offenders committed to the facility without the benefit of a prior residential placement, the rates were 61 percent for blacks, 55 percent for Hispanics, and 28 percent for whites. These disparities follow the youth to rehabilitative treatment in the facilities, where higher rates of whites received specialized treatment for various chronic offenses. To date, not many studies have been found that have focused attention on rural southwestern United States. Added to this is the fact that this study state is rapidly becoming a minority/majority state. Therefore, if the problem is not seriously addressed, the majority of the youth population will be in the juvenile justice system. Thus, the purpose of this research is to revisit the problem of minority over-representation in these three counties almost ten years after the initial studies and particularly since the ethnic composition of the state has changed and to examine the problem at each phase of the process, with particular attention on the youth's family, social background and prior involvement in delinquency.

The specific research questions include:

- a) Are ethnic minorities over represented in the juvenile justice systems in a rural southwestern state?
- b) If so, at what phases of the juvenile justice system do the rates differ?

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## **Method**

### *Participants*

Participants in this study consisted of 316 adolescents aged 10–17 years (69 percent males) who went through juvenile probation centers in three rural counties in a southwestern state between January 1999 and December 2000.

### *Instrument*

The instrument for this study was originally developed to study minority over-representation in Fairfax Juvenile and Domestic Relations Court Services in Virginia. For suitability as a data collection tool in a southwestern state, the instrument has undergone substantial revision and adjustments. In its current form, it is an eleven-page questionnaire consisting of a) demographic data, b) current offense, c) background and social history, and d) repeat offending.

### *Demographics*

Demographic information includes age at the time of intake, race, sex, and county and zip code of residence.

### *Current Offense*

This subsection provides details of the current offense the juvenile is being charged with at the various phases: predisposition, adjudication, disposition, and a summary of the time spent in the system. Description of the current offense includes the total number of complaints and their codes, the progressive sanctions level of the most serious complaint, and the complainant, such as the police or parent.

### *Predisposition Phase*

Information at this phase includes the number of days in detention (if detained), dates of detention hearing, and a determination of whether the complaint was drawn prior to court hearing.

### *Adjudication Phase*

The instrument documents the number and dates of adjudication hearings, representation by an attorney (court-appointed or private), and the number of days between detention and adjudicatory or transfer hearing. For those not detained, additional data include determination of adjudicatory hearing within 15 days, finding at final adjudicated hearing, psychological evaluation, and the total number of continuances and reasons for them.

### *Disposition Phase*

Dispositions include commitment or suspended commitment to a corrections facility, probation, detention center, and others. Other information includes holding of a separate dispositional hearing, the number of days between adjudicatory and dispositional hearings and whether the latter was held within 30 days of the former. Also captured at this phase are any special services recommended such as urine testing, treatment for mental or physical health, counseling, electronic monitoring, and others. The instrument also summarizes the involvement of the juvenile in the justice system for the current offense, such as the total number of detentions, detention alternative, days on probation and/or detention, residential placement, and the number of days from intake to close of case.

### *Procedure*

The revised Court Processing Data Collection Instrument was sent to the Juvenile Probation Officers (JPOs) in the three study counties to solicit their review and input. The Principal Investigator held a series of meetings of persons working on the study to ensure everyone had a

thorough understanding of the purpose of the study and of the instrument being used for data collection. The JPOs, who were familiar with the juvenile offenders and their background, completed the instruments by copying information from their files and mailing it to the Principal Investigator.

The researchers and their assistants did not have access to the names or other identifying information of the juveniles. However, to ensure strict anonymity of the participants and confidentiality of the data, all of the persons working on the study signed a research confidentiality agreement with OJJDP. In compliance with the requirements, we filed a privacy certificate pledging to provide administrative and physical security of the data.

To facilitate analysis, the offenses and delinquency acts were grouped into six broad categories: school, theft/burglary, assault, police and law enforcement, drugs and alcohol, and other. School-related delinquency included truancy and failure to attend school. Theft/burglary included forgery, criminal mischief, vehicle or building burglary, and unauthorized use of motor vehicle. Offenses under assault included all types of assaults such as sexual offenses and terrorist threat. Police and law enforcement category consisted of offenses such as contempt/ disobedience of court, violation of juvenile court order, and resisting or avoiding arrest. Drugs and alcohol offenses comprised possession and use, driving under the influence, and failing drug test. The category "Other" included arson, organized crime activities, and any other offense not included in the five categories above.

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## **Results**

### *Demographics*

The sample size N=316 consists of 40.2 percent cases from county I, 34.1 percent from II, 18 percent from county III, and 7.7 percent from elsewhere. In county I, the racial composition was 51.2 percent black, 5.6 percent Hispanic, and 43.2 percent white. In county II, the ethnic distribution was 42.5 percent black, 20.8 percent Hispanic, and 36.8 percent white, and in county III, the distribution was 21.1 percent black, 15.8 percent Hispanic, and 63.2 percent white. Youth outside of these counties were predominantly white (75 percent). In the entire sample of N=316 cases, 40.2 percent were black with 27.3 percent males; 11.6 percent Hispanic, 7.2 percent males; and 46.2 percent white with 34.4 percent males. Summary figures have been calculated for family and social background.

While 76 percent of Hispanic youth have married biological parents, only 20 percent of black children and 40 percent of whites have married biological parents. Sixty percent of black children live with their mother only, compared to 36 percent for Hispanics and 37 percent for whites. Among black children in the study, only 17 percent live with both parents, which contrasts with 48 percent and 34 percent for Hispanics and whites respectively. Among all participants combined, 28 percent live with both parents, 47 percent with their mother only, and 7 percent with their father only. Across the races, more than half of all participants did not know if their mother or primary mother figure was employed. In the case of the father or father figure, over 71 percent of black children did not know his employment status, compared with 47 percent for Hispanics, and 60 percent for white children.

Less than 33 percent of black juveniles have married parents (including stepparents), and about 50 percent have parents that never married. On the other hand, 76.4 percent of Hispanic youth said their parents were married, and only 11.8 percent said their parents never married. For whites, nearly 41 percent said their parents were married, 28 percent said their parents had never been married, and 27.3 percent of the parents were separated, divorced, or widowed.

About 60 percent of the black juveniles lived with their mothers only and about 17 percent lived with both parents. Among Hispanics, 48 percent lived with both parents and 36 percent with the mother only; for whites, 71 percent lived with the mother or both parents. Fifty percent of the

juveniles did not know whether or not their mothers were employed.

### *Initial entry into the system*

Police arrests were the primary reasons most youth of all races entered the system. While police accounted for the entry of three of four African American youth, the figures were even higher for Hispanics (92.1 percent) and White (79 percent). Besides police arrests, parents were responsible for 5.3 percent and 2.9 percent of black and white youths respectively. No Hispanic parents accounted for their children's entry into the system. The race distribution at this initial phase was 39.9 percent black, 47.6 percent white, and 12.5 percent Hispanic.

To determine the existence of minority over-representation at this phase, a comparison was made between the proportions of youth aged 10–17 years old and those in the general population in the three counties according to the 2000 Census. Census figures show that African Americans comprised 17.4 percent of the youth population, Hispanics were 12.5 percent, and Whites 61.7 percent. The difference between the population and sample figures was statistically significant ( $\chi^2(2) = 37.75, p < .001$ ). Specifically, at intake, the data showed that there was a significantly higher proportion of African American youth in the system than would be expected from their numbers in the general population.

### *Offenses and Delinquency*

The youth's offenses and delinquent acts were grouped into six broad categories. The distribution of these categories were: school, 7.5 percent; theft/burglary, 38.8 percent; assault, 23.1 percent; police and law enforcement, 6.9 percent; drugs and alcohol, 11.3 percent; and other, 12.5 percent. The category "other" included arson, organized crime activities, and any other offense not included in the five categories. For blacks, there was a 6.3 percent chance of being involved in a school-related offense or delinquency, 42.2 percent of theft or burglary, 21.9 percent of assault, 4.7 percent of breaching law enforcement court orders, 6.3 percent of drug or alcohol involvement, and an 18.8 percent chance of being involved in some "other" undesirable act. Among whites, there was a 10.1 percent chance of being involved in a school-related offense or delinquency, 39.2 percent of theft or burglary, 22.8 percent of assault, 8.9 percent of breaching law enforcement court orders, 12.7 percent of drug or alcohol involvement, and a 6.3 percent chance of being involved in some "other" undesirable act. Within the Hispanic group, there was no record of a school-related offense or delinquency. However, there was 23.5 percent chance of theft or burglary, 29.4 percent of assault, 5.9 percent of breaching law enforcement court orders, 23.5 percent of drug or alcohol involvement, and a 17.6 percent chance of being involved in some "other" undesirable act. In the sample, these distributions did not show any significant relationship between the offenses and ethnicity, ( $\chi^2(10) = 11.22, p > .05$ ).

The most severe of the six offense categories (theft/burglary 41 percent and assault 22.2 percent) accounted for 63.2 percent of all offenses committed. Blacks and whites accounted respectively for 47.5 percent and 52.5 percent of arrests for theft/burglary; and 43.8 percent and 56.3 percent for physical/ sexual assaults.

### *Pre-Adjudication Phase*

Of the N=232 youth who went through preadjudication, 52 were detained. Approximately 40.4 percent of the detentions were African American, 48.1 percent were white, and 11.5 percent were Hispanic. These figures are nearly identical to the distribution at intake. Hence, in comparison to the numbers at intake, these detention numbers would be consistent with our expectations, ( $\chi^2(2) = 0.22, p = .90$ ), and one may conclude there is no ethnic overrepresentation at intake. However, when compared to the general population, we once again see that African Americans are over-represented among those detained prior to adjudication, ( $\chi^2(2) = 21.67, p < .05$ ). Perhaps a more accurate view of ethnic bias in detention may be viewed by examining the relationship between detention and race for comparable offenses.

Because of the relatively small number (six) of Hispanics at this stage, they were excluded from

further analysis, and thus reducing the data to a 2 \_ 2 contingency table. For each offense category, Fisher's Exact Test statistic was used to examine the relationship between detention (detained or not detained and race (African American or White). None of the offense categories revealed a significant relationship between detention and race: for school offenses,  $p = 0.67 >.05$ ; theft/burglary,  $p = 0.62 >.05$ ; assault,  $p = 0.12 >.05$ , police and law enforcement,  $p = 0.41 >.05$ ; drugs and alcohol,  $p = 0.59 >.05$ ; and other,  $p = 0.69 >.05$ .

### *Adjudication Phase*

The number of youth arraigned for adjudicatory hearing totaled 93, with 39.78 percent black, 51.61 percent white, and 8.60 percent Hispanic. At this phase, as in the previous others, there is a proportionately higher representation of blacks in the sample than whites or Hispanics, ( $\chi^2 (2) = 38.20, p <.05$ ). A court-appointed attorney represented a large majority of juveniles (80.9 percent), 12.8 percent had no attorney, and 6.4 retained a private attorney. There did not appear to be any racial differences in the availability of attorney representation during adjudication. All African American youth had a court-appointed or private attorney, compared to 75 percent of Hispanics and about 90 percent of whites.

### *Disposition Phase*

The disposition phase involved 185 cases with 41.8 percent black, 45.6 percent white, and 12.6 percent Hispanic. Once again, in comparison to population figures, there is evidence of black over-representation at the disposition phase ( $\chi^2 (2) = 46.82, p <.05$ ). Disposition decisions included probation, detention, commitment to a corrections facility, community service, restitution, dismissal, and driver license suspension.

The disposition resulted in more than half (54.2 percent) of the youth receiving probation, 14.0 percent being placed on community service, 5.2 percent paying restitution, 3.3 percent detained, and 2.6 percent dismissed. Similar disposition figures were revealed within each ethnic group.

### *Relating Disposition to Offending and Delinquency*

Because of the small number of Hispanic youth at the disposition phase, they were excluded from this analysis. In the theft/burglary category, 41.2 percent of the black juveniles were placed on probation compared to 33.3 percent whites; 11.8 percent and 6.7 percent respectively of blacks and whites were detained; 17.6 percent of blacks and 26.7 percent of whites did community service; and 23.5 percent of blacks and 6.7 percent of whites received some other type of disposition. For physical and sexual assault offenses, 44.4 percent of blacks and 14.3 percent of whites were required to perform community service.

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## **Discussion**

The primary purpose of this study was to examine the over-representation of ethnic minority youth in three rural counties in a southwestern state, and to identify the phases of the juvenile justice system where this problem occurred. Several national studies have shown there is a significantly higher number of African Americans in the system than would be expected from their population figures. While the 2000 national census reported that African Americans comprised 17.4 percent of the youth aged 10-17 years in the three counties in the study, they constituted 40.2 percent of the sample, more than twice what would be expected. These disproportionate figures were consistent at the stages of arrest, pre-adjudication, adjudication and disposition.

Some researchers and members of law enforcement have attributed the disproportionality of youths at intake to their greater involvement in delinquency and criminal activity. In this study, 72 percent of the black juveniles who were detained came from a family structure where the mother had sole custody of the children. Thus, coming from a home where the mother has to play the role of both parents may have an impact on the juveniles' behavior, as well as on the

decision to detain.

In this study there was no association between school offenses and detention. Theft and burglary represented the highest rates of all offenses committed, with minorities accounting for approximately 54 percent and whites 46 percent. Blacks were more likely to be detained for problems related to police and the law than their white counterparts, supporting research conducted by Pogue (1998) and Conley (1994). They found that disparity exists at the level of police contact contributing to higher arrest rates for blacks. No one is condoning criminal or juvenile misbehaving for which punishment must be given. However, in order to address the severity of minority over-representation at the disposition phase, a number of factors must be considered (Shepard, 1995).

State laws should incorporate standard guidelines for the processing of youth offenders. Juvenile justice agencies, law enforcement officials and social service agencies should work cooperatively to ensure that the needs, including rehabilitation, of all youths are addressed. For example, they should ensure that all offenders have access to treatment services, deterrence and educational programs (Shepard, 1995). Cultural and sensitivity training for police officers, judges and other officials of the juvenile justice system is necessary in order to promote the understanding of cultural, racial and ethnic differences.

A common factor that has been shown to have a relationship with delinquency is single parenting. Researchers have pointed out that because of the instability of these settings and because the homes may have fewer resources to provide needed support, youths who were adjudicated needed to be confined to a secure facility rather than be sent back to their surroundings (Leiber & Stairs, 1999; Anderson, 1992). Many understand that minority parents have a limited understanding of the system, they experience barriers with respect to parental advocacy. Therefore, the juvenile justice system, in the absence of parental advocates, needs to ensure the proper legal representation of these juveniles. Socioeconomic and educational opportunities, such as higher likelihood of low incomes, few job opportunities, and urban density among minority youths, are also linked with disproportionate minority confinement. This points to the need for local communities to become involved in mustering the resources needed for intervention. Community leaders and schools can institute career development programs and vocational training for high-risk minorities, as well as conflict resolution and anger management. Churches, youth groups, and service organizations can also develop programs specifically geared to minorities to help with a sense of empowerment and social responsibility. By actively engaging them in activities in the real world, the youths can develop a sense of belonging and commitment.

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