

## Devastating Report on Racial Disparities in Juvenile Justice

In April, Building Blocks for Youth<sup>1</sup> released a report documenting in shocking detail the vast racial disparities that exist within the juvenile justice system. The report, entitled *And Justice for Some*, looks at critical decision-making points within the system, and shows that, at each stage, white youth experience more favorable outcomes than youth of color. The problem of “disproportionate minority confinement” has long been recognized — so widely recognized, in fact, that it has acquired its own alphabet soup designation: DMC. In fact, the 1992 amendments to the Juvenile Justice and Delinquency Prevention Act<sup>2</sup> made continuing funding for states under the Act contingent on their “addressing” DMC. While largely a toothless threat, the requirement did at least serve to label the issue as one of significant concern. Some have argued unabashedly that the reason youth of color are disproportionately caught up in the

<sup>1</sup> Building Blocks for Youth describes itself as “an alliance of children’s advocates, researchers, law enforcement professionals and community organizers that seeks to protect minority youth in the justice system and promote rational and effective justice policies.” Organizations involved include the Youth Law Center, the Juvenile Law Center, the National Council on Crime and Delinquency, and the ABA Juvenile Justice Center. The full report can be downloaded from the Building Blocks web site: [www.buildingblocksforyouth.org](http://www.buildingblocksforyouth.org).

<sup>2</sup> 42 U.S.C. 5601 et seq.

juvenile justice system is that they commit more serious and/or more frequent offenses than white youth. *And Justice for Some* clearly shows, however, that youth of color are treated more harshly than white youth, even when their offenses and prior records are the same.

The term “disproportionate minority confinement” means that youth of color are found at the various stages of the juvenile justice system in percentages greater than their percentage in the general population. Unfortunately, data are to a large extent missing with regard to Latino youth, who tend not to have their own statistical category, although they are unquestionably victims of the DMC phenomenon. “Hispanic” or “Latino” is often perceived to refer to ethnicity, not race. While some Latino youth may be categorized as “black,” more often they will be counted as “white,” and, as a result, the racial disparities are in all likelihood even greater than suggested by the “black-white” formulation the Building Blocks report was forced to use.

*And Justice for Some* examined the DMC issue by examining a common set of critical decision points that exist in all states as they process juvenile law violators: arrest, intake, detention, adjudication, and disposition. The study found that, while the disparity is most pro-



nounced at the early stages of processing through the system, since overrepresentation of youth of color is present at every stage it becomes more concentrated as youth move through the system. It referred to this phenomenon as "cumulative disadvantage."

The Building Blocks study also noted that much of the previous work on DMC had focused exclusively on the juvenile justice system. With the numbers of juveniles being prosecuted as adults skyrocketing, however, it is important to look at the disparities in this arena as well. The numbers at this "final stage" are even more out of line. While youth of color are detained at a rate approximately three times their proportion in the population, for example, they are admitted to state prisons at a rate nearly four times their percentage of the population.

What follows is a synopsis of the report's findings for each stage of the juvenile justice process:

### *Arrest*

A youth's first contact with the system typically will be through the person of a police officer, who possesses a tremendous amount of discretion in how to deal with the youth. Depending on the circumstances, the nature of the interaction, and the officer's inclination, possible responses range from a simple warning, to arrest and detention, to transfer to adult court. In 1997 about two-thirds of all juvenile arrests were referred on to juvenile court. Despite the public perception that violent juvenile crime is out of control, typically only a tiny percentage of these arrests (5% in 1998) are for Violent Crime Index offenses, which include murder, rape, robbery, and aggravated assault. Seventy-one percent of juvenile arrests were of white youth, although youth of color were dramatically overrepresented in the Violent Crime Index categories. White youth, in contrast, were overrepresented in the "non-index" categories, particularly those having to do with alcohol (driving under the influence, liquor law violations, and drunkenness), forgery and counterfeiting, vandalism, and "offenses against the family and child." It is unclear whether the overrepresentation of youth of color in violent crime arrests is the result of differential police practices (such as targeting patrols in certain neighborhoods), location of offenses (e.g., youth of color being more likely than white youth to engage in illegal activity "on the streets"), different behavior by youth of color (e.g., committing more crimes), different reactions on the part of victims, or racial bias.

### *Juvenile Court Processing*

Once a case is referred to juvenile court, another set of options arises. The case may be dismissed, handled informally, or referred to a judge for formal proceedings and, in some cases, waived to criminal court for prosecution as an adult. Moreover, a decision must be made as to whether a youth will be detained or released pending this processing. As at the arrest stage, youth of color experience more punitive outcomes. The disparities at the various decision points are as follows:

**Referrals:** in 1997, of the slightly more than 1,750,000 delinquency cases referred to juvenile courts, 66% involved white youth and 31% involved African American youth, although the latter group was only 15% of the population.

**Detention:** although white youth were 66% of those referred, they were only 53% of those detained. The 31% of African American youth who were referred comprised 44% of those detained. This pattern of disproportion was most dramatic with regard to drug offense cases. There, African American youth were 32% of those referred but 55% of those detained. There was a substantial racial disparity, however, in every offense category.

**Petitioning:** nearly one million delinquency cases, or 57% of all referrals, were formally processed by the filing of a petition in the juvenile court. The disparity here was less severe, although African American youth were still at a disadvantage (31% of referrals and 34% of petitioned cases). Again, the most dramatic difference was in drug offenses. White youth were 66% of referred drug cases but only 59% of petitioned cases, while the figures for African American youth were 32% and 39% respectively.

Looked at through another lens, of the African American youth who were referred to juvenile court, 62% were formally processed, compared with 54% of white youths. The disparities in drug cases followed the pattern: 78% of drug offense cases involving African American youth were formally processed, compared with 56% of drug cases involving white youth.

**Waiver:** approximately 8,400 petitioned delinquency cases were waived from juvenile to adult court in 1997, representing about 1% of all petitioned cases. White youth were less likely to be waived to adult court; although they constituted 63% of the petitioned cases among those referred, they were only 50% of the waived cases. African American youth, in contrast, were 34% of the petitioned cases but 46% of the waived cases. This pattern existed in all offense categories but was especially striking in drug cases. There, white youth were 59% of cases petitioned but only 35% of cases waived to adult court, while comparable percentages for African American youth were almost precisely reversed: they constituted 39% of drug cases petitioned but 63% of cases waived to adult court.

Looking from another angle, the likelihood of waiver to adult court among delinquency cases overall was significantly greater for African American youth (1.2% of delinquency petitions were waived) than for white youth (.7% waived). Youth of color were much more likely than white youth to be sent to adult court, even when charged with similar offenses. For example, .7% of white youth charged with drug offenses were waived, while 1.8% of African American youth charged with drug offenses were waived.

### *Disposition*

When youth are adjudicated delinquent, probation is the milder disposition and out-of-home placement is the harsher form; within the out-of-home placement category, private facilities are often regarded as less restrictive and thus less harsh, while public facilities are typically locked correctional institutions. African American youth were more concentrated at each point along this "harshness spectrum."

White youth were slightly overrepresented among those receiving probation and underrepresented in out-of-home placements. They were 64% of adjudicated delinquents but 66% of those receiving probation and 60% in out-of-home placements. African American youth were 32% of adjudicated cases, 31% of those receiving probation, and 36% of those assigned to out-of-home placements. Again, the disparities were more pronounced in drug cases.

With regard to type of placement, youth of color were a greater proportion of those in public facilities (66%) than in private facilities (54%). Among Latinos, the proportion committed to public facilities (21%) was almost double the proportion committed to private facilities (11%). These racial disparities occurred even when previous records were similar. According to the report, "admission rates to state public facilities were much higher for African American youth and Latino youth with no prior admissions than for comparable White youth. This was also true for youth with one and two prior admissions, in all offense categories." The admission rate to public facilities for youth with no prior record was 59 per 100,000 for whites, 166 for Latinos, and 373 for blacks. Among



Marilyn Nolt

youth with one to two prior admissions, the rates were 14 for whites, 28 for Latinos, and 96 for blacks, again per 100,000. Differences in length of stay once youth are in residential placements show similar racial disparities.

An alternative angle on racial disparities in delinquency dispositions is to compare rates of incarceration with the overall population for each group. On October 29, 1997, 204 white youth were in residential placements for every 100,000 white youth in the U.S., compared with 1,018 black youth, 515 Latino youth, and 203 Asian youth per 100,000 population.

#### *Adult Prison*

The far end of the punishment spectrum for youth is incarceration in adult prison. In 1997, 7,400 youth under 18 were admitted to state prisons. One-fourth of these minors were white, 58% were black, 15% were Latino, and 2% were "other."

#### **Conclusion**

The Building Blocks report concludes by setting out, with stark brevity, figures demonstrating the increasing spiral of racial concentration as youth move through the juvenile/criminal justice system. African American youth are:

- 15% of youth under 18
- 26% of juvenile arrests
- 31% of referrals to juvenile court
- 44% of those in detention (pre-adjudication)
- 34% of youth formally processed by the juvenile court
- 32% of youth adjudicated delinquent
- 46% of youth waived to criminal court
- 40% of youth in residential placement
- 58% of youth admitted to adult prison.

At nearly every stage, the disparities are most prevalent where they fit stereotypes that may have demonstrably little to do with reality. Youth of color are treated especially harshly in connection with drug cases compared to white youth, for example, even though evidence suggests white youth are substantially more likely to be involved with drugs.

Although the problem of "disproportionate minority confinement" has been known for a long time, seldom has such a strong case been made that there is no basis for it other than racism inherent in the way the juvenile/criminal justice system does business. It remains to be seen whether such a powerful case will be sufficient to make anything change.