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Disproportionate Minority Contact Among Juvenile Offenders: A Plan for Assessment in Cass County, North Dakota

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Abstract

The problem of racial disproportionality in the juvenile justice system has led to much discussion among researchers and policy makers alike. This discussion has generated a critical question: What are the sources of this disproportionality? Many researchers and juvenile justice policy commentators note that police interactions with youth are important to understanding Disproportionate Minority Contact (DMC). This research note details the history of the DMC initiative in the United States and outlines a plan for assessment of the issue in Cass County, North Dakota.

Introduction

“Few issues in the social sciences simultaneously generate controversy and silence as do those that involve race and ethnicity, especially those related to crime” (Piquero, 2008, p. 60). Likewise, juvenile justice practitioners have, for many years, advocated for policies and programs to reduce the harms, such as racial discrimination and a paucity of preventative and therapeutic programming, which the existing system is causing America’s youth. When the issues of race and youth come together, passionate dialogue often results, much which focuses on the origin of racial disproportionality and what can be done to reduce the adverse impact of juvenile justice system policies on minority youth – policies such as disproportionate numbers of minority arrests by police and disproportionate minority confinement in detention and residential correctional facili-

ties. Theoretical discussions have revolved around questions of racial justice practices (differential selection), minority involvement with more serious delinquency (differential involvement), or a combination of both arguments (Piquero, 2008). In considering these theories, it has been proposed that perhaps minority overrepresentation in the juvenile justice system begins with police decisions and how officers handle youth, as the police are the first point of juvenile justice system contact for young offenders. The present paper provides an overview of the United States Federal Government's initiative of Disproportionate Minority Contact (DMC), detailing its goals of developing, assessing, and providing practices to reduce DMC for all minority youth involved in the juvenile justice system. A specific focus on police contact is provided, which is the impetus for an extensive assessment in Cass County, North Dakota. This plan for assessment will be overviewed. The goal of the Cass County, North Dakota project post-assessment is the implementation of policy initiatives that allow for the responsible practice of justice for youth.

Disproportionate Minority Contact

In the United States, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) is the support component of the Department of Justice (DOJ) that provides information and federal funding to local, state and tribal justice agencies to foster the improvement of juvenile justice policy. Broadly speaking, through the provision of this funding, OJJDP disseminates information to the states relating to child service provisions, public protection from juvenile offenders, specific research initiatives and specialized training for justice system officials interacting with youth. Established by the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974, OJJDP was created to provide federal monetary assistance to states and local communities as a comprehensive, long-term initiative to deinstitutionalize and decentralize juvenile justice practices throughout the United States. Important to note is the fact that OJJDP's specific focus during its early years was the development and implementation of community-based, non-

institutional programming for youth for which institutionalization was deemed too harsh of a punishment (Leiber, 2000). The dissemination of funding to state and local jurisdictions for the development of alternatives to secure confinement for juvenile offenders persisted throughout the 1980s. However, in the 1990s, OJJDP embraced a more comprehensive, continuum approach to the study and treatment of juvenile delinquency, stressing prevention, assessment of risk and need, family factors and graduated sanctions for youth. In 2002, the United States Congress reauthorized the JJDP Act, which provided for continued support of OJJDP's initial goals while increasing funding opportunities for communities and states, as well as placing a renewed focus on research, training/technical assistance and the dissemination of information. Presently, OJJDP continues to sponsor research, training and program/policy development relating to contemporary juvenile justice practices. One of the most prominent initiatives of OJJDP is the reduction of DMC.

In the late 1980s, the problem of disproportionate minority confinement (the predecessor to modern DMC) in local juvenile justice systems throughout the United States was brought to national attention by the Coalition for Juvenile Justice. At the time, there existed a substantial body of empirical literature to support racial disproportionality in juvenile justice systems (Pope & Feyerherm, 1990; Pope, Lovell, & Hsia, 2002; Wordes, Bynum, & Corley, 1994). In 1988, an amendment to the Juvenile Justice and Delinquency Prevention (JJDP) Act of 1974 mandated that in order to qualify for OJJDP monies to assist in the development of programming for youth, states must conduct research, develop preventative initiatives, and take specific steps to address disparities in confinement in secure juvenile detention facilities, secure juvenile residential correctional facilities, adult jails, and police lockups. While states were given wide latitude in the selection of means to reduce racial disproportionality, documentation of steps taken to address perceived sources of DMC were to be provided in detail, and state and county-level data analyses were to be performed (Leiber, 2000).

Although the goal of reducing the racial disproportional-ity of young offenders in secure settings saw much empirical and practical attention during the late 1980s and early 1990s, a concern about youth contact and potential discrimination within the juvenile justice system prior to confinement remained. Was it possible that DMC had its origins in earlier stages of the juvenile justice process, such as arrest and court referral? To address this question, the JJDP Act of 2002 modified the DMC requirement of the original amendments as follows: “addressing juvenile delinquency prevention efforts and system improvement efforts designed to reduce, without establishing or requiring numerical standards or quotas, the disproportionate number of juvenile members of minority groups who come into contact with the juvenile justice system.” This change broadened the original DMC initiative from disproportionate minority “confinement” to disproportionate minority “contact” by requiring the examination of possible disproportionate representation of minority youth at all decision points along the juvenile justice system continuum. These decision points and processes include arrest, referral to juvenile court, cases diverted, cases involving secure detention, cases petitioned, cases resulting in probation placement (versus secure confinement), cases resulting in residential commitment, and cases transferred to adult court. The general premise is that racial disproportionality throughout the juvenile justice system is a result of practices that begin with a minority child’s first encounter with the police, as disparity tends to be most pronounced at the stages of arrest and referral to court (Bilchik, 1999; Wordes & Bynum, 1995). Furthermore, these effects may be cumulative in nature, with more minority youth penetrating further into the system than their white counterparts (Pope et al., 2002). Currently, all states that receive federal funding for juvenile justice programming are required by OJJDP to identify sources of DMC, the extent to which DMC exists in communities, and assess reasons why it may exist. Furthermore, as with the focus on disproportionality in confinement in the 1980s, states must develop multiple intervention strategies, including not only juvenile delinquency

prevention efforts, but also juvenile justice system improvement efforts at all decision points to ensure equal treatment of all youth entering the juvenile justice system. Evaluation must be on-going, as evidence of effective practices must be noted, and evidence-based programs must be implemented where long-term sources of DMC are present (Pope et al., 2002). For purposes of the DMC requirement, OJJDP has defined minority populations as African Americans, American Indians/Alaska Natives, Asian Americans, Native Hawaiians/Pacific Islanders, and Hispanics/Latinos.

Existing empirical research indicates that minority youth are more likely to be arrested and subsequently referred to court than white youth (Wordes & Bynum, 1995). However, questions remain about *why* minority youth are arrested at a higher rate than their white counterparts. These questions include but are not limited to the following: (1) Are the police biased in their practices with youth? (2) Do minority youth commit delinquent acts in areas heavily patrolled by the police? (3) Are minority youth involved in more serious delinquent acts than their white counterparts? (4) Do victims report offenses involving racial minorities at a higher frequency than do victims of offenses committed by white youth? All of these questions are important to ask (Poe-Yamagata & Jones, 2000).

Undoubtedly, the cause of disproportionality with youth is unlikely related to just one of the issues brought forth in the questions above. It is more than likely that several, if not all, of these contribute to DMC. However, the existing empirical literature is limited concerning these questions, as data sources are often deemed unreliable, and survey data examining the perceptions of the police and their practice are not yet available on a broad scale (Piquero, 2008). Official police data sources are often considered unreliable by researchers and practitioners for two key reasons. First, much police-juvenile interaction is informal, and records are not kept (Cox, Conrad, & Allen, 2003). Second, localities may have different policies for collecting and storing data, making comparisons within states as well as statewide analyses difficult, if not impossible. Qualita-

tive research conducted by Wordes and Bynum (1995) suggests that family structure (i.e., single parent homes), youth comportment when interacting with a police officer, and complainant/victim wishes and concerns all impact DMC at the arrest stage. While these findings are enlightening, more research, especially studies that are qualitative in nature are needed in jurisdictions throughout the United States. The issues presented by both practitioners and scholars in recent years concerning DMC trends and the need for assessment provide the current momentum to undertake a study of DMC in the Fargo, North Dakota metropolitan area.

The Fargo, North Dakota DMC Initiative

Directly south of the Canadian provinces of Manitoba and Saskatchewan is the state of North Dakota. Fargo is the largest city in the state, and is geographically close to the cities of Moorhead, Minnesota (East) and West Fargo, North Dakota (West). For this reason, the three cities are considered one metropolitan area. However, this study will analyze data from Fargo and West Fargo only, as the study site is Cass County, North Dakota. The county is served by the municipal police departments throughout the county and the Cass County Sheriffs' Office. These law enforcement agencies have overlapping jurisdiction. It is important to note that while state and local jurisdictions in the United States have a separate court system for youth as well as youth-only community and institutional programs, the police work with all citizens – youth and adult.

As of 2009, the population of Cass County, North Dakota was 143, 339. Eighty seven percent of the population was considered urban, as many of the county's residents were concentrated in and around the cities of Fargo and West Fargo. Thirteen percent of the county's population was considered rural. The majority of the residents are White, non-Hispanic (94.4%), and the primary minority population is Native American (1.5%). There was an increase in violent crime in the early 2000s, as 158 violent offenses occurred per 100, 000 residents in 2001, and 294 similar offenses occurred per 100, 000 resi-

dents in 2008. Likewise, property crime decreased, as 3,344 of these offenses per 100,000 residents occurred in 2001, and 3,129 offenses occurred per 100,000 residents in 2008 (City-Data.com, 2010).

Currently, the DMC assessment in Cass County, North Dakota area aims to determine to what extent the decision point of arrest is a source of DMC. Rates of arrest of minority youth relative to rates of arrest of white youth will be examined. The goal is for this quantitative data to be supplemented with survey data and qualitative data from either depth interviews or focus groups, depending on funding availability. These data will be collected from both beat officers who are likely to come in contact with youth and administrators. The perceptions and attitudes that the police have concerning their job, department policy, and youth in the community are imperative to examine. What are these perceptions and attitudes? Several factors may influence police behavior. Do the officers harbor a racial bias? Do neighborhood conditions or lack of resources in certain communities allow for the formation of peer groups that are more likely to come into police contact? Does offender comportment impact the decision-making of a police officer? Are police influenced by more than one of these factors?

Without these data, it would be next to impossible to understand what goes into the decision to arrest youth – minority and white alike – and recommend the next step in practicing effective and responsible justice: police programs and policies to facilitate the reduction of DMC. The central goal of this assessment is to determine the root causes of racial disparities in the juvenile justice system in Cass County, ND through survey data and qualitative research methods. With that, steps towards reducing DMC, and thus injustice, in the juvenile justice system, can begin.

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