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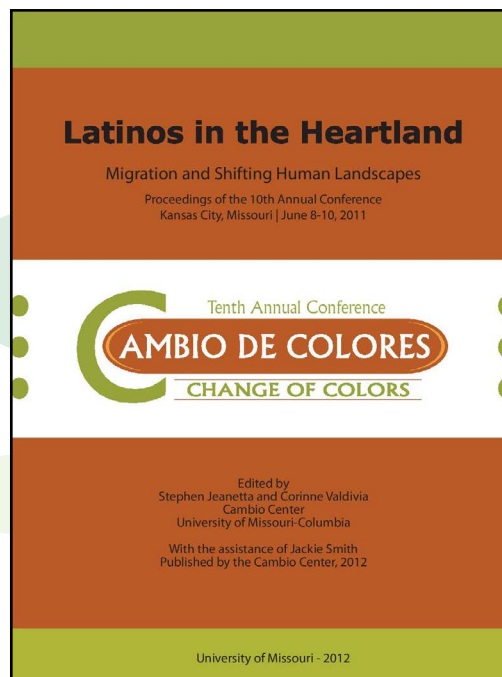
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## Reducing Racial and Ethnic Disparities in the Juvenile Justice System: A Blueprint for Community Engagement and Action

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## ► Reducing Racial and Ethnic Disparities in the Juvenile Justice System: A Blueprint for Community Engagement and Action

*Christine M. Patterson and Anne Dannerbeck Janku, Missouri Office of State Courts Administrator*

### **Abstract**

This presentation will discuss the approach we have taken as part of a statewide initiative to reduce Disproportionate Minority Contact (DMC) in the Missouri Juvenile Justice System. DMC looks at the experiences of minority youth compared to Caucasian youth at all stages of the Juvenile Justice System (referrals, detention, petitions, probation, transfers to adult courts, etc.). African American and Latino youth in Missouri are almost twice as likely to be referred to the juvenile office as Caucasian youth. By working intensively in three counties, we have built community teams to analyze local policies, practices, and procedures that produce these disparities. We will discuss how and why we formed local teams, the data analysis process, and lessons learned through our experiences working with these communities. Finally, we will discuss the solutions proposed by the three communities, the successes those communities have experienced, and the challenges they face in striving to reduce disparities.

### **Purpose**

Nationwide, Latino and African American youth are over-represented in the juvenile justice system at all court contact points, from arrest to confinement (Huizinga, Thornberry, Knight, and Lovegrove, 2007). This over-representation is known as Disproportionate Minority Contact (DMC) and occurs whenever the proportion of minorities in contact with the juvenile justice system is different from their proportion in the general population (Bilchik, 1999). In response to this over-representation, since 1988, the Office of Juvenile Justice and Delinquency Prevention (OJJDP) has required every state to study DMC. The goal of this initiative is to ensure equal and fair treatment of every youth in the juvenile justice system, regardless of race or ethnicity (Coleman, 2010 emphasis added). This paper discusses the approach taken, as part of a Missouri initiative, to reduce DMC in the juvenile justice system.

### *How does one study DMC?:*

DMC analyzes the rates of youth of color compared to Caucasian youth, in all stages of the juvenile justice system. These stages include referrals, detention, petitions, probation, and transfers to adult courts. To establish if there is DMC, the Relative Rate Index (RRI) for each contact point is determined. According to OJJDP (2009), "In its simplest form, the RRI is simply the rate of activity involving minority youth divided by the rate of activity involving majority youth" (p. 1-2). An index of 1.0 indicates that a group of juveniles is present at a rate that would be expected, based on population information at the previous decision point in the system. In other words, 1.0 shows proportionality. Over-representation is denoted by numbers greater than 1.0, while under-representation is denoted by numbers less than 1.0. The RRI analyses are completed for each racial/ethnic group (African Americans, Latinos, Asians, and Native Americans) with a sufficient number of cases. Thus, the RRI analyses indicate whether or not DMC is a potential issue in each county, in which part or parts of the system the potential issue exists, and

which racial and/or ethnic group(s) is/are potentially affected.

#### *DMC Work in Missouri:*

Missouri is not a newcomer to the study of DMC. Jackson County, St. Louis City, and St. Louis County have had programs to reduce DMC since the mid-2000's. Dannerbeck (2006) studied DMC in 22 counties in Missouri. Of the counties in Dannerbeck's original study, all but one had a rate of contact with the juvenile justice system among African-Americans or Latino juveniles that was significantly different from the rate of contact for Caucasians. The current project builds upon this research by working with local communities that are trying to explicitly change their practices to reduce DMC. Understanding the community teams' processes, and assessing their abilities to produce meaningful and lasting change, is essential for improving the lives of youth of color who come in contact with the justice system.

The research questions for this project are: 1) Does over-representation of youth of color still exist in Missouri? If so, at what points in the system and in which counties does it occur, and which racial/ethnic groups are affected?; 2) What local policies contribute to over-representation?; 3) What changes in local policies produce lasting reductions in over-representation?; and 4) How do the efforts to reduce over-representation differ by racial and ethnic groups?

#### **Background and Methodology:**

The current project began in 2009 when the Missouri Department of Public Safety gave three-year grants to the Missouri Juvenile Justice Association and the Office of State Courts Administrator (OSCA) to study DMC in Missouri's juvenile justice system. The research design requires that data for each county in Missouri be analyzed for all contact points in the system. This has been done using U.S. Census data and the OSCA delinquency data in the Justice Information System (JIS) for youth ages 10-16. Since the majority of DMC issues occur at the initial contact point, the referral level, in Missouri, when RRI is discussed below, it denotes referrals unless otherwise noted. County data was also analyzed to identify the source of referral, type of charges, first time referrals, school attended, and age.

#### *The Communities:*

In the first year of the three year project, three counties were selected. One county included a mid-sized city with one of the highest RRI's in the state for African Americans. The second was a suburban county with a relatively large number of African American referrals. The final county included a large town with a high RRI for charges filed for Latinos. In year two, three additional communities were selected based on identification of high RRI's, significant minority populations, and knowledge about local community willingness to work on the issue.

The first task for each county was to develop a DMC team. Because of their association with the courts, the chief juvenile officer for each participating county was the logical choice to provide local leadership. That individual was given a list of the jobs/roles for selecting DMC team members with the goal of establishing monthly meetings. The list included school administrator (superintendents, principals, and counselors), police officers, parent advocates, community members, and church members, among others (OJJDP, 2009). The importance of selecting appropriate counties and DMC team members was crucial, as will be discussed below.

#### *Community Responses/Solutions:*

Before discussing lessons learned, it is important to report on the exciting progress that was made in the beginning stages of implementation of the community responses. In the county with a mid-sized city, change has been promising. The initial RRI was almost 10. Thus, African American youth were almost ten times as likely as Caucasian youth to be referred to the juvenile office. A significant proportion of the youth were referred by the School Resource Officers (SROs). Upon being shown the RRI, the team discussed whether these behaviors rose to the level of criminal behavior or if the school district's zero-tolerance policy resulted in youth being referred for minor behavior issues. One committee member

said, “Our zero-tolerance policy has gone too far.” The school district and police department came to an agreement about what type of behavior should and should not be referred to the juvenile office. As a result, the number of referrals dropped dramatically. More importantly, the RRI dropped to 4.5 in the first quarter of 2011. The next step is to formalize this agreement to ensure lasting change. Although this is a great start and should be celebrated, there is still much work to be done, since this RRI remains unacceptably high.

In the suburban county, structural change seems likely. This county had an RRI of 3.5. The data showed that the two charges with the most disproportionality were run-away and assault cases. Initially, the team decided to focus upon run-aways. The data showed that African Americans were referred multiple times a year. Thus, if these youth received counseling, then perhaps they would not run from home. Consequently, the team developed a new policy for status (non-criminal) offenses in general, and run-away cases, in particular. Prior to the change in policy, for first time status offense referrals, the juvenile office would refer the youth to counseling and close the case. The counseling center would contact the family, but this could take more than a month and there was no follow-up by either the juvenile office or the counseling center to determine if the youth attended counseling.

The new policy is for the juvenile office to immediately send a letter to encourage counseling. The family is also provided with refrigerator magnets with contact information for community resources in an effort to link the family with services. With the run-away cases, the counseling center will call the family within a week to further solicit participation in counseling. The counseling center will also inform the juvenile office of youth that have participated in services. Given that these changes have been formalized and that they will be actively measuring how many youth participate in counseling, this change is likely to be lasting. If this action plan does not reduce disparity in run-away cases, the team is poised to adjust their strategy. This community is now working to address the disparity in assault cases. They are working on several systemic projects including a faith-based mentoring program, a forum to understand the needs of families involved in the system, and transportation to encourage youth to attend the Boys and Girls Club after-school programs. Given their systemic approach to DMC and improving the opportunities for youth in the community, meaningful change seems likely.

In the county with a town, the DMC effort has experienced mixed results. The county was selected to address Latino over-representation that was evident in 2008 when teams were first identified. The local DMC team was energized by the possibility of reducing Latino DMC. They started out as the strongest team, with the most team members attending the initial DMC training. They met frequently, at least initially, to brainstorm ways to help Latino youth. The team discussed ways the juvenile office and police officers could participate in cultural awareness training and do outreach in the Latino community. The team also discussed paying to have Miranda rights and a list of basic phrases translated into Spanish for police officers to address the language barrier. However, within six months, when the 2009 data became available, over-representation of Latinos was not evident, while there was over-representation for African Americans. This shift in focus posed a dilemma for the DMC team. They eventually decided to change the focus from Latinos to African Americans, and the makeup of the team changed. The focus on African American over-representation was also complicated by the fact that the data did not show specific reasons for the disproportionality in referral rates. Consequently, the team decided to implement a mentoring program for at-risk youth. Although mentoring may not specifically reduce DMC, it is likely to have a positive impact on youth.

## **Discussion: Lessons Learned**

### *Selection of Communities:*

The experiences of these community DMC teams provide important lessons for future efforts to address racial/ethnic disparity. The first lesson is the importance of giving careful consideration to the choice of communities. Data drove the selection of the initial communities. The 2008 RRI data analysis demonstrated that 40 out of the 115 counties in Missouri had potential DMC issues. Thirty-eight counties had issues pertaining to African Americans and eight counties had issues related to Latinos at one or

more court contact points. Thus, DMC is still an important issue in Missouri's juvenile justice system, particularly at the referral level. However, RRI analyses does not provide enough information to select counties. One also needs to look at the size of the minority population.

Two priorities structured which three communities were selected. One was the desire to work with communities that had not already received funding to address DMC. Since previous efforts had focused upon urban counties, the decision was made to initially select non-urban counties. In part, this was done to gain experience before scaling up to the large counties. Consequently, the three largest counties in the state were not selected. The second priority was the desire to understand how the policies related to Latino disproportionality were similar to, and different from, the issues related to African American disproportionality. Given that the Latino population is projected to continue to increase, understanding the experiences of Latino youth is crucial. However, the first factor eliminated three of the eight counties with potential Latino DMC issues. When one remaining county with Latino DMC issues declined to participate, the decision was made to select the county that had potential DMC at three contract points but a small Latino population. Ultimately, the size of the Latino community and lack of Latino youth involvement in the justice system was not large enough to retain Latino DMC as the focus for the community efforts. This result will be discussed below.

#### *Selection of Team Members and Willingness to Change:*

Another lesson learned is the importance of asking the right people to be involved with the project and to recognize that the composition of the group may need to change over time. As additional DMC team members were added, their input and perspective had tremendous impact on the range of solutions entertained and eventually implemented. In the county with the mid-sized city, time was initially spent providing an account for why the rate of minority referrals was high, rather than on ways to reduce it. Once the police officer in charge of the SRO joined the team, the discussion changed immediately. The debate about whether or not the over-representation is a problem ceased and the focus moved towards taking action. In the county with a town, once a school social worker joined the team, she became an intermediary between the DMC team and the school district, sharing information between the two. Now, the district is developing a mentoring program. In the suburban county, when one of the middle school principals was invited to join the team, he was very eager to be involved, offered to use school resources to disseminate information about an upcoming forum, and wanted the committee to help with a grant that was intended to help at-risk students. Thus, as more information is ascertained about which practices contribute to DMC and who are key decision makers in the local community, it is important to invite them to join the DMC team.

In addition to having the right people at the table, it is important to understand how relatively new people in positions of authority can create a willingness/capacity for change that may not be available under other circumstances. In the suburban community, the juvenile officer and the middle school principal were new and eager for change. In the mid-sized city, the police officer in charge of the SRO's and the assistant superintendent were relatively new. In each of these cases, the people were open to analyzing practices and changing the way things had been done. In many ways, they did not have a history of establishing the current practices. Thus, acknowledging that current practices had a disproportionate impact on minority youth was easier for them to accept than someone entrenched in these practices.

#### *Importance of Data:*

Another lesson learned is the importance of using data to guide decisions and repeatedly explaining it. Analyzing RRI's is a good first step, because all DMC team members must agree that a problem exists. Six months into the project, a team member said that there was no disproportionality, because the percentage of minority referrals was the same as the percentage of minorities in the state. This assertion was challenged by showing that the community had a significantly smaller minority population than the state. In response, the DMC Coordinator started each subsequent meeting by explaining the RRI and the degree of over-representation in an effort to make sure everyone had a common understanding. In the county



with a mid-sized city, the RRI was explained and DMC team members provided justifications for why the over-representation existed. It was not until the county data was compared to the statewide data and the team was told that they had one of the highest RRIs in the state that the DMC team members openly acknowledged that there was a problem.

Although the RRI is a good first step, it does not explain why over-representation is happening. More analysis was necessary to understand who serves as the gateway to the judicial system by referring youth and for what specific charges they are referred. In all three counties, the source of referral was the municipal police (75-90%). More precision in terms of the data collected is necessary to understand disparity in referrals. Thus, early research shows that targeted efforts to address DMC can reduce the over-representation of youth of color in the justice system. Much work still needs to be done on how and why change is possible.

#### *Conclusion and Implications for Further Research:*

In conclusion, although DMC continues to be an important issue in Missouri's juvenile justice system for African American and Latino youth, some progress has been made to reduce the disparity. This paper has discussed efforts to reduce DMC, the lessons learned in the first year of a three year project, and the challenges yet to be overcome. Preliminary results show promise in two of the three counties. However, much work still needs to be done to ensure that all youth, regardless of race/ethnicity, receive equal and fair treatment in the justice system.

Given that DMC continues to be an important issue for youth in Missouri, a call-to-action and research is warranted. Data collection needs to improve. For example, the choices available in the JIS database do not differentiate between police officer, SRO, and school personnel. Being able to identify the gatekeepers into the juvenile justice system is critical. Consequently, one county is changing its data entry practices, and changes to the JIS database are under consideration. More accurate/precise data will enable us to analyze the practices of particular groups and to discuss the consequences of their actions in meaningful ways. This will enable researchers to understand the role that schools play, in what Wald and Losen (2002) call the "school to prison" pipeline, or the policies and practices that push our nation's schoolchildren, especially our most at-risk children, out of classrooms and into the juvenile justice systems.

More analysis is needed to locate Latino youth involved with the system and to understand their experiences. The 2009 data shows that only five counties had over-representation involving Latino youth. We need to be open to the possibility that county level analysis may not be appropriate when studying Latino DMC. Latino DMC may be qualitatively different from African American DMC. Next year, we will be in a better position to understand how the Latino DMC issues are similar to and/or different from African American DMC issues, when the DMC initiative expands to communities with larger populations of color. Anecdotal evidence from this project does suggest that some barriers to reducing Latino DMC issues may be perceived as being less intractable than issues relating to African American DMC issues. There was certainly more enthusiasm from some team members when the focus was on Latino issues. How and why this may, or may not, be the case is important to understand.

Although over-representation is central to Latino DMC, the under-representation of Latinos in the system is also an issue that needs further research. In the 2009 data, Latinos were under-represented in 11 of the 44 counties. This under-representation may be a by-product of the fact that the JIS database conflates ethnicity and race. Separate questions for ethnicity and race are being added to provide a more accurate picture of Latino youths' involvement with the system. It is possible that the under-representation of Latino youth is positive and that bringing more attention to the actions of Latino youth may encourage unwanted surveillance. It is also possible that this under-representation of Latino youth is obscuring our ability to understand the injustices they face.

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## ► Immigration Enforcement in America's Heartland

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### Abstract

America's Heartland is now home to surging immigrant populations that buoy state and local communities. Rather than explore how to integrate foreign-born newcomers, state and local leaders (e.g., legislators, law enforcement agencies) accelerated immigration enforcement experiments after the collapse of comprehensive immigration reform during 2006-2007. Immigration control advocates in the Heartland have joined or led efforts to repel unauthorized immigrants. Efforts include restrictive laws and increased arrests and deportations. This paper discusses how restrictive policies and programs foster a culture of fear in immigrant communities, even as they fail resolutely, to achieve their central goal of reducing the number of immigrants, including the unauthorized, in new communities.

### Restrictive Immigration Experiments in the Heartland

Uncertain about whether and how to integrate foreign-born newcomers, state and local leaders accelerated immigration enforcement experiments after the collapse of comprehensive immigration reform during 2006-2007. State legislators debated and enacted immigration-related laws at a rapid pace. Legislative activity across Heartland states follows national trends, with a spike in immigration-related laws in 2007 and sustained passage of new laws since then. Although state legislatures have approved immigrant integration measures as well as restrictive policies, the latter receive the lion's share of public attention and scrutiny. Figure 1 represents a tally of restrictive laws passed in the Heartland between 2005 and 2010.

Individual laws cover at least one among a diverse range of topics intended to repel unauthorized immigrants, such as: 1) employment verification requirements; 2) licensure and identification; 3) public program eligibility; 4) state and local law enforcement of immigration violations; 5) admission, resident tuition rates, and financial aid for higher education; and 6) English language requirements for public agencies. The restrictive measures include laws with single as well as multiple provisions, including 'omnibus' laws that cover a range of topics. This paper includes laws with largely symbolic provisions that prove redundant with existing practice and/or federal law.

Heartland states have not uniformly passed restrictive immigration-related laws. A subset of states including Arkansas, Kansas, and Missouri, consistently passed restrictive laws. In addition, Nebraska passed six restrictive measures in 2010, more than any other Heartland state in a single year. Figure 2 identifies the number of restrictive laws passed in each state since 2005. Figure 2 captures a tally of individual laws rather than the relative importance or reach of specific laws. Of course, a given law does not necessarily carry the same policy-relevant weight as the next. Some laws receive limited attention while others make headlines. Some address narrow concerns for a specific issue and others attempt to cover more ground. Moreover, state entities implement each law in a shifting policy context, time, and place. Oklahoma's House Bill 1804 (HB 1804 passed in 2007) represents the most comprehensive existing immigration law in the Heartland. Its provisions encompass and predate most of the restrictive legislative activity enacted in other Heartland states and elsewhere in the country.