



A CAMPAIGN OF THE JUVENILE JUSTICE & DELINQUENCY PREVENTION COALITION

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FACT SHEET: DISPROPORTIONATE MINORITY CONTACT (DMC) AND RACIAL AND ETHNIC DISPARITIES (RED)¹

What is the JJDPa Disproportionate Minority Contact core protection?

Currently, the Juvenile Justice and Delinquency Prevention Act (JJDPa) requires States to “address” disproportionate minority contact (DMC) within the juvenile justice system. Specifically, the law requires States to “address 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.”¹ States can lose a portion of their federal JJDPa funds if they fail to comply with this requirement.

Why are changes needed?

The DMC requirement, a critical component of the JJDPa, is vague. It leaves state and local officials without clear guidance for reducing DMC. Jurisdictions nationwide have spent significant time and money assessing DMC in their systems with limited progress toward eliminating it. Strengthening this part of the JJDPa will help jurisdictions reduce racial and ethnic disparities in their juvenile justice systems rather than just studying the problem.

There are three distinct but related problems that we examine and seek to change when combating racial and ethnic disparities in the juvenile justice system:

- First is the *over-representation* of youth of color in the juvenile justice system. Over-representation occurs when the percentage of youth of color at a decision point is higher than the percentage of youth in the general population.
- Second is the *disparate* treatment of youth of color as compared to white youth. When youth of color are treated more harshly than similarly situated white youth (for example, those charged with the same offenses), they experience disparate treatment.
- Third is the problem of youth of color *unnecessarily entering and moving deeper* into the juvenile justice system. This occurs, for example, when youth of color are arrested for minor school-based infractions that could have been handled without juvenile justice intervention.

¹ Youth advocates encourage use of the term racial and ethnic disparities rather than disproportionate minority contact for a number of reasons. In some parts of the country, people of color are—or will soon be—the majority. For this reason alone, the use of the terms “disproportionality” and “minority” are inappropriate. Moreover, communities of color seek to achieve equity and excellence, not proportionality.

Research consistently indicates that racial and ethnic disparities continue to exist within the juvenile justice system. Youth of color are overrepresented at each point of contact within the juvenile justice system, and often disparities build as youth proceed through the decision system from arrest to transfer to adult court.² Youth of color are treated more harshly than white youth, even when charged with the same category of offense.

In 2010, African American youth made up 17% of all children between the ages of 10 and 17, but were 31% of juvenile arrests, 40% of detentions, 34% of adjudications, and 45% of transfers to adult court.³ A 2007 study found that youth of color represented 28% of youth arrests, 37% of those who were detained, 35% of those who were transferred to criminal court, and 58% of those admitted to state prisons.⁴

According to a 2011 one-day count of detention facilities within the United States⁵ (the most recent national data available), youth of color are significantly overrepresented:

- For every 10,000 White youth in the U.S., 3 were in detention.
- For every 10,000 African American youth in the U.S., 17 were in detention.
- For every 10,000 Native American youth in the U.S., 9 were in detention.
- For every 10,000 Latino youth in the U.S., 7 were in detention.

Despite the fact that states have been charged with the federal mandate to address DMC since 1988, few successes have been documented. This is due, in large part, to the law's lack of guidance, clarity, and accountability. The DMC core requirement of the JJDPDA should be strengthened to provide states with concrete guidance and informed by documented successes.

How should the DMC core protection be strengthened?

The recommended provisions are developed from steps that have demonstrated effectiveness in jurisdictions engaged in targeted racial and ethnic disparities reduction work.

- 1. The work requires a committee exclusively dedicated to overseeing and monitoring state efforts to reduce disparities and offering guidance and support to local jurisdictions in their efforts to reduce disparities.**

State Advisory Groups (SAGs), the governor-appointed entities responsible for administering and managing federal funds allocated in the JJDPDA, have numerous responsibilities and are often stretched thin in order to accomplish them. Some SAGs have DMC or RED subcommittees, but for those that do not, it is uncommon that SAGs can devote the time needed to effectively guide implementation of statewide RED-reduction strategies. All states need a diverse body of individuals committed to RED reduction guiding this focused work. The body should be comprised of both traditional and nontraditional stakeholders, including youth and parents impacted by the juvenile justice system.

- 2. Analysis at each decision point is needed so that targeted policy and programmatic changes can be implemented.**

To ensure that strategies for reducing racial and ethnic disparities are based on evidence rather than perceptions, it is critical that States collect and analyze data at each juvenile justice decision point. The data should be gathered for each locality where work will be done. In a meta-analysis of studies on race and the juvenile justice system, researchers found that almost three-quarters of the studies of DMC showed

unwarranted racial disparity in at least one decision point in the juvenile justice process.⁶ A 2013 study published by the National Academy of Sciences confirms that there is still evidence “that ‘race matters’ above and beyond the characteristics of an offense.”⁷ Analysis of all juvenile justice decision making points sheds light on the entire system and allows jurisdictions to be more strategic in their work.

3. Jurisdictions must implement accurate systems for identifying and recording youth race and ethnicity.

Accurate data on the race and ethnicity of youth involved in the justice system is critical. Data regarding Latino involvement in the juvenile justice system are often inadequate, particularly given the changing demographics of the country. Between 1997 and 2011, the Latino youth population (age 10-17) increased by nearly 66%. Yet, in many parts of the country, there are no accurate data on the number of Latino youth in the juvenile justice system. Instead, Latino youth are counted as “white” or “black,” resulting in significant undercounting of Latino youth.⁸ Some jurisdictions mix their counting of race and ethnicity. In these jurisdictions, Latino youth must choose between reporting their race and their ethnicity because the systems do not have capacity to report both (for example, that a youth is both African American and Latino).⁹ With accurate data, disaggregated by race *and ethnicity*, communities can quantify the full extent of any disparities and plan and coordinate culturally- and linguistically-appropriate services.¹⁰

4. Jurisdictions need to engage in routine data collection and analysis that can guide implementation of meaningful solutions.

In many jurisdictions, the race and ethnicity data currently collected are not used to guide policy and practice changes aimed at reducing racial and ethnic disparities. Nearly all states collect some form of data, including the Relative Rate Index required by the Office of Juvenile Justice and Delinquency Prevention (OJJDP) to identify whether and to what extent racial and ethnic disparities exist within their juvenile justice systems. In a 2008 survey of DMC coordinators, 97% of respondents (N=33) reported that data collection and analysis efforts were underway in their states.¹¹ However, many state officials and juvenile justice stakeholders are concerned that the collection of data is where RED reduction efforts often begin and end. Moreover, many jurisdictions are unclear how to use the data to effect change. The survey also revealed that only 27% of states examine seemingly race-neutral policies and practices that might drive RED.

5. Jurisdictions must implement policy and practice changes designed to address their identified disparities, and monitor progress on an ongoing basis.

Data collection and analysis are critical to understanding the severity of disparities, but the work cannot end there. Jurisdictions must have the political will to change policy and practice, and implement identified solutions. The following are examples of jurisdictions that have achieved measurable reductions in disparities by implementing data-driven strategies guided by collaborative groups of traditional and nontraditional juvenile justice stakeholders.

- ***Ventura County, California*** reduced its detention admissions for probation violations between 2009 and 2012 by creating an Evening Reporting Center (ERC) in partnership with a community-based organization. Use of the ERC and other strategies has helped to decrease overall rates of detention. Detention has declined most substantially for Latino youth.
- ***Pima County, Arizona*** reduced its detention admissions for domestic violence referrals between 2004 and 2011 by 90 percent, which particularly benefited Latino youth. The collaborative analyzed referral and admissions data to identify high numbers of youth of color who were being admitted to detention

inappropriately for misdemeanor domestic violence referrals. Overall admission rates decreased by 65% in this time period for the entire youth population, decreasing by 76% for African American and Native American youth, 65% for Latino youth, and 61% for White youth.

- **Peoria County, Illinois** examined data from school referrals to the police and determined that the county's disparities were aggravated by school discipline policies that had a disparate impact on youth of color. The county successfully reduced disproportionate referrals of youth of color to the juvenile justice system by working with the school system to strengthen school-based conflict resolution protocols.¹²

6. Jurisdictions should be required to publicly report progress on an annual basis.

Ensuring that monies allocated for work to reduce disparities are being used effectively requires transparency. Moreover, jurisdictions are eager to learn about how other counties and states have successfully reduced racial and ethnic disparities. Annual public reporting of progress would help the public to hold systems accountable for their outcomes and to assist practitioners in learning about successes and challenges that can inform their future efforts.

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¹ P.L.93-415

² Hartney, C. and Vuong, L. (2009). *Created Equal: Racial and Ethnic Disparities in the U.S. Criminal Justice System*. National Council on Crime and Delinquency. Oakland.

³ Chui, L. (2014). *After Decades of Spending, Minority Youth Still Overrepresented in the System*. Retrieved August 7, 2014, from <http://jjie.org/after-decades-of-spending-minority-youth-still-overrepresented-in-system/106398/>.

⁴ National Council on Crime and Delinquency. (2007). *And Justice for Some: Differential Treatment of Youth of Color in the Justice System*. Oakland. Available: http://www.nccdrc.org/nccd/pubs/2007jan_justice_for_some.pdf.

⁵ Sickmund, M., Sladky, T.J., Kang, W., and Puzzanhera, C. (2013) "Easy Access to the Census of Juveniles in Residential Placement." Online. Available: <http://www.ojjdp.gov/ojstatbb/ezacjrp/>

⁶ Pope, C.E., Lovell, R., & Hsia, H.M. (2002). *Disproportionate Minority Confinement: A Review of the Research Literature from 1989 through 2001*. OJJDP: Washington, DC.

⁷ National Research Council. (2013). *Reforming Juvenile Justice: A Developmental Approach*. Committee on Assessing Juvenile Justice Reform, Richard J. Bonnie, Robert L. Johnson, Betty M. Chemers, and Julie A. Schuck, Eds. Committee on Law and Justice, Division of Behavioral and Social Sciences and Education. Washington, DC: The National Academies Press, p.3.

⁸ *Id.* at p. 1.

⁹ Villarruel, F. et al., (July 2002) *¿Dónde Está la Justicia? A call to action on behalf of Latino and Latina youth in the U.S. justice system*, p. 42-44. Available: <http://www.buildingblocksforyouth.org/Full%20Report%20English.pdf>.

¹⁰ *Id.*

¹¹ CJJ Survey for ECD, 2008.

¹² Conversation with Laurie Brown, Peoria County Site Coordinator, August 6, 2007.