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The Factors Affecting Racial Disparities in the Juvenile Justice System

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THE FACTORS AFFECTING RACIAL DISPARITIES IN THE JUVENILE JUSTICE SYSTEM

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Introduction

It has been estimated that more than 250,000 juveniles are processed through the criminal justice system each year in the United States (National Juvenile Justice Network, 2022). This has effects not only for the juveniles processed through the system, but for society as a whole. As of 2020, the average yearly cost to incarcerate one youth offender across all states was over \$200,000, or nearly \$600 per day (Justice Policy Institute, 2022). Moreover, in 2019, of the youth who were detained or incarcerated that year, 57% had committed non-violent crimes and were not a threat to themselves or to others; nonetheless, they were detained as opposed to being released to their homes. This leads to the question of why youth generally, or specific groups of youth in particular, are being incarcerated in the juvenile justice system when their behaviors are non-threatening and their incarceration hurts society economically.

Within the criminal justice system as a whole, minority groups are overrepresented. This overrepresentation is seen and studied at the juvenile level, just as it is at the adult level. As of 2019, black youth, Native American youth, and Hispanic youth had higher likelihoods of pretrial confinement as compared to white youth. Studies showed that the likelihood that white youth offenders would be confined was 72 in 100,000, while the likelihood that black youth offenders would be confined was 315 in 100,000 (Annie E. Casey Foundation, 2021). Why these disparities may exist can be a result of both systemic and institutional racism, as well as personal biases of the people who work within the system. Regarding systemic racism, this is likely to include co-occurring factors that people of color are more likely to experience that increase their chances of being involved in the criminal justice system. These factors may include higher rates of poverty, single-parenthood, and living in socially disorganized neighborhoods (Siegel and Worrall, 2019). In terms of institutional racism, research likewise finds that, “the American penal

system has emerged as a system of social control unparalleled in world history. And while the size of the system alone might suggest that it would touch the lives of most Americans, the primary targets of its control can be defined primarily by race” (Alexander, 2010). In other words, even though people of color have life experiences that are more likely to expose them to the criminal justice system, institutional racism would argue that there likewise exists discriminatory practices that make people like police, probation officers and judges more likely to target people of color in the criminal justice system. The most common example of this would be racial profiling. Finally, systemic and institutional racism may be further compounded by the biases of individuals who work in the system. Prior research has shown that even when an individual does not want to discriminate against certain groups of people, that both unconscious and conscious biases may nonetheless lead to discriminatory behaviors. For instance, Alexander (2010) notes that because of the racially charged political rhetoric and media imagery associated with the drug war, not only the general public but also people within the criminal justice system oftentimes associate perpetrators of certain crimes to be people of color, as opposed to white. “In fact, studies indicate that people become increasingly harsh when an alleged criminal is darker and more ‘stereotypically black’; and they are more lenient when the accused is lighter and more stereotypically white. This is true of jurors as well as law enforcement officers” (Alexander, 2010).

In addition to research showing general racial disparities in confinement, research also finds those who are detained during pre-adjudication processes also receive more severe treatment in subsequent steps of the criminal justice system than those who are released to their homes. Consequently, minority youths are also more likely to receive severe treatment during their criminal trial process than their similarly situated white counterparts in the form of

sentences that prioritize incapacitation over treatment and that provide lengthier terms of incarceration (Rodriguez, 2010). In a study published in 2010, it was shown that disparities between minority offenders and white offenders exist across all levels of the juvenile justice process, but that black youth “received severe (diversion, detention, and out-of-home placement) and lenient treatment at different stages of processing while Latinos/as and American Indians only received more severe treatment across certain court outcomes” (Rodriguez, 2010). Similarly, while black youth are most likely to be confined in correctional facilities for their juvenile offenses, white youth are more likely to be sent to psychiatric facilities for treatment (Robles-Ramamurthy & Watson, 2019).

Even if juvenile offenders spend only a short amount of time in correctional facilities, the effects of what they endure in that time can be long-lasting. After as little as three weeks in confinement, juvenile detainees experience decreases in their quality of life, the effects of which can last long after their confinement period is over (De Ruigh et al., 2019). It has been found that juvenile incarceration leads to an increase in the likelihood of adult imprisonment, drug and alcohol problems, and welfare dependency (Gilman, Hill, & Hawkins, 2015). Given that minority groups are more likely to be confined when compared to white youth, minorities are also more likely than white youth to suffer the long-term effects of even short-term confinement. As a result, the racial disparities in the juvenile criminal justice system predispose minority youth offenders to having a decreased quality of life compared to white youth offenders.

The problem of racial injustice exists across all levels of the juvenile criminal justice system, from original arrest to sentencing hearings. This issue not only shows bias within the juvenile justice system, but ultimately leads to reduced quality of life between white individuals and people of color throughout the entire life course. The neglect of the best interests of minority

youth is a problem running rampant in the United States juvenile justice system. In order to address this problem, the factors influencing why racial disparities exist within the juvenile justice system must be known, so that they can eventually be diminished. This thesis will first evaluate prior research on the factors influencing such racial disparities. Once previously discovered factors have been identified and discussed, additional research will be conducted to examine what attempts are currently being made in jurisdictions throughout the country to reduce the influence of these factors in how youth of color are processed through the juvenile justice system, and whether such attempts have proven successful thus far. Finally, this thesis will analyze additional proposals put forward by juvenile justice scholars, not yet enacted, to discuss both their potential merits and deficiencies if they were to be enacted in jurisdictions throughout the country moving forward.

Literature Review

Evidence of racial disparities in the juvenile justice system

Racial disparities have persisted throughout the United States criminal justice system for as long as the system has been in place. The juvenile system does not escape these injustices, which has been evidenced through many previous studies. As of the 1980s, “black youth [made] up approximately 12-17% of the country’s youth population,” they also “[accounted] for more than 50% of the nation’s property crime arrests and [represented] more than 1/3 of all juvenile offenses involving violence” (Fagan, Slaughter, Hartstone & 1987). This disproportionality was common then and is still common today. In 2010, a similar review was conducted by The Sentencing Project. It showed that African American youth made up 17% of the total general population; however, they accounted for 31% of all arrests throughout the country (Rovner, 2014). Even more recently, in 2018, out of the 750,000 juvenile court cases that were processed,

35% dealt with black youth, while black youth only accounted for 15% of the total youth population (Abrams, Mizel, & Barnert, 2021).

Another example of racial disparities within the juvenile justice system involves the fact that “black youth [are] more likely to be sent to correctional facilities compared with white youth, who [are] more likely to be sent to psychiatric hospitals” (Robles-Ramamurthy & Watson, 2019). This is an important distinction as psychiatric facilities are known to provide more treatment-based care to those admitted. Meanwhile, correctional facilities are meant to detain youth offenders and tend to be more punitive and less rehabilitative in nature. Prior research has also found that minority youth are detained in correctional facilities during the earlier steps of the judicial process, while white youth are more likely to be released to the care of their guardians. This is another important disparity as youth offenders who are “detained are more likely to receive more severe treatment during the adjudication and disposition stages than youth not detained” (Rodriguez, 2010). In other words, youth who are detained pretrial are at increased risk for not only being found guilty of the charges against them, but also to receive a harsher punishment when convicted. Given that minority youth are more likely to be detained overall, both during earlier and later steps in the court process, these minority youth offenders are also more likely to suffer severe treatment at the hands of those monitoring the facilities in which they have been detained.

The issue of racial disparities within the juvenile legal system is not just an issue recognized by criminal justice researchers and academic scholars either; rather, the federal government has recognized racial injustice within the juvenile justice system as an ongoing issue as well. The Juvenile Justice and Delinquency Prevention Act, or JJDP Act, was originally put into place by Congress in 1974 and underwent several amendments and reauthorizations in the

decades since, the most recent occurring in 2002. One of the primary provisions of the act required that states and local government agencies assess “disproportionate minority ‘contact’...within the juvenile justice system” (Robles-Ramamurthy & Watson, 2019); in other words, the idea that youth of color are disproportionately present within the system generally and placed in detention, opposed to treatment, facilities specifically. The enactment of the JJDP Act also resulted in the establishment of the Office of Juvenile Justice and Delinquency Prevention, or OJJDP, which now monitors how state and local agencies comply with the assessment of the disparities within the juvenile justice system. Yet, several decades after the passage of the JJDP Act, racial disparities within the system still exist (OJJDP, 2018). Accordingly, in order to ensure states and local municipalities were taking seriously the issue of disproportionate minority contact (DMC) within their jurisdictions, the JJDP Act was not only reauthorized but also substantially amended under a new name in December 2018, the Juvenile Justice Reform Act of 2018. In this reformed version of the Act, many issues related to the juvenile justice system are addressed; however, key among them is the idea of increased accountability for states who cannot illustrate objective and identifiable efforts to reduce DMC through the withholding of federal financial support for the criminal justice agencies within their state. Overall, then, the establishment of the JJDP Act, its more newly revised version through the JJR Act of 2018, and the OJJDP shows that the federal government is aware of the problem of racial injustice within the juvenile justice system and is seeking a solution. However, finding a solution requires understanding the root causes of the problem; and while prior research has well-established the existence of racial disparities within the juvenile justice system, what is less known and understood are the causes of these disparities.

Racial disparities in intake and pretrial decisions

The first step in the juvenile justice system after a youth has been arrested by authorities is the intake decision. It is at this point within the juvenile justice system that youth offenders are screened to determine whether they will be released or detained pretrial. A 2010 study conducted by Nancy Rodriguez evaluated 23,156 juvenile offenders in Arizona to determine how race and ethnicity influenced various steps throughout the juvenile justice system. The results of this study showed that, specifically in the pretrial steps, black, Latino, and American Indian youth were more likely than white offenders to be detained during the pretrial process, as opposed to being released to their homes. Rodriguez concluded that one possible reason for this disparity could be the instruments used when making detention determinations. Assessment of such instruments, according to Rodriguez, could lead to the beginning of addressing the racial disparities within the juvenile justice system. Such findings are also consistent with other studies that have been conducted on racial differences within juvenile and adult criminal justice systems, including one that evaluated 8,289 juveniles in the juvenile justice system across 65 counties in an unidentified northwestern state (Armstrong & Rodriguez, 2005). This study also found clear racial disparities in pretrial decisions. However, the results also showed that the harsher treatment of minority juveniles has a direct correlation to the racial composition of the county. In particular, the authors found that counties with a higher percentage of racial-ethnic minorities were more likely to detain juvenile offenders pretrial. Finally, in a 2003 study, Demuth evaluated racial and ethnic disparities and their effects on pretrial decision making within the adult criminal justice system. He found that both black and Hispanic defendants were more likely to be detained pretrial than white defendants, and that racial disparities in pretrial detention were largest among those charged with drug offenses. The results of this study are thus consistent with the results of the

two studies conducted at the juvenile level, showing that racial disparities at pretrial stages are prevalent in both the juvenile and adult criminal justice systems.

In deciding whether a juvenile will be detained pretrial, a juvenile probation officer or prosecutor will also give their advice in a written report to the juvenile court judge as to whether the juvenile's case should be processed through the formal courts or whether the juvenile would be a good candidate to have their case diverted from the formal court process and be given a variety of treatment options instead. Given that such advice is considered by the judge when determining the outcome of a juvenile's case, the probation officer's or prosecutor's description of the juvenile is relevant; and research has found that these descriptions may be influenced by race. For example, one such study found that when youth possessed negative personality traits or behavioral characteristics, probation officers were more likely to attribute the causes of these characteristics to external factors, such as the youth's family environment, among white offenders. However, among black youth offenders, negative traits were attributed to internal factors, such as having a poor attitude and personal disposition (Bridges & Steen, 1998). In turn, negative reports attributed to the inherent personality of the offender can lead to the decision of a judge to detain the youth pending trial, as these youth are considered to be more personally responsible for their actions than youth who violate the law because of external factors beyond their control. It has also been established that those who are detained before their trial as opposed to being released to their homes are at a greater risk of receiving harsher sentences, assuming their case reaches the sentencing point (DeJong & Jackson, 1998). Given this fact, and the fact that minority youth are at an increased risk of being detained, by default minority youth are also at an increased risk of receiving harsher sentences if their cases reach the point of sentencing and they are convicted on the charges against them.

Courtroom characteristics

While juvenile offenders exist in all geographical areas, there is some evidence that the geographical location of the courtroom may impact how juvenile cases are processed. More specifically, it is a well-known fact among criminologists that crime rates in general are higher in urban areas than in suburban and rural areas (Glaeser & Sacerdote, 1999). It has also been well established that minority youths are more likely to live in urban areas (DeJong & Jackson, 1998). When it comes to case processing then, it has been found that while black and Hispanic youths are more likely than white youths to be placed into a secure facility, such as a jail or prison, across the board, this disparity is most significant in urban areas (DeJong & Jackson, 1998). More recent data has produced similar results, as evidenced by a 2021 study conducted on 60,000 juveniles across 66 counties in an unspecified state. The results of this study showed that detention rates in general were higher in urban areas; and that while black and Hispanic youth had greater odds of being detained than white youth in all geographic areas, these disparities were greatest in urban courts (Pupo & Zane, 2021). Given these statistics, a conclusion can be drawn that at least some of the racial disparity that exists in sentencing within the juvenile justice system may be an artifact of the geographical location in which the youth and the courtroom their case is processed through are located.

Another important courtroom factor that may help to partially explain racial disparities in juvenile sentencing is the potential for in-group bias to exist. In-group bias is the tendency for people to be biased in favor of those who are members of the same group(s) to which they belong, where group membership may be determined along race, sex, social class, political, or religious lines, among others. In trying to determine the factors that may produce racial disparities in juvenile sentencing, in-group bias along the lines of race is particularly important to

consider. As one example, a 2021 study utilized virtual reality technology to present real courtroom footage to 153 students and 36 attorneys, who were asked to suggest whether each defendant should be convicted or acquitted, and to determine the sentence or fine that should be received if convicted. The only difference within each case was the race of the defendant. The results of this study found that white evaluators were 11% less likely to convict white offenders, where white evaluators convicted and sentenced minority offenders 78% of the time, as opposed to 68% of the time for white offenders (Bielen, Marneffe, & Mocan 2021).

Conversely, a study conducted by Depew and colleagues (2017) on juvenile cases processed in the state of Louisiana between 1996 and 2012 found that when youth offenders and the judges presiding over their case were of the same race, they were actually 20% more likely to be placed into custody, opposed to being placed on probation, and were also likely to receive lengthier sentences. Importantly, while on the surface these findings seem to counter the notion of in-group bias influencing juvenile court dispositions, the authors concluded that their findings may be understood as aligning with the notion of in-group bias if we consider the race of the victims rather than the race of the juvenile offenders. More specifically, the authors note that perpetrators of crime often target victims who are similar to themselves, including often having the same racial identity, which means that the judges are also members of the same race group as the victim. Thus, judges did not treat minority offenders more harshly because of their in-group bias toward the offender, but instead because of their in group-bias toward the victim. Therefore, the authors concluded that minority groups may be treated more harshly and given longer sentences when their crimes involve victims that are members of the same group as the judge presiding over their case (Depew, Ozkan, & Mocan, 2017). Finally, and related, there is some evidence to suggest that racial disparities in sentencing are mitigated in jurisdictions where more

people of color are employed within the criminal justice system. While this study analyzed sentences among adult felony offenders, findings from over 50,000 case dispositions across 40 of the most populous counties in the United States found that racial disparities in sentencing between black and white offenders specifically were attenuated as the number of black attorneys in the county increased (King, Johnson, & McGeever, 2010). As such, the racial composition of the geographical location in which a juvenile's case is processed and the racial-ethnic identity of those working within the juvenile justice system who may play a role in the juvenile's intake, pretrial, trial and sentencing decisions are important factors to consider when assessing the potential causes for racial disparities in juvenile offenders' sentences.

Offense type

Another factor that may affect racial disparities in the juvenile justice system is the offense type that youth are being charged with. Prior research within the adult criminal justice system has found that racial disparities in pretrial detention decisions are larger for certain offense types than others, where minority defendants are especially likely to receive less favorable outcomes when charged with drug offenses. For instance, through an examination of over 33,000 felony cases in 75 of the most populous counties throughout the United States, Demuth (2003) found that Hispanic defendants were more likely than both black and white defendants to be denied release pretrial and be given higher bail amounts where release was allowed; and that these disparities were greatest among defendants charged with felony drug offenses, compared to those charged with either property or violent crimes. Similarly, in a study of over 15,000 case dispositions from 1990-2002, Schlesinger (2007) found that, among adult drug offenders, black and Latino men were less likely to be granted a non-financial release option pretrial, were more likely to be denied bail, were given higher bail amounts where bail

was granted, and were more likely to be adjudicated as felons than white men with similar legal characteristics.

While research on the relationship between offense type and racial disparities within the juvenile justice system is not as well-established as that in the adult system, among the research that does exist, a similar pattern has emerged, showing that certain offenses are more likely to result in harsher punishment for minority youth than for white youth offenders. With the use of publicly reported data that states are required to report due to the requirements of the Juvenile Justice and Delinquency Protection Act (JJJPA), The Sentencing Project conducted analyses of various elements of the juvenile justice system nationwide, including analyses concerning the relationship between offense type and racial disparities. The first crime category this study analyzed was curfew laws. These laws are in place, typically in larger cities, in order to restrict how late juveniles are in public. Importantly, curfew laws also fall under a broader category of status offense laws, which are acts that are only illegal because of the offender's age and would not be considered criminal if engaged in by legal adults. Given that, analyses found that African American youth offenders were 269% more likely to be arrested for violating curfew laws than white youth offenders. This is just one piece of evidence pointing to the fact that minority youth are arrested more frequently for behaviors identical to those of their white peers. Moreover, although status offenders are not typically supposed to be detained in juvenile detention centers according to the JJJPA, analyses found that more than 2,000 juveniles whose most serious offense was a status offense were detained in 2011, and one-third of these youth offenders were black (Rovner, 2014). Beyond curfew laws, which demonstrated the largest racial disparities, this same study also reviewed other crimes as well, including property crimes such as burglary, larceny-theft, motor vehicle theft, and arson, all of which are considered criminal acts regardless

of the age of the accused. Within this crime category, black juveniles were two and a half times more likely to be arrested than white juveniles, although whether these disparities continued beyond the arrest stage were not detailed in the report.

Echoing research found in the adult system (Demuth, 2003; Schlesinger, 2007), prior research finds that while just over 50 percent of drug cases involving white youth result in formal processing through the juvenile or adult criminal courts, opposed to diversion into more treatment-oriented sanctions, more than 75 percent of drug cases involving black youth receive a formal processing decision (Piquero, 2008). Similarly, in an analysis of youth offenders adjudicated as delinquent in Philadelphia between 1994 and 2004, it was found that for all youth offenders, drug offenses led to a greater likelihood of entrance into rehabilitative programs. However, minority youth, specifically black and Latino youth offenders, were less likely than white youth to be entered into a rehabilitative program (Fader, Kurlychek, & Morgan, 2014). The findings of these two studies provide further support for the analyses conducted by The Sentencing Project. Overall, there is strong evidence that for offenses including drug crimes, curfew violations, and property crimes, minority youth are at an increased risk for harsher punishment than white youth. This evidence supports the idea that offense type can be considered as one factor that may help to explain the existence of racial disparities in the juvenile justice system.

Racial stereotyping

It is possible that the previously established harsher treatment of minority juveniles could be due in part to implicit racial biases from those encountering juveniles throughout the juvenile justice process. Court officers, including probation officers, prosecutors, and judges, are the people whose job it is to determine how a juvenile offender should be processed. If these court

officers have implicit biases against certain offenders, they could be more likely to impose or recommend harsher punishments for those offenders for whom they are biased against.

One study performed in 2004 by Sandra Graham and Brian Lowery evaluated potential racial biases against minority juvenile offenders on the part of 91 probation and 105 police officers who worked exclusively with juvenile offenders. In order to evaluate the two populations' perceptions of juvenile offenders, both were primed with a "mind clearing exercise" that was priming the officers' brain with words associated with "black" or words associated with "white." The officers were then asked to complete various tasks relating to two juvenile case studies. Their results found that the unconscious stereotypes were primed and did lead to judgements about the offender. Specifically, police officers who were primed under the race condition were found to be less likely to view the offender as immature and more likely to perceive the offender as guilty and/or deserving of punishment (Graham & Lowery, 2004).

Another study of 399 juvenile offenders processed in the state of Arizona sought to determine whether juvenile documentation of noncompliance by probation officers was affected by race. In an evaluation of written reports from juvenile probation officers, findings showed that black youth were more likely than white youth to have documentation of noncompliance, despite having similar criminal records and behavioral characteristics. Such noncompliance documentation is particularly relevant to racial disparities in juvenile sentencing outcomes as well, given this study also found that more severe court outcomes were experienced by youth who had documented noncompliance (Smith, Rodriguez, & Zatz, 2009). Combined with this study's previous findings, this means that black youth are also more likely to receive more severe court outcomes than white youth due to racial biases within the reports from their probation officers. Finally, and further supporting the potential for implicit bias on the part of those

working within the juvenile justice system, research within the adult system has also found evidence of racial bias, where black offenders are perceived as being more threatening in appearance than white offenders, even when controlling for other appearance-related characteristics such as facial tattoos, scars, and a youth-like appearance (Johnson & King, 2017). Thus, if minority juvenile offenders are perceived as more threatening in appearance by juvenile justice actors, such could affect how their case is processed at both pretrial and trial stages.

Juveniles' extralegal characteristics

It is also possible that racial disparities in the juvenile justice system are not directly related to race but rather are due to certain characteristics that minority youth and their households are more likely to deal with than white youth. Some of these characteristics may include living in a single-parent household or living in an impoverished family and community, among others. These characteristics of minority youth may cause the court to intervene more formally in the lives of these youth due to the *parens patriae* philosophy upon which the juvenile court system was first founded in 1899 (Feld, 2017). This philosophy permits the courts to intervene if they feel as though they are better able than the youth's guardians to act in the best interest of the youth. If the courts feel that they are better able to correct the juvenile's behavior, this philosophy will be applied. Due to the fact that minority youth are at an increased risk of falling victim to the aforementioned characteristics, they may also be at a greater risk of intervention via the courts, leading to the disparities seen throughout the juvenile justice system.

Why the courts may be likely to intervene in youths' lives more formally when they or their families demonstrate certain characteristics is that studies have found that minority youth engaged in juvenile delinquency are most likely to belong to families dealing with poverty and single parenthood (Rathinabalan & Naaraayan, 2017). Specifically, among African American

children, it has been found that greater parental control and direct maternal care and supervision are associated with reduced delinquency (Dunifon & Kowaleski-Jones, 2002). However, given that many minority households are single parent households, direct maternal or parental care and control are harder to achieve. As a result, minority youths are at an increased risk of delinquency. According to the 2001 U.S. Census report, 51% of African American children lived with a single mother. There is also a high correlation between single-parent households and poverty, meaning these youth are more at risk to be impoverished as well (Dunifon & Kowaleski-Jones, 2002). Such a conclusion is supported by data from the U.S. Census, where in 2000, the median family income for black youths' zip codes was \$33,803, compared to \$36,481 for Latino/a youth and \$42,577 for white youth (Smith et al., 2009). In turn, impoverished youth may also be more likely to commit certain crimes, such as burglary, in order to provide for their families and themselves. Finally, it is possible that these same familial characteristics, such as single parenthood and poverty, contribute to the implicit racial bias likely present among at least some juvenile court actors. As noted by Smith and colleagues (2009), "black youths' families are often perceived as being absent or unstable...decision makers may be biased against family situations that diverge from middle-class expectations, resulting in greater disadvantage for black youth, relative to whites." Overall, then, minority youth are at a disadvantage when it comes to their representation within the juvenile justice system, not only due to their racial-ethnic identity but also because of other characteristics that are often associated with race.

Methodology

Racial disparities have been prevalent within the criminal justice system for centuries. This issue has been recognized at both the federal and state levels, as evidenced by various studies and pieces of legislation that have been put in place in an effort to address these

disparities. However, racial disparities remain across the entire criminal justice system, showing that the measures taken thus far have not been particularly effective. Of particular concern are the disparities resulting in harsher treatment of offenders in the juvenile justice system. Given that previously enacted measures, at least on the federal level, have not been effective at solving the problem of racial disparities within the juvenile justice system, it is important to consider what, if any, smaller attempts are being made at the local and state levels, and whether these attempts have been effective thus far. It may likewise be useful to consider what suggestions juvenile justice and racial equality scholars have put forward in the academic literature and general public discourse, and whether such suggestions have enough merit to propose as legislative policy changes in the juvenile justice system moving forward.

To achieve the above goals, I conducted an internet-based search, including on such platforms as Google Scholar and Assumption University's EBSCO search database, to first see what more isolated jurisdictions throughout the country have done to address the various factors that might produce racial disparities across various stages in the juvenile justice system, and whether such attempts have been effective. This included searching for initiatives along the following potential lines of reform:

1. Assessment of differential arrest rates between white youth and youth of color, and any attempts to reduce these disparities (e.g., racial and cultural sensitivity training for arresting officers)
2. Assessment and reform of instruments used by juvenile probation officers at the intake decision to determine whether youth should be diverted from the formal court process into treatment-based sanctions, as well as to determine whether juvenile offenders are released to their guardians pretrial or are detained

3. Training for juvenile probation officers and juvenile court judges to reduce in-group and implicit biases based on race and ethnicity
4. Efforts to recruit and retain more attorneys and judges of color in jurisdictions with large numbers of youth of color
5. Legislation that has reduced or eliminated the ability for juvenile judges and juvenile courtrooms to provide incarceration-based punishments for youth who commit status offenses or who are first-time nonviolent offenders
6. Juvenile courtroom attempts to provide supportive community-based supervision services for at-risk youth, such as those residing in poor or single-parent households, so that these factors are not used to justify more formal court-based interventions in the form of pretrial detention and incarceration-based sanctions

Following the above assessment on efforts that are currently underway in isolated jurisdictions throughout the country to address racial disparities, I then reviewed a small handful of additional suggestions put forward by well-known juvenile justice and racial equality scholars to address the issue of racial disparities within the juvenile justice system. In my review of these suggestions, I considered both their merits and potential deficiencies if they were to be enacted in the juvenile justice system from a nationwide legislative standpoint, and how their enactment might actually unfold across the country. Based on these two different but interrelated research pursuits, I then conclude with policy suggestions the United States should consider moving forward in taking the first steps to eliminate or reduce racial disparities in the juvenile justice system nationwide.

Results

Assessment of differential arrest rates between white youth and youth of color

One of the issues previously identified that may be contributing to the racial disparities seen in the juvenile justice system is the higher arrest rates for youth of color than for white youths (Abrams, Mizel, & Barnert, 2021; Rovner, 2014). The first step in addressing the differential arrest rates is to assess the rates as a whole. Some counties in the United States have taken this initiative, such as Cook County, Illinois, where a committee was established to reduce overall disproportionate minority contact in the juvenile justice system (Hoytt, Schiraldi, Smith, & Ziedenberg, 2002). The committee consisted of representatives from various departments within the system, including a judge, probation officers, public defenders, law enforcement officers, and representatives from different community outreach groups. One goal of this committee was to implement “train the trainer” sessions, where actors within the system would be trained on how their personal biases have an impact on the race of the children admitted into the system. The original trainings were presented to the trainees by an external consultant, who was provided by the Annie E. Casey Foundation. The training model itself, which was applied to many different actors throughout the system, focused specifically on how the system’s employees affected the decisions made for a given juvenile. Additionally, the training focused on decreasing racial stereotypes and biases that are present at every step in the juvenile justice system. The training was provided to any and all actors within the system, including police officers, public defenders, detention center staff, juvenile probation officers, and other court service personnel. After their training, they returned to their positions or departments and trained those they work with. For example, a sheriff may be trained on racial or cultural sensitivity and then return to their local police department to train the other officers they work with. In doing so,

the hope is that youth of color would not be unnecessarily arrested at higher rates than white youths for more minor misbehavior that may more commonly result in a simple warning to white youth, or an informal conversation between law enforcement and the youth's legal guardians.

The Cook County, Illinois program was found to be effective, leading to training in six different juvenile justice offices, including police stations, probation offices, and the public defender's office (Hoytt et al., 2002). It is thus recommended that racial and cultural sensitivity training programs such as the described "train the trainer" sessions be put in place in law enforcement departments across the country to reduce racial disparities in youth arrest rates.

In addition to training sessions, various committees have been created in other locations with the same goal of reducing disproportionate minority contact in the juvenile justice system. In Washington State, one such committee actively engaged the local community in their process. This committee turned to the community, specifically leaders within the Latinx and African American communities, to help identify the causes and potential solutions to disproportionate minority contact. Often, actors within the criminal justice system are not seeing the day-to-day activities within the community that may be contributing to why high minority juvenile arrest rates occur, compared to arrest rates among white youth. As such, involving local minority communities gives law enforcement officers and other criminal justice officials insight into why the issue of disproportionate minority contact occurs from the view of the local community, thereby helping them to craft solutions to reduce its occurrence (National Juvenile Justice Network, 2014). Accordingly, police and probation officers, as well as other juvenile justice officials throughout the country, might considering forming community partnerships with local leaders of color to help identify potential causes of and prevention strategies for the higher arrest and detention rates of youth of color in their jurisdictions.

Assessment and reform of instruments used by juvenile probation officers

Even if disparities in arrest rates between youth of color and white youth are not effectively reduced, later stages in the system may still be able to address the problem of disproportionate representation of youth of color in the formal juvenile justice system. One such stage is when a juvenile probation officer provides their report to the judge that assesses such things as the youth's level of personal responsibility for their actions; their amenability to treatment; and whether the youth should be allowed to remain at home for treatment, be sent to a rehabilitative treatment facility, or be sent to a secure correctional institution (Armstrong & Rodriguez, 2005; Rodriguez, 2010). These reports carry large weight in how the remainder of the court process unfolds, and thus should be as unbiased and objective as possible. However, much of the time these reports reflect the individual biases of the officer themselves, and these biases can result in harsher punishments for youth of color later in the process.

In Rapides Parish, Louisiana, measures have been taken to reduce the negative effect a probation officer's biases can have on a juvenile's ability to avoid more punitive sanctions, when perhaps not necessary, in the court system (Balck, 2012). In particular, the Structured Assessment of Violence Risk in Youth (SAVRY) was implemented in Rapides Parish with the goal of connecting juvenile offenders with community resources that may aid in addressing their delinquent behavior, opposed to addressing such misbehavior through secure confinement in a juvenile detention facility. While this was the goal of the SAVRY in Rapides Parish, the goal of the original SAVRY was slightly different. The SAVRY is a tool that was created with the original goal of aiding in risk assessment of juveniles (Borum, Lodewijks, Bartel, & Forth, 2021). This tool is based on structured professional judgement in which evaluators assess predetermined risk and protective factors of future reoffending for juveniles between the ages of

12 to 18. The SAVRY specifically assesses six protective factors, which include such things as the presence of strong attachments and bonds to others and a positive attitude toward intervention and authority, and 24 defining risk factors, which include such things as number of prior arrests and age of first arrest, lax discipline or exposure to violence in the home, and the presence of various conduct disorders. The information needed to ascertain both protective and risk factors must also be obtained by multiple sources in order to verify their validity, including police and probation officer reports, mental health and social service records, and/or an interview with the youth themselves. Once these protective and risk factors are confirmed by at least two sources and considered valid, they are then coded in terms of their severity. A final risk rating of low, moderate, or high is then provided by evaluators, who use their professional judgement to determine a juvenile's risk for violence (Borum et al., 2021). In Rapides Parish, the assessment itself forces probation officers to take a deeper look at each individual youth's objective risks and needs. Its predetermined and structured nature, combined with requiring at least two sources of information to confirm the presence of both protective and risk factors for future delinquent offenses, thus reduces the potential for subjective conclusions about a youth's risk for future reoffending that may be based on racial or other personal biases a probation officer might have. In Rapides Parish, implementing this assessment led to a significant decrease in the negative effect a probation officer's report had on a juvenile's ability to avoid an incarceration order in the court system, specifically for African American juveniles. In particular, probation-related disproportionate minority contact saw a 60% decrease for African American boys and a 50% decrease for African American girls.

Jefferson County, Alabama likewise attempted to reduce disproportionate minority contact by adding two tools to their probation offices: a risk assessment and a structured

decision-making grid. Structured decision making involves the consideration of an individual's specific needs. Specifically, the risk that one juvenile poses for reoffending is different than the risk another juvenile may pose, so these two should be considered separately. A grid such as the one used in Jefferson County breaks down factors such as risk of reoffending, crime severity, and other important factors into different levels. These separate levels seek to ensure that juveniles are being evaluated fairly and are not being punished more harshly than necessary (Janetta, 2017). Risk assessment may be included in the structured decision making, as assessment of risk is an important consideration when evaluating whether a juvenile should be detained. The goal of these tools was to ensure the decisions being made by probation officers were impartial and objective, making the fate of juveniles in the system fairer. In addition to these two tools, Jefferson County went on to implement two additional initiatives in their probation departments to reduce the chances of secure confinement for juveniles, which were differential supervision and graduated sanctions.

Differential supervision involves an analysis of each juvenile offender's risk for future reoffending. Once this analysis has been performed, the type of probation supervision that the offender will receive is determined, where those with higher levels of risk receive more intense supervision and risk-reduction services. A specific type of differential supervision used by probation offices throughout the country is the Client Management Classification System. This system creates five strategy groups, and then assigns offenders to one of these groups based off an interview process. The different strategy groups provide different resources that are more personally catered to the offender with the goal of reducing recidivism. The interview process itself involves 45 questions for the offender that range from asking about their feelings about their offense to their family structure and future wants or plans. Once the entire interview process

has been completed, the probation officer completes a plan for the offender based off this analysis. Evaluation of the CMC program has found that those offenders who go through the program fared better across the board, including having lower recidivism and revocation rates, than those offenders who did not go through the CMC program (Harris, Gingerich, and Whittaker, 2004).

Graduated sanctions were another effort put into place in Jefferson County. In addition to encouraging juveniles to comply with their assigned probation officers, these sanctions also include the involvement of community-based preventative methods, as opposed to secure confinement. For example, in place of detention in a secure facility such as a juvenile detention center, home confinement would be used and supplemented by requiring the juvenile to participate in a day and/or nighttime reporting center, which both ensures they are following the requirements of their probation orders and provides them with at least a short period of supervision while at the reporting center; or by requiring the juvenile to pay restitution through monetary payment or community service in order to repair the damage caused to a victim or society as a result of their delinquent activity. Moreover, while the goal is to avoid secure confinement where possible, when secure confinement is necessary, this process aims to provide this confinement in smaller, community-based secure facilities opposed to larger state facilities. While any confinement of youth of color may result in disproportionate confinement in the juvenile justice system, smaller, community-based facilities are more beneficial to juvenile offenders for a few reasons. First, these facilities ensure that juveniles stay connected to the community, even if they do spend time in confinement, as they are often located within a community setting where youth can still do things like attend school with non-confined youth in their community. This is opposed to traditional correctional centers, which are often located in

more rural areas, far outside city and suburban centers, and keep youth isolated from any social institutions with non-offending community members, including peers of their own age. Staying connected to the community also allows for easier reintegration into society as a law-abiding citizen once the juvenile has been released from the institution, as they will have likely maintained bonds and relationships with at least some law-abiding community members during their confinement. Second, smaller community-based facilities are more likely to target the specific needs of each juvenile, specifically where treatment and rehabilitative needs are concerned, as opposed to larger facilities which cannot cater to each individual's needs given the many varied needs of youth offenders and the staffing problems which are common in larger juvenile correctional facilities (Zavlek, 2005). Relatedly, for those youth who do still qualify for institutionalization, graduated sanctions can include education for integration back into society. Training programs in secure confinement, including anger management, social skills education, and cognitive mediation training have shown as much as a 40% decrease in recidivism rates (Drakeford & Staples, 2006; Zavlek, 2005), as juveniles are better prepared to handle social situations upon returning to the community without resorting to antisocial or criminal behavior.

The programs implemented in Rapides Parish and Jefferson County are a first step in eliminating damaging biases from probation officers that may negatively affect the outcome youth receive in the juvenile court through more punitive sanctions than may be necessary. Beyond the reporting process specifically, other initiatives in Jefferson County, through their use of differential supervision and graduated sanctions, may further reduce racial disparities in the juvenile justice system that involve a probation officer's broader roles and responsibilities. In order to apply the Rapides Parish method to a larger scale, it is important to formulate strong relationships between court officers or actors and community-based program leaders. A strong

relationship between the two would lead to probation officers being more willing to steer the courts towards releasing juveniles to these trusted programs, as opposed to putting them in secure detention. Proper vetting of probation officers and their biases, and corrective action if biases are observed, would likewise elevate the Jefferson County methods to a larger scale. If biases are observed in, for example, the structured decision-making grid, they should be addressed directly with the officer. While personal biases may always exist to some extent, tools such as the Jefferson County grid allow for these biases to be largely reduced, helping to further ensure that the rehabilitative or punitive sanctions that youth receive in the juvenile justice system are based on their law-violating behavior and risk of future potential reoffending rather than such factors as race.

Training for juvenile probation officers and juvenile court judges

Implicit bias involves the interference of one's own biases either for or against a person or group of people that affect the life of that person or group. Within the juvenile justice system, this means the biases of the juvenile justice actors that affect outcomes for the juvenile offenders involved in various stages of the juvenile justice system. While it is important to recognize and control for implicit bias at all steps in the juvenile justice process, two of the most crucial decision makers in the process are probation officers and judges (NJJN, 2011).

The National Council of Juvenile and Family Court Judges (NCJFCJ) has created recommendations for how implicit bias can be controlled for, beginning with recognition. In other words, in order to address the issue of implicit bias in the juvenile justice system, it is important for probation officers and judges to recognize the effects their own biases have on the decisions they make. One way to do this, as recommended by the NCJFCJ (2021), is to have juvenile justice actors take an implicit bias test, such as the online Harvard Project Implicit Bias

Test, developed by Harvard University, that allows people like probation officers and judges to see the extent of their own implicit biases and toward which group(s) of people these biases might be most prominent.

Once it is acknowledged that some degree of implicit bias might exist, for those juvenile justice actors who wish to take further steps to reduce such bias, the NCJFCJ recommends that these individuals begin the decision-making process at each step of the juvenile justice system remembering the differences between normal adolescent behavior and criminal behavior. For example, when a probation officer meets with a juvenile offender to make a determination, such as determining their level of risk to public safety or whether they should be detained pretrial, that will be passed on to the remaining actors in the system, they should keep in mind the difference between moodiness or attitudes common in adolescents versus an attitude that conveys the juvenile being a potential risk. If a probation officer enters the evaluation with this attitude, the evaluation becomes a more equal playing field for all juveniles. This attitude may then help combat previous research findings that not only are black youth's negative personality traits more likely to be attributed to internal versus external factors, but that possessing negative personality traits also increases the risk of pretrial detention (Bridges & Steen, 1998), which in turn then increases the risk for a harsher judicial sentence (DeJong & Jackson, 1998). The NCJFCJ also provides an exhaustive list of questions that court actors can ask themselves at each step in the decision-making process that apply to various types of cases that may be encountered in the juvenile justice system. For example, the question of whether a judge's biases are interfering with their decision to detain a juvenile pretrial instead of releasing them to parental supervision is an issue a judge should reflect on. This can be an important way to reduce racial disparity in the juvenile justice system for a number of reasons. For instance, prior research

(Shook & Goodkind, 2009) has found that courts often assume there is a lack of supervision in the household when a father is not involved in the youth's life, and this assumption has a significantly larger impact on youth of color, particularly black youth, given lower rates of marriage and higher rates of single-mother households in black communities. Similarly, research (Arnold, Dobbie, & Yang, 2018) also finds that judges may rely on inaccurate stereotypes that exaggerate the relative danger of releasing black defendants pretrial versus white defendants for the same or similar offenses. Thus, to overcome the potential for such implicit biases to affect judicial decision-making, the NCJFCJ recommends that judges ask themselves several questions at key decision-making points in the juvenile justice process, including "Does the youth pose a serious public safety threat? Or am I basing the detention decision on biases, such that the youth needs protection because they lack supervision at home or because they live in dangerous neighborhood?" (NCJFCJ, 2021).

In an ideal world, actors within the juvenile justice system such as probation officers and judges would take the initiative to hold themselves accountable for their own implicit biases. However, it is often difficult for individuals to confront their own biases, particularly implicit biases they may not even be entirely aware of or readily willing to admit to themselves and others, making the suggestions made by the NCJFCJ potentially difficult to implement. However, NCJFCJ recommendations might prove effective in reducing racial disparities in the juvenile justice system if there is also a system of oversight to ensure that these recommendations are followed. For instance, as probation officers and judges are asking themselves the recommended implicit bias questions in each stage of the system, they may make brief note of their thoughts in the juvenile's case file. Then, perhaps once per year or several times per year, their answers or thoughts to the bias questions would be evaluated by a third-

party. If a pattern of bias persists, the probation officer or judge may then be required to go through an in-person implicit bias training, similar to the “train the trainer” sessions that Cook County, Illinois uses to train their juvenile justice actors, as noted previously herein (Hoytt et al., 2002). If a pattern of bias continues despite training efforts, these individuals may then face a variety of sanctions, including professional sanctioning, suspension without pay, or removal from office. Importantly, if states truly desired to have oversight of potentially racially charged decision-making processes within the juvenile justice system, such would not be particularly hard to institute either. At present, judicial conduct commissions already exist in every state and are responsible for overseeing the ethical conduct of judges both on and off the bench (U.S. Courts.gov, 2022). Traditionally, these commissions, composed of citizens usually appointed by the state governor, are concerned primarily with judicial behavior and not judicial decision-making, as only a higher court can overturn a judge’s ruling. However, just because these commissions cannot overturn a ruling made by a judge does not mean they cannot bring public attention and pressure to decisions that may be racially biased, which may therefore encourage judges to take the goal of correcting their implicit biases more seriously. Similar commissions throughout the country could also be established to provide oversight to probation officers’ decisions in the juvenile justice system and if such decisions evidence a pattern of racial bias.

Efforts to recruit and retain more attorneys and judges of color

During a juvenile offender’s path through the juvenile justice system, they encounter many different actors, including prosecutors, defense attorneys and judges; and while minority youths are overrepresented within the system, attorneys and judges who fall into these same minority categories are underrepresented. For example, while over 30% of the United States prison population is black, black judges only make up about 7% of state judges and 11% of

federal judges (Forman, 2018). Similarly, the Brennan Center for Justice found in a study on the demographics of state high court judges that there are no Latino/a justices in 39 states, no black justices in 39 states, no Asian American justices in 43 states, and no Native American justices in 47 states (Adelstein & Bannon, 2021). As such, youth of color do not have representation within the system of people who may have a greater understanding of the difficulties facing them and their communities compared to white individuals, especially in the juvenile and criminal justice systems. Moreover, the presence of more judges of color could lead to fewer biased sentencing decisions in the juvenile justice system as a whole, particularly in cases of sentencing.

Specifically, and as previously demonstrated in the literature review (e.g., Bielen et al., 2021; Pupo & Zane, 2021), both an urban geography and racial biases may help to explain why youth of color are more likely to be convicted of the charges against them, and more likely to be given an incarceration sentence when convicted, than white offenders. Thus, to fully address the issue of disproportionate minority contact within the juvenile justice system, it may be necessary to take steps to increase the diversity of both attorneys and judges who work in the system.

Sponsored by the Georgetown Juvenile Justice Initiative, the Ambassadors of Juvenile Justice is a program aimed to fight against racial disparities in the juvenile justice system. The overall goal of this program is to increase the number of attorneys and advocates for juveniles in the justice system, specifically those best equipped to fight against injustices for youths of color. The ambassadors for 2022 are all lawyers belonging to minority groups themselves, many of whom are public defenders who either previously or currently defend juvenile offenders. The program also encourages these lawyers to partner with government agencies, nonprofit organizations, and schools to host education seminars and lead trainings on issues related to racial justice; spearhead legislative efforts within their respective jurisdictions; and develop

social media campaigns involving other juvenile justice stakeholders and community youth to bring greater attention to the issue of disproportionate minority confinement.

In addition to programs like the Ambassadors of Juvenile Justice program, another way to increase the diversity of attorneys and judges working within the juvenile court system is to address the disparity that exists in the law school admissions process and within the education system more generally in the United States. Application to most higher education facilities requires certain test scores and GPAs to be considered for admission. Yet, education opportunities in earlier life for white students are greater than those for minority students. For instance, because the United States relies largely on property taxes to fund its public education system, those who reside in poorer communities, which often include black and brown individuals, often receive a poor primary and secondary education in the way of less qualified teachers, fewer educational materials, and decreased opportunity for educational and personal mentoring (Raikes & Darling-Hammond, 2019). This results in minority students having less access to things like college test prep that makes them competitive applicants. In turn, students of color often attend less competitive undergraduate institutions that also may provide less in the way of law school admission test (LSAT) prep, decreasing their chances of admission into law school (Banks, 2000). Put simply, the educational disadvantage that youth of color experience in earlier life culminates over time into a cumulative disadvantage in access to law school. And while it is beyond the scope of this thesis to argue for a full restructuring of the American public education system, there are at least some things that scholars have suggested at the law school level to increase the representation of attorneys and judges of color throughout the United States, including in our juvenile courtrooms. For instance, researcher Angela Banks (2000) suggests that, in order to diversify those accepted into law schools in the United States, schools must alter

their selection criteria to cater to all potential applicants. Banks first suggests a criteria audit, in which a given school assesses their mission and defines the criteria a candidate must meet in order to be a student that can achieve that mission. Students who will make the best contribution to the school may not be in the top 1% of scores on the LSAT, so this audit opens the admissions process up to a more diverse group, including minority applicants. Likewise, a law school's mission is often not solely related to how a student, once accepted, will perform academically, and embody the mission of the school while enrolled, but also how the school's graduates will be "adaptable to changes in the future" and will train "industry, national and international leaders" (Banks, 2000). Missions such as these no doubt rely on a diverse student body who can connect with and appreciate an ever-changing demographic, cultural and societal landscape in the United States, including students of color. Overall, the suggestion that Banks makes applies to law school admissions as it pertains to both lawyers and judges, so it has the potential to increase minority representation in both these aspects of the juvenile justice system.

Yet, even if we are to follow Banks's suggestion to allow for more equitable access to law school for college students of color, upon graduation from law school, minority lawyers continue to face challenges that may prevent them from being able to defend youth of color in the juvenile justice system to the full extent they may desire. Often, minority lawyers in a firm or public office are expected to appear at more events and be more representative for the firm or office they're working for, in an effort for the firm or office to showcase their diversity (Wald, 2015). This takes away from time spent on cases, and thus reduces the number of total cases a minority lawyer may receive as compared to their white counterparts. Additionally, minority lawyers are given fewer and lower-profile cases than their white counterparts, decreasing the number of cases they are involved in. Researcher Eli Wald suggests more transparency in law

firms in offices, so that minority lawyers are not entering themselves into a certain type of work that they were not prepared for. Specifically, firms and offices should be transparent about the purpose behind a given lawyer's hiring, whether that be the fact that they contribute to a firm's social capital or monetary capital, or otherwise (Wald, 2015). Wald also suggests more equal opportunity in law offices, such as random case assignment.

Youth of color should have the opportunity to be represented at each step in the juvenile justice process by people who may be best able to represent them, including having the experience of being a person of color in the United States. The underrepresentation of minority attorneys and judges in the juvenile justice system is an issue that has been recognized by many, and suggestions have been made on how to curb this issue. Many of these suggestions come down to equality in education and the workplace. More access to a legal education and equal treatment in the workplace will contribute to a higher level of minority recruitment and retention, allowing for more equal representation of juvenile offenders of color.

Reducing incarceration for status- and nonviolent offending youth

Status offenses are one category of juvenile offense that results in a higher rate of incarceration for minority youth (e.g., Fader et al., 2014; Rovner 2014), where a status offense is defined as an offense type that is only illegal because it has to do with a minor. For example, running away from home or breaking curfew are not acts that are punishable by law for adults, but they are for juveniles. Status offenses, along with other non-violent offenses, have resulted many times in the secure detention of juveniles, which, given the nature of the offenses, is not always necessary. As such, courtroom precautions should be taken to ensure against unnecessary incarceration for status and non-violent offenders. Some states across the United States have begun the implementation of such precautionary procedures.

Due to the fact that youth of color are more likely to live in households with less supervision as a result of single-parent or dual-working parent households, status offenses are more common amongst minority youth populations (Dunifon & Kowaleski-Jones, 2002). In order to avoid unnecessary incarceration for status offenses, it is important that the judges overseeing these cases understand the living environment of juvenile status offenders and be understanding of the different ways such situations may be best addressed without resorting to incarceration. Presently, fewer than one-third of states have dedicated family court judges, making it unrealistic, if not impossible, to ask judges to consistently make decisions in the best interests of public safety and youth outcomes without specialized juvenile justice expertise, experience, training and support. Moreover, research finds that less than five percent of states have established specific background and experience requirements for juvenile court judges (CSG Justice Center, 2022). To overcome these challenges and find judges that may be more qualified to handle juvenile cases and be more understanding of youth's unique needs, both Utah and Massachusetts have made being a juvenile court judge a specialized field within their states' court structures.

In each judicial district in Utah, one judge is appointed to be the judge that handles juvenile cases. These specialized judges apply specifically for this position, implying that they are truly passionate about serving in juvenile court. Additionally, other members of the court, including other judges, must approve of their appointment to this position, ensuring as much as possible that the juvenile judge has the best intentions regarding the position they are applying for (CSG Justice Center, 2022). A similar practice is in place in the Massachusetts court system, in which a specific judge is appointed to juvenile cases who has been vetted by other court actors, members of the community, and the state governor. In addition to the specialized juvenile

court judges, the Massachusetts government has a presiding judge overseeing each court, ensuring specifically that court rules and policies are being followed, as well as ensuring that the best interest of juveniles is being primarily considered (CSG Justice Center, 2022). By having judges who want to specialize in juvenile cases, the Utah and Massachusetts courts are taking a step towards ensuring that those overseeing these cases are passionate about helping the juveniles and have the youth's best interest at heart. In terms of status offenses, judges who have the youth's best interest in mind are more likely to consider release of these offenders into the care of their homes or to community-based alternatives, as opposed to secure confinement.

Importantly, it is often the case that status offenses do not lead to a life of more serious crime for juvenile offenders (Cauffman, Cavanagh, Donley, & Thomas, 2015). One goal of the previously discussed Juvenile Justice and Delinquency Prevention Act, established in 1974, was to stop the institutionalization of status offenders. However, soon after its creation, the act was amended with a valid court order, or VCO, exception (Mapa, 2022). This exception allows judges to incarcerate status offenders if they violate a valid court order, creating a loophole for detaining juvenile status offenders. In other words, according to the JJDP, a juvenile ought not to be incarcerated for something like school truancy. Yet, under the VCO exception, if a judge court orders the youth to start attending school on a regular basis and the youth does not do so, the judge can then incarcerate the youth not for the act of school truancy but rather for violating a court order, or being in contempt of court, which is considered a criminal and thus jailable offense. Importantly, another amendment to the JJDP Act was passed in 2018, which limits the maximum amount of time that a juvenile can be detained for a status offense to seven days. However, while this amendment does help ensure a smaller incarceration sentence and prevents

youth from languishing in detention for victimless “crimes,” it still allows for secure detention of status offenders.

One very recent attempt at reducing secure confinement of status offenders, which would also indirectly reduce DMC in the juvenile justice system, is the Prohibiting Detention of Youth Status Offenders Act of 2022. This Congressional Act, proposed in 2022 by Democratic Pennsylvania Senator Casey and Democratic California Representative Cardenas, seeks to eliminate the valid court order exception (Mapa, 2022), thereby eliminating the legal loophole that allows status offenders to be incarcerated for violation of a court order to no longer engage in said status offense. If enacted, this proposed bill would provide all states across the United States with one year to come into compliance, along with another year to prove that they are reducing the number of juvenile status offenders being incarcerated.

Attempts to provide supportive community-based supervision services for at-risk youth

Minority youth, when compared to white youth, are more likely to live in single-parent households, as well as to live in impoverished communities (Dunifon & Kowaleski-Jones, 2002; Rathinabalan & Naaraayan, 2017). As such, these juveniles are less likely to have constant supervision at home, providing more opportunities than white youths to get into trouble. Moreover, when youth of color are referred to the juvenile justice system for their misbehavior, the courts are likely to intervene more formally in their lives through such avenues as secure confinement. This reality falls in line with the *parens patriae* philosophy of the juvenile court and the notion that youth from single-parent households and impoverished communities cannot or will not be provided with the necessary support at more informal levels to correct their misbehavior (Feld, 2017). Yet, there are alternatives to secure confinement for juveniles with less at-home supervision that can both help correct their misbehavior and reduce disproportionate

minority contact within the juvenile justice system. These include community-based supervision programs, which some counties in the United States have begun to refer juveniles to over the course of the last few decades, opposed to relying on incarceration-based sanctions.

The Annie E. Casey Foundation has provided grants to multiple counties with four goals of juvenile justice reform, one of which is the development of alternatives to secure confinement. These counties are known as Juvenile Detention Alternatives Initiative (JDAI) sites, one of which is Sacramento, California. Based on research findings that youths released to their homes or another alternative to secure detention had lower rates of reoffending (Rust, 1999), Sacramento developed a one-page checklist for law enforcement to use when they make juvenile arrests. This checklist was developed from both input from the officers and what they encountered on a daily basis, along with county-wide detention guidelines (Rust, 1999). Upon arresting a juvenile, the officer uses the checklist to aid in determining whether the youth needs to be brought in for booking, or rather if the minor can simply be cited for their misbehavior and released back to their parents, thereby avoiding more formal intervention by the juvenile court altogether. For those youth who are determined to qualify for formal booking and processing, the checklist also aids other actors at later stages in the juvenile justice system, such as probation officers, in determining whether they recommend to the judge that the youth remain in detention pretrial or whether the youth can be released to their parents or other legal guardians until the pending trial begins. For the juveniles who are determined to qualify for pretrial detention by a juvenile probation officer, Sacramento further implemented the Detention Early Resolution Program, which requires that these cases must be adjudicated within 15 days, thus decreasing the amount of time youths spend in pretrial detention. This program led to a decrease in the amount of time that Sacramento cases take to be adjudicated, from 25 days down to 5 days (Rust, 1999).

Another JDAI site in Cook County, Illinois introduced a variety of alternatives to secure detention, including home confinement with frequent unannounced visits, shelters for homeless and runaway youth who are in trouble with the law, and day and evening reporting centers. Since their implementation, these alternatives have served more than 10,000 juvenile offenders. For this data, success is defined as the proportion of juveniles who remain arrest-free during their placement, and the use of alternative options has seen more than 90% success (Rust, 1999). One specific alternative to secure confinement that Cook County implemented is the evening reporting center. These centers operate from 3pm until 9pm, which is when most working parents are not home, and as such is the timeframe that juveniles would need supervision. Transportation and one meal are provided, along with the opportunity for the juveniles to form close relationships with adults who are working at the centers because they are passionate about being a positive influence on their lives. The evening reporting centers saw significant success, in that 92% of the children that were served by these centers remained arrest-free during their time in the centers' program (Rust, 1999).

Other considerations for reducing racial disparities in sentencing

Another potentially important concept to discuss concerning racial disparities within the juvenile justice system is the fact that juveniles are sentenced in a much more subjective process than are adult offenders. Specifically, absent in juvenile court are sentencing guidelines that are often found in adult criminal court, which provide judges with recommended sentences based on the offense the defendant is convicted of, their previous record, and often an account of mitigating or aggravating circumstances. Youth are also not provided with the same set of procedural safeguards in juvenile court as are adult offenders in criminal court, including things like jury trials and the right to appeal their sentence (Feld, 2019). This can lead to

disproportionate and unfair sentences if, for example, a ten-year-old receives the same punishment for a given crime as a sixteen-year-old who was convicted of the same crime. The mental maturity levels of these two example offenders are vastly different given their differing ages; however, they may still receive the same punishment.

During the sentencing process for any crime, the seriousness of the crime itself is taken into consideration. This seriousness is, in part, determined by the offender's ability to understand that their actions in committing the crime can and potentially would result in harm to another or society overall. Yet, understanding the severity of one's actions and the effect that these actions can have on other people requires a fully developed, decision-making brain. Given that the human brain continues developing into the mid-twenties, and the area of the brain responsible for decision making develops last, it cannot be expected that a juvenile offender will have the full decision-making capabilities to understand the consequences of their actions (Pujol, Vendrell, Junqué, Martí-Vilalta, & Capdevila, 1993). Importantly, while juvenile culpability is often linked to discussions of age alone, these considerations also may result in racial disparities in the juvenile justice system. This is because, as noted previously in the literature review guiding this thesis, actors within the juvenile justice system often consider youth of color more personally responsible for their delinquent behavior and attribute their actions to negative personality and behavioral characteristics, while white youths' delinquency is more often considered to be a product of external factors like a bad family environment (Bridges & Steen, 1998). Juvenile court actors are also more likely to find youth of color to be noncompliant while on probation than white youth, despite having similar criminal histories and behavioral profiles (Smith, Rodriguez & Zatz, 2009). Thus, when juvenile courts do not have formalized sentencing guidelines in place and rely on a juvenile's culpability in determining their sentence, judges may

erroneously assume that youth of color are more responsible and culpable for their behaviors than white youth and provide unfair sentences as a result, including providing a much younger youth of color with a similar sentence as an older white youth for the same crime. It is perhaps worth noting that there have been some recommendations put forward geared toward protecting juveniles from harsh punishment, such as the recommendation by the American Law Institute's Model Penal Code that no sentence longer than 20 years may be imposed for offenders under the age of 16 (Feld, 2019). However, there is no set law or guideline focused specifically on tailoring the sentencing process towards the age of the offender, and the recommendation by the American Law Institute's Model Penal Code is simply a recommendation, not a mandate. It is also only applicable to those youth whose offenses are serious enough to waive them to adult criminal court, as juvenile courts do not have the power to sentence youth beyond the age of majority in their state. Yet, a proposal for such a law or guideline has been made by author and professor Barry Feld that may help a larger proportion of youth within the criminal justice system.

Feld's proposal, entitled the Youth Discount, deals head-on with what he refers to as youthful mitigation. Youthful mitigation involves the inclusion of a juvenile offender's age, and how their age affects their decision-making capabilities, in order to reach a sentencing decision. In Feld's proposal, all juveniles accused of committing a crime would first be waived to adult criminal court so that they are provided with the same procedural safeguards as adults and so that their sentence is determined by a more objective set of sentencing guidelines. Then, once convicted, a juvenile offender would receive a discounted or reduced sentence, as compared to the sentence that would be given to an adult, dependent on the juvenile offender's age. The exact reduction would be predetermined by state sentencing guidelines and would be based on age

alone (Feld, 2019). Using the previous example, if the sentence given to an adult for a given crime was twenty years, the seventeen-year-old offender may be given a sentence that is 60% of the adult sentence, while the ten-year-old offender is given a sentence that is 20% of the adult sentence. Given that the seventeen-year-old does not have the same decision-making capabilities of an adult, their sentence is less than that of the adult. However, the seventeen-year-old does have more decision-making skills than the ten-year-old offender, so their sentence is greater. While this proposal is not necessarily all-encompassing in terms of determining juvenile offender culpability, as it does not account for things like developmental or mental health differences between youth of the same age, it is a starting point for distinguishing the differences between juvenile offenders of different ages, as well as distinguishing between juvenile offenders and adult offenders, as it pertains to the sentencing process.

The Youth Discount proposal provides an example of potential legislation that would better provide for more consistency in sentencing across youth of different races and ethnicities, as well as any other factor that might lead to unfair and disproportionate sentences. Likewise, a plan such as the Youth Discount proposal could provide less time spent incarcerated for convicted juveniles, leading to an overall smaller population of incarcerated juveniles, as well as more of an opportunity for the formerly incarcerated to be reintegrated into society, potentially lowering their risk of reoffending.

Conclusion

The prevalence of racial disparities in the United States juvenile justice system has been demonstrated by many studies and for many years. As such, the existence of these disparities is not in question. Instead, the question is how to begin to eradicate these known disparities. Minority youths' crime rates are not as significantly higher than white youths to account for the

level of disproportionate minority contact present within the juvenile justice system. In order to rid the justice system of this disparity, the federal government and those advocating for a more equal juvenile justice system should begin from the ground up in first understanding why this disparity exists. The factors identified here are those that, based on research, have the largest effect on the racial disparities seen in the juvenile justice system. The first is the prevalence of racial biases in the intake and pretrial steps of the system. These steps play a large role in the determination of a juvenile's success in the remainder of the system. As such, it is important to ensure that any biases that people such as arresting officers and probation officers have are eradicated through careful processes. The SAVRY, as previously described, is a tool used by probation officers that allows for the unbiased risk assessment of juveniles who have been arrested. This tool has been proven to reduce the effect a probation officer's personal biases may have on their recommendations for the juvenile in smaller, county-wide settings. This success at a small scale shows the potential for success if implemented in every jurisdiction throughout the country.

While ideal, it cannot be expected that the country can be entirely rid of racism. Because of this, the biases of the people who control the fates of juveniles in the justice system cannot be completely eradicated. Instead, they can be controlled for, by implementing state and federal regulations on how juveniles are processed through the justice system. Regulating the reports of people that play a role in a juvenile's success in the justice system, such as arresting officers and probation officers, in a manner that eradicates their biases will lead to a justice system with fairer and more just representation across different races and ethnicities.

When considering the crimes that a juvenile is accused of committing, their age should be taken into consideration. A juvenile does not have the decision-making capabilities that an adult

has. Thus, if they have committed a crime, it should not be assumed that they made the decision to do so with the type of consideration that an adult has. Given this, Feld's proposal for a youth discount should be considered at the federal level. Requiring courts to have a better understanding of who they are sentencing and how age affects the ability to make decisions will lead to juveniles who have a chance to overcome the stigma of a criminal record from crimes they may have committed at a young age. Giving youths the opportunity to spend less time in confinement means they have more time to be functioning, contributing members of society.

Research has shown that more minority juveniles are sentenced to secure confinement than white juveniles. More effective than secure confinement are opportunities for community-based alternatives. For example, instead of sentencing a juvenile to a secure confinement facility, they can be referred to a community day program, or night program, which can ensure the juvenile is not reoffending during times when parents may be working. These programs provide necessary supervision, while also involving the community and keeping minority youth out of secure confinement facilities. If courts work more closely with community organizations, these programs will be better understood and supported, leading to a better likelihood of referrals of juvenile offenders to these programs. Moreover, these community programs have a better sense of what is needed for a juvenile to thrive and avoid reoffending. As such, it is recommended that the federal government implement legislation for local jurisdictions to require members of the community involved in the lives of juveniles, such as community program leaders, to be involved in the sentencing process for juvenile offenders. Doing so will not only lead to a decrease in the number of juveniles in secure confinement, but it will also create closer ties between the juvenile offenders and their community, allowing for more support and lower rates of recidivism.

Only by discovering and understanding the root cause of any problem can that problem then be solved. The issue of racial disparities in the juvenile justice system is a well-established problem. While small advances have been made on finding a resolution for the problem, at a federal level, mandates are lacking. The root causes identified here have solutions, as has been shown on a small-scale across the country. It is through federal mandates and implementation of these solutions that racial disparities in the juvenile justice system will decrease, allowing for fairer sentencing throughout the country and an increased chance for youthful offenders of color to lead more fulfilling and less traumatized lives.

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