

# Black Youth and the Juvenile Justice System: Factors Contributing to Disproportionate Minority Contact (DMC)

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**Abstract:** Black juveniles and adults have borne the brunt of incarceration in the US. Both groups have been targeted by mass incarceration efforts that have manifested into the prison industrial complex. Efforts to control blacks are well documented by methods such as *slavery, the black code, Jim Crow laws, War on Drugs, Get Tough on Crime, along with racist and bias Anti-Crime Control Policies*. These and other factors have contributed to prison overcrowding as well as DMC in the juvenile justice system. While there has been many debates addressing the need to closely examine the juvenile justice system and its processes, it remains a system that dispenses disparate treatment. Despite this, we believe that strategies can be used to reduce DMC.

**Keywords:** DMC, juvenile justice, implicit bias, selective enforcement, racial disparity

## Introduction

For many years, blacks and other people of color have been the main clientele for both the adult and juvenile criminal justice systems. This assertion can be seen on the local,

state, and federal levels in every state in the U.S. (Krisberg, Marchionna, & Hartney, 2015) and should be concerning to anyone who studies crime and the criminal justice system for the simple reason that minority groups only represent a small portion of the U.S. population, but account for the lion's share of people who are processed and confined in the nations jails, prisons and other detention facilities (Krisberg et al., 2015; Desai et al., 2012). Consider the following: in 2007, *The National Council on Crime and Delinquency* reported that while blacks under the age of 18 made-up 16% of the U.S. population, they accounted for 28% of juvenile arrests, 35% of waivers to the adult court and 58% of youths given a prison sentence (Also see Nellis, 2011). Similarly, Sickmund and colleagues (2008) argue that blacks represent 40% of the youths incarcerated in local detention and state correctional facilities. The matter of juvenile processing becomes more perplexing given that research reveals that white youths charged with similar offenses as blacks receive a different type of processing (Huizinga et al., 2007). The evidence suggests that blacks are treated more harshly (Zatz, 2000; *The National Council on Crime and Delinquency*, 2007). Experts argue that the treatment given to white juveniles compared with blacks is alarming. Knoll & Sickmund (2010) provide that blacks are processed in juvenile court at a rate that is 140% greater than their white counterparts when they have committed similar offenses. This has led some criminal justice scholars to conclude that such alarming disparity suggests that extralegal factors such as racial biases may be operating in the juvenile justice system (Robles-Ramamurthy & Watson, 2019; Piquero & Brame, 2008).

Because of disproportionate minority contact (DMC), the *Office of Juvenile Justice Delinquency Prevention* (OJJDP), correctional scholars, juvenile experts, and practitioners are concerned about the factors that influence racial disparities. In fact, OJJDP broadened its scope requiring States to address the matter within the juvenile justice system by threatening to withhold future grant allocations (Robles-Ramamurthy & Watson, 2019). As Zatz (2000) argued when it comes to poor people in general, but people of color in particular, black adults and juveniles are more likely to be detained awaiting trial, and pretrial detention typically means that they will receive harsher sentencing outcomes. While both groups are important to study, we focus on black youths since the juvenile justice system is viewed as a pipeline to the adult system (Fix, 2018). As such, many adult offenders have a history of having served time in the juvenile system. This begs several questions: what is disproportionate minority contact, what causes it, why is it concerning, what can be done to reduce or eliminate it? DMC refers to rates of (specific minority groups) contact with the juvenile justice system that is based primarily on race and ethnicity, namely black and Latinx compared with whites since it is commonly known that people of color are more likely to be arrested and processed further into the juvenile justice system. The *OJJDP* (2009) provides that

DMC specifically refers to racial and ethnic disparities experienced in the juvenile system that includes arrest, diversion, confinement, as well as probation.

Some experts contend that DMC is caused by many factors such as selective law enforcement, differential opportunities for treatment, institutional racism, indirect effects of socioeconomic factors, differential offending, biased risk assessment instruments, differential administrative practices, unequal access to effective legal counsel, and legislative policies that adversely impact youth of color (Nellis & Richardson, 2010). Other experts argue that the differences in criminal justice processing are mostly attributed to two broad categories: what minorities do and bias/ selective processing (Nellis & Richardson, 2010; Haynie, Weiss, & Piquero, 2008). First, research provides mixed results since some studies show that minorities commit more serious offenses compared with their white counterparts, while other studies report that both groups commit similar crimes, but blacks are punished more harshly (Robles-Ramamurthy, & Watson, 2019; Soler & Garry, 2009; Haynie, Weiss, & Piquero, 2008; Davis & Sorensen, 2013). This is compounded by the fact that self-reported studies often conflict official reports which creates concern regarding selective or bias at intake in the justice system (Kakade et al., 2012). Second, are blacks exposed to a different selection process? Some experts argue that the juvenile justice system treats people of color differently and more severely than others (Bishop, 2005). First, those who advance the power threat theory argue minority groups often pose a threat to the majority population as they grow larger. Consequently, they must be socially controlled. Second, the characteristics of minority groups (especially black youths) are negatively perceived by decision makers (e.g., police, juvenile probation officers and judges). Today, this is referred to as implicit biases that are held by officials in the justice system and others who will influence the likelihood that minorities will be part of the prison industrial complex (Alexander, 2012). In an effort to explain DMC in the juvenile justice system, this paper examines several factors. As such, the paper is divided into four parts. Part One provides the historical factors that have influenced DMC. Part Two addresses the role that hostility, youth perception, and recent criminal policies play in explaining DMC. Part Three discusses how social distance, the media, and police perception negatively impacts black youth. Part Four addresses policy recommendations. In the final analysis, we argue that viable efforts can be made to reduce DMC in the juvenile justice system.

### **Part One: Historical Efforts Leading to DMC**

Some correctional historians see the nexus between DMC and slavery in America. They argue that the progression has been that blacks were freed from slavery, but later targeted for mass incarceration (Wacquant, 2002; Alexander, 2012). Similarly, others postulate that because slavery was so divisive in the U.S., President Abraham Lincoln called for

its abolition. This eventually gave rise to another form of social control over the lives of the former slaves (Wacquant, 2002). Despite the promise of freedom, justice, equality, and citizenship, newly freed slaves realized that their former status had been replaced with institutionalized racism, discrimination, and segregation (Anderson, 2019). In fact, during Reconstruction, blacks were routinely flogged, lynched, beaten, raped, or killed for any social breach (perceived by whites). Blacks were relegated to being farmers and share croppers. If blacks were found idle or vagrant, they were arrested, convicted, and sentenced to years in prison or leased out to a labor farm to render services without pay (Wright, 1994; Walker, 1988). Historians argue that, Congress abandoned its efforts to protect the emancipated slaves. For blacks, justice was unattainable given that they had been processed from slavery to mass incarceration (Henrietta et al., 2014)

Scholars argue Congress made attempts to create a more equitable society by passing the *Civil Rights Act of 1871*, the *Thirteenth*, *Fourteenth*, and *Fifteenth Amendments*, and *Affirmative-Action* which provided blacks with some assurance of equality in America. However, the current US Supreme Court with its conservative majority is slated to dismantle affirmative action when it renders its ruling in *Students for Fair Admissions v. Harvard College* and *Students for Fair Admissions v. University of North Carolina*. Moreover, some scholars argue that injustice and racism are central to the black experience in America, especially among the supporters of the *Black Lives Matter* and *SayHerName* movements who stage protests and demonstrations against police officers who often shoot and kill unarmed blacks. They argue that one never hears about random police shootings of whites or even disproportionate majority contact in America.

The philosophy behind juvenile processing in America has changed in the past decades to the extent that some juveniles are viewed as young adult criminals. This started in the 1980s and 1990s, when the juvenile justice system shifted its focus from treatment to punishment (Pitts, Campbell, & Trimm, 2011). According to Snyder, Sickmund, & Poe-Yamagata (1997), when the juvenile justice system's focus shifted from treatment to punishment, blacks bore the brunt of its policies being disproportionately sentenced to correctional facilities, while whites were sent to psychiatric hospitals. As such, the disproportionate number of black juvenile arrests raises questions about the purpose and philosophy of the juvenile justice system. Perhaps, a more pressing question is what accounts for DMC in the system? This is troubling since Rovner (2021) reports that black youths are four times more likely to be detained and committed to juvenile facilities compared with their white counterparts. Sickmund and colleagues (2021) report that in 2015, black youths incarceration rate was 5.0 times higher than their white peers. However, that number has decreased to 4.4 and experienced a 13% decline (Sickmund et al., 2021). Similarly, Puzzancher, Slacky, & Kang (2019) revealed that

while black youths represent 15% of all youths in the U.S., they account for 41% of youths in juvenile placement. *The Sentencing Project* reported that in every state (with the exception of Hawaii), black youths are more likely to be in juvenile custody (Rovner, 2021).

### *DMC during the advent of Covid 19 pandemic*

Hager (2021) reported that during the *Covid 19* pandemic, white youths were released from juvenile detention centers at a higher rate compared with blacks and others during the early stages of the pandemic. Juvenile experts contend that during the pandemic, blacks experienced more racial inequality from judges and juvenile probation officers who revealed their reluctance to release youths of color was because they would more likely have to release them to the custody of their grandparents, or some other vulnerable elderly caregiver who would likely catch *Covid 19* or to a single parent with multiple jobs who would be unable to provide proper supervision to the juvenile (Hager, 2021). Some experts report that people of color are being detained for longer periods because they have fewer alternatives in their communities (Fix, 2018; Cahn, 2006). As such, detention is their only option. Cahn (2006) reported that decisions to process juveniles into the justice system have little to do with the behavior they engage in, but rather, they turn on whether there are enough viable alternatives and diversion programs for children with families lacking the means to provide adequate care. This, in combination, with an increase in gun violence among young blacks in major inner cities necessitated longer stays in juvenile facilities (Fix, 2018; Hager, 2021). Critics contend that this is ironic given the arrest rates show that people of color are being arrested less often. These same critics argue that this reveals that the racial gap in detention is getting worse even though the rate of crime and violence is on the decline. Some experts have argued that the number of juvenile arrests declined during the *Covid* pandemic because police took a hands off approach out of fear of contracting the virus and students attended virtual classes which removed opportunities for face to face interaction with school-based officers (Hager, 2021).

## **Part Two: Historical Tensions, Implicit bias, Youth Perception, Bias Criminal Policies, and DMC**

### *Historical tensions*

The tension between the black community and the institution of policing is not new, but rather, well documented and can be described as tumultuous at best. Criminal justice historians and police experts trace the genesis of the strained relationship and mistrust back to slavery when police were created to capture runaway slaves. Historians

argue police were mostly hired by slaveowners to protect their financial investment by having escaped slaves captured and returned to their owner to serve a life of servitude (Kappeler, 2014). History reveals that African slaves were captives who were devoid of the freedom and liberty that was afforded to immigrants who voluntarily came to America. According to Dulaney (1996), the institution of slavery was justified as divine providence to civilize Africans or dark savages. To accomplish this, it needed structural support to enforce its practices and policies. The support was institutionalized and legitimized by slave codes which made it almost impossible to do anything without a white overseer. The power differential and the treatment slaves received by police is arguably the basis of mistrust and historical tensions. While the foundation of policing is reported as having begun in New York City in 1845, Dulaney (1996) reports that the slave patrol was the precursor to American police. Similarly, Kappeler (2014) provides that the origin of American policing is rooted in the slave codes because supporters feared slaves needed to be controlled to prevent violent uprisings and revolts. The patrols empowered pro-slavery sentiments that invariably sanctioned violence against blacks. Hadden (2001) suggested that slave patrols and the *Ku Klux Klan* (KKK) were used to terrorize and frighten slaves into subservience.

Beyond slavery, blacks also experienced police violence during Reconstruction, *Jim Crow*, as well as the *Civil Rights Movement* which was felt by the older generation of blacks who have shared those experiences with younger generations of blacks. More recently, police shootings of unarmed juveniles and young black men in particular have become etched in the psyche of today's black youth. With access to twenty-four hour television footage (cycles) of unarmed black men being shot and killed by police captured in real time reveals officers engaging in beatings, and choke holds of unarmed black men, not charged, or held criminally responsible for their actions has reopened old wounds of tension and mistrust. Unfortunately, the history of police brutality and perceived oppression can explain reactionary behaviors from young blacks which increases the likelihood they will be incarcerated.

### *Implicit biases often effect criminal justice*

Research shows that racial profiling is commonly practiced in American policing to the extent that minorities are often viewed as “enemies” to the conventional society because they have nontraditional attributes compared with whites. Eberhardt et al. (2004) found that police officers were more likely to possess implicit biases that impact their attitude and discretion when they encounter black males. Oddly, these officers do not consider themselves racists. This makes it likely that they will commit violence and take differential action against nonwhites (Spencer et al., 2016). Studies on how implicit biases impact police behavior is based on perceptions that police construct of

others in society (Greenwald et al., 2015; Glaser & Knowles, 2008). Experts contend that stereotypes about race can influence the perception of threat, that is to say, police officers often see blacks as dangerous compared with whites whom they view as safe. Therefore, they are more likely to use a formal response on blacks or even force without deliberation (Goff et al., 2008). Implicit biases emerge from several places and as such, they exist outside one's conscious awareness and control since they are always present. Police critics report that implicit biases are found in the nature of policing since the work brings them in contact with people (in their respective communities) whom they see as suspicious, dangerous, or undesirable. This suggests that whether police officers are racists is influenced by the implicit biases they acquire from society in general, and policing, in particular (Devine, 1989).

To eliminate implicit biases, experts encourage policymakers and police management teams to diversify their law enforcement agencies and provide training programs such as intergroup contact; counter-stereotypic exemplars; stereotype negation training; and multifaceted interventions. First, a meta-analysis of intergroup contact with non-negative contact with outgroup members found a reduction in bias. Second, exposure to outgroup members who controvert group-based stereotypes can also reduce bias (Park & Glaser, 2011). Third, refraining from using stereotypes in training by rejecting stereotypical sayings was found to reduce activation of stereotypes in future behavior. Last, counter-stereotype imaging, individuation, and increasing opportunities for intergroup contact helped to reduce implicit racial bias (Devine et al., 2012). It is important to note that while most police departments offer training in cultural competency, the addition of implicit bias training can help reduce the effect of cultural biases and stereotypes that often influence decisions. This argument is not limited to police officers, but rather, it can be made for every professional that has contact or encounters with black youth offenders including juvenile probation officers, their attorneys, as well as judges.

### *Youth perception and black crime*

The perceptions that juvenile officials hold about black youths may contribute to DMC since their attitudes, prejudices, and biases often influence how they process young offenders. Studies report that young blacks, like others in society, desire economic prosperity. However, for many, the path to success is obstructed by a lack of resources such as marketable skills, low educational attainment, crime ridden communities that are characterized by social disorganization, and a lack of opportunities to achieve success. Fix (2008) contends that the matter is compounded by the fact that when black juveniles are disproportionately placed in the justice system, the time spent there, denies them future prospects since they miss out on educational and occupational opportunities.

This often translates into them engaging in crime and later being processed in the adult prison system. One has to wonder, what does this do to the psyche or self-esteem of black youths living in a society of abundance, yet having nothing? Many who experience DMC are poor and impoverished. They may have also failed to gain success through conventional means such as education, deferred gratification, hard work, or being honest. Consequently, they may come to accept the reality of their economic plight, the label given to them, and the prospect of having a bleak future. From their prospective, they see crime as a resource to acquire materials that they value as status conferring in a status driven society. This is consistent with Robert K. Merton's anomie/strain theory that holds in societies where people are unable to achieve economic success, they may turn to crime as an instrument to relieve the strain they experience. In the US, poor people are the most likely to become frustrated with their economic situation because they are blocked from legitimate opportunities, especially after serving time and receiving a criminal record. Because of this, some are lured into crime (e.g., drug sales, robbery, burglary and others) to acquire economic success. In the black community, the youth often experience pressure from their peers to pursue illegitimate opportunities. Krisberg & Austin (1993) reported that black youth are easily swayed by peers when they suffer low self-esteem that could be caused by facing a bleak future owing to a lack of legitimate job opportunities. Albert Cohen (1955) viewed delinquency and crime as the rejection of middle class values since the poor are unable to achieve status via conventional avenues. He argued that because of status frustration, some lower class youth resort to crime to acquire a different type of status that lower-class youths can achieve. Similarly, Hawkins & colleagues (2000) found children between the ages of fourteen and sixteen faced a significant risk of engaging in violence if they lacked commitment to school and had low educational aspirations.

Other researchers attribute DMC to poor socialization. Jenkins (1997) reported that in lower-class structures, especially in single parent households marked by a lack of education, lack of resources, and inadequate supervision and discipline, children reared in these environments, are likely to engage in delinquency and crime. Smith & Krohn (1995) and Matsueda & Heimer (1987) concluded that minority families have higher rates of single-parent households and youth behavioral problems. Scholars argue that when child rearing is left to one parent, it could be overwhelming since children benefit more when both parents live in the household. Both parents are needed to supervise, monitor, and mete out consistent punishment since they teach children self-control and discipline. This is likely to assist children in the educational process. Fitzpatrick (1999) agrees with the importance of proper child rearing and asserts the vast majority of students exposed to violence found it difficult to avoid a fight or confrontation. He concludes the inability to walk away reflects inadequate socialization and poor child

rearing which contributes to violence. Further, Crawford & Bodine (2001) contend that violent behavior stems from a value system in which violence is readily expected and accepted as normative behavioral responses. Accordingly, Hawkins and colleagues (2000) report that if children, at age ten, have parents with favorable attitudes towards violence, they are twice as likely to commit violence by the age of eighteen. These studies on the lack of economic resources and poor socialization may explain why some black youth are involved in crime, however, they do not explain why blacks are arrested more often than their white counterparts who report committing similar crime and status offenses.

### *Bias criminal justice policies contributing to DMC*

Why are black youths disproportionately incarcerated is a question that confounds many in the criminal justice system given that it is well established that their participation in crime is similar to their white counterparts (Davis & Sorensen, 2013). What is alarming still is that blacks are viewed by experts, practitioners, academics, and researchers as the chief commodity in both the juvenile and adult systems (Desai et al., 2012; Blumstein, 1982). This is concerning since scholars argue that many justice policies have criminalized blacks and have contributed massively to the prison industrial complex (Taifa, 2021). Morrison (2021) reported that federal and state incarceration data reveal that from 1975 and 2019, the US prison population increased from 240, 593 to 1.43 million inmates with 1 in 5 prisoners serving a sentence for a drug offense listed as their most serious crime. Some scholars contend that the U.S. efforts to fight the war on drugs turned into a racially motivated crusade and a race towards massive incarceration is instructive in this regard. They contend the punishment meted out during the 1980s and 90s for possessing crack cocaine speaks to a racist and unequal criminal justice system. The policy is still fresh in the minds of criminal justice practitioners since efforts are currently being made (via *Fair Sentencing Act*) to reverse this discriminatory policy. Nevertheless, crack cocaine (used predominantly by young blacks) and powdered cocaine (used predominantly by whites) confounded justice experts with alarm since one is a derivative of the other. Critics argue that in 1986 the *Anti-Drug Act*, a federal law, created mandatory minimum sentencing schemes that provided for the 100 to 1 ratio between crack and powder cocaine sentences (Taifa, 2021). In essence, one would receive a five-year sentence for distributing five grams of crack cocaine compared with a five-year sentence for distributing 500 grams of cocaine. Highlighting the disparity, Fitzgerald (1990), explained that five grams of crack had an estimated street value of \$125, while 500 grams of cocaine had an estimated street value of \$50,000. In the end, the law flooded the federal system with people convicted of nonviolent drug offenses. Consequently, correctional experts report that after the federal government

imposed stiffer penalties for crack cocaine and other drugs, the black incarceration rate skyrocketed from 600 per 100,000 people in 1970 to 1,808 in 2000. During the same time, the Latino population rate grew from 208 per 100,000 people to 615, while the white incarceration rate increased from 103 per 100,000 people to 242 (Morrison, 2021). This law punished blacks more severely than their white counterparts. Such disparate treatment by the justice system signaled to social commentators, politicians, academics, justice experts and the black community that the law was bias.

Other discriminatory policies have also adversely impacted blacks. Consider the “three strikes and you’re out” and “mandatory minimum sentences” that were part of the criminal justice arsenal used as part of the “get tough” on crime efforts in the 1990s. Mauer (1994) argued that blacks were more likely to be sentenced under these laws, thus highlighting racial disparity in sentencing. Three strike laws added to prison overcrowding by requiring that offenders serve between 25 years to life if convicted of three felonies (Mauer, 1994). Similarly, mandatory minimum sentences helped to increase the prison population to record levels mainly because they removed discretionary sentencing from judges and replaced it with imposing what is allowed by the legislature. While the purpose of the new legislation was to eliminate prior delinquent status, gender, school and employment history as factors in sentencing that had traditionally been used against blacks. Studies, however, reveal that mandatory sentencing gave prosecutors the power to decide which defendants should be charged under sentencing statutes (Ulmer, Kurlychek, & Kramer, 2007). Therefore, prosecutorial powers increased under these guidelines. Rothman (1995) reported that prosecutors and probation officers are more likely to allow whites to plead to a lesser crime below the mandatory minimums compared with blacks. Some penal experts argue this practice helps to explain the DMC rates of blacks. Similarly, Tonry (1995) revealed that blacks are seven times more likely to be incarcerated compared with whites (1,800 per 100,000 compared to 289 per 100,000, respectively). While blacks compose 12 percent of the U.S. population, Rothman contends that they account for an estimated 48 percent of the nation’s prison population. Further, Delong & Jackson (1998) discovered that black youths were given harsher sentencing than whites, but not Hispanics.

What accounts for disparate juvenile processing? Some scholars contend that race alone is not a significant factor in processing black juveniles. However, research suggests that when race, the environment, and family structure are considered, blacks are given harsher punishment in juvenile processing compared with others with similar offenses. Critical experts of juvenile processing suggest that adjudication based on race, class, and family structure, cause many to question its fairness. This has led some to argue that a war has been declared on disadvantaged blacks. This conclusion is supported by arrest rates that signal bias and selective law enforcement against blacks. DMC may also

reflect the negative views of society, especially those that postulate blacks are dangerous, aggressive, and must be controlled.

### **Part Three: Effects of Social Distance, Media, and Police Perceptions on DMC**

#### *Social distance between officials and defendants and its impact on DMC*

Harold Garfinkel, a labeling theorist, observed the racial and economic disparities in the justice system. His research concluded that society and the justice system responds more severely to people who are socially, economically, and racially different from the guardians of the system. He put the matter succinctly by reporting that members of a group that is powerless, have different values, and is isolated from the dominant group are more likely to be taken into the justice system since they lack the resources to prevent official processing (Garfinkel, 1957). Critics of DMC report that this is not a new problem or one that grew out of the 1980s and 1990s, but rather, its presence has been a problem since the 1960s (Desai *et al.*, 2012). Furthermore, to critics of the system, the processing that black youths receive from some agents of the juvenile justice system, and their corresponding attitudes towards them, reflect the social distance between the groups. The agents of the system do not identify, relate, or see them as juveniles. Furthermore, labeling theorists contend the further away and removed people are from each other, the less they share with one another and consequently, do not identify or connect. However, when white officials interact with white juveniles, the opposite is true. For some, this may also contribute to DMC.

While some argue that social distance originates from economics or socioeconomic status, it also persists because of societal and group norms. For example, Leinwand (1972), asserts that the way in which police and the juvenile justice system determines which segment of society is more worthy of protection and service is based on what is in the interest of the dominant society. He notes that they judge moral and ethical conduct in terms of deviation from the societal and group norms. In fact, when one's behavior contrasts with conventional society, one risks being labeled a deviant. Thus, social distance reflects the views of the dominant group. Such views become detrimental to black youth who are arrested and processed by the justice system. Shusta, Levin, Harris & Wong (1995) contend that open displays of racism are not challenged in departments because some officers are reluctant to question the attitudes of their peers. They are also reluctant to step outside of the group. This may occur because of the need to be accepted within the police subculture. Similarly, Christie (1993), argues that social distance becomes more evident because those in the lower class create fear by rejecting the conditions that are thrust on them. Christie notes that privileged people retreat

from the poor in physical proximity, but are afforded greater police protection. Research also finds that police officers who widen the social distance between themselves and blacks may be more prone to engage in misconduct. Studies find that it is easier to treat black youth unfairly when there are no shared similarities (Weisburd *et al.* 2000). This leads some critics to believe that if such feelings and social distance are allowed to permeate in any law enforcement agency, differential treatment will persist (Parsons-Pollard, 2011).

### *Media presentation, constructions, reporting, and DMC*

Crime news and media experts report that the media is responsible for socially constructing either positive or negative images of those they report on in the media (e.g., local and national news, print and electronic news) including adult criminal and juvenile offenders. In fact, some argue that crime information represents some of the most potent imagery the media can present (Barak, 1995, p237). Unfortunately, the images that the media presents or constructs for the public serve to shape the reality of viewers or consumers of crime news (Barak, 1995). The war on crack cocaine and a popular weekly police show are instructive in this regard. Critical scholars site the example of “Cops.” This television drama was shot live as police ventured into some of the worst crack infested communities in the nation and taped police running after and arresting crack addicts and street level offenders. Media critics argued that these prepackaged productions were constructed in a manner to reveal how crack had devastated and destroyed the lives of many minorities as well as their respective communities since the presentations casted the neighborhoods as war zones, police-occupied, and unsafe places to live. However, in the process, the images depicted all residents as either sympathetic towards addicts or addicts themselves who were undeserving of compassion, police services, and unworthy of a better quality of life. For example, common themes that emerged from the crack epidemic were “*crack heads*”, “*crack hoers*,” “*crack babies*”, and “*welfare queens*” (Garske, 2018). Media critics contend that the presentations were always one sided (lacking context and focusing on minorities while ignoring powdered cocaine users) and effective at influencing viewers opinions about crack, addicts, and slum dwellers without a complete interpretation of the reality of the situation such as the economy, addictive nature of crack, joblessness, and bias drug policies used by the justice system to further destabilize the black community (Barak, 1995).

### *Negative perceptions of black youth and DMC*

For decades, the media has been a powerful instrument in constructing images and reporting crime news. In fact, crime reporting receives the higher ratings. The phrase, “If it bleeds, it leads,” is instructive in this regard. Crime news experts contend that in

the 1990s, crime coverage went national. For example, research reports that at the start of the 1990s, the three major networks ran less than 100 crime stories a year on their nightly news programming. However, at the end of the 1990s, they were reporting close to 500 (Forman & Vinson, 2011). Shows such as the *First 48*, *Law and Order* franchises, and others were what most Americans base their reality of the justice system on. However, this is far from reality. Reports of police activities reveal the vast majority of activities they provide are service related and not crime (Gaines & Kappeler, 2008). The same distorted view is held about the juvenile justice system. For example, juvenile crime has been on the decline for several years, and while there has been an increase in school shootings, the juvenile crime rate overall has been somewhat low. Despite this, media reporting on school violence, especially its use of prepackaging crime stories and 24-hour news cycles, have served to ignite more fear and panic among television viewers. Similarly, the same panic is evident in juvenile crimes committed by blacks. The public fears black youth largely because of how they are portrayed in negative images via media crime stories.

During the 1990s, in the back drop of the “*War on Drugs*,” Professor John DiLulio of Princeton University, added fuel to the “get tough” campaign being waged against crime and criminals by bolstering anti-crime legislation advocated by both democrats and republicans. DiLulio coined the term “*superpredator*” in reference to young black teenagers characterized as impulsive, savage, brutal, and unremorseful who are highly armed with semiautomatic weapons and prepared to use extreme violence without hesitation. DiLulio warned the public that if drastic action was not immediately taken to prevent this breed of newly emerging offenders from destroying America, by the year 2000, an additional 30,000 murders, rapists, and muggers would occupy the nations streets. He went on to argue that these young black predators placed zero value on the lives of their victims whom they mostly see as “white trash” (Bogert, 2020). Ironically, the idea of the *superpredator* was not based on crime statistics, but rather, fear. This stereotype was quickly embraced and popularized by politicians, police, academics, the media, and the public (Forman & Vinson, 2022). Bogert (2020) argued that media coverage quickly began to report crime stories (about a teenage crime wave) where the theme was about young dangerous black *superpredators*. Juvenile experts reported that the term had a profound effect on how judges, prosecutors, and probation officers processed their clients. In fact, some media experts contend that the language presented by the media in reference to the *superpredators* was being read and heard by everyone who watched local news, read daily papers, read commentaries, editorials or newsmagazines (Bogert, 2020). Unfortunately, the construction of the *superpredator* biased many Americans and officials in the juvenile and justice system by preventing them from displaying empathy towards young people of color. More specifically, experts

report that the myth of the black teenager “*superpredator*” infected the justice system and racialized fear and consequently added to DMC as black juveniles were treated harsher by being certified as adults, tried as adults, and received longer prison sentences. Despite DiLulio’s prediction of what would happen by 2000, the juvenile murder arrests rates had fallen by two-thirds (Bogert, 2020).

The negative images of blacks in movies, magazines, newspapers, television shows, and news programming are reality to the majority of Americans, including police officers who are sworn to uphold and protect everyone including teenagers. Perhaps, the most popular depiction is of blacks and drug use. According to Lusane (1997), the myths of blacks as drug users and sellers hide the reality that “whites behind the security of closed corporate doors” dominate drug trafficking. Despite research studies, the myth of blacks, drugs, and crime persist. As a whole, minorities are often viewed as second-class citizens, who belong at the bottom rung of the American system of stratification and unworthy of societal privileges including juvenile services. The belief that blacks are drug addicts who are prone to aggressive and violent behavior creates questionable police tactics. The Pittsburgh Press ten-month investigation of the local police department’s drug enforcement tactics revealed that minorities accounted for 77% of all drug stops. Reports such as this perpetuates stereotypes about blacks that contribute to differential enforcement and processing practices. Shusta and colleagues (1995) suggest that some officers harbor deep-seated prejudices or implicit biases. This increases the likelihood that black males are more prone to be stopped for small or frivolous reasons compared with whites not just in big cities, but also in small areas. These implicit biases allow police officers to frequently arrest blacks for less serious offenses while not arresting whites for more serious ones (Davis & Sorensen, 2013).

#### **Part Four: Policy Recommendations**

While some experts contend that DMC may reflect that black youths commit more crime than their white counterparts, research evidence finds the matter is purely extralegal and reflects institutionalized racism that remains pervasive in both adult and juvenile justice systems (Huizinga et al., 2007). Since the 1990s, researchers have argued that many studies reveal that juvenile justice officials target youth from disadvantaged backgrounds (Conley, 1994). The effects of DMC impacts the society in general, and the black community in particular, since the juvenile justice system is often a pipeline to the adult criminal justice system. An observation made by Messner and Rosenfeld and Stevenson regarding the devastating toll that crime control policies have had on the black community bares mentioning. They argue that the prison industrial complex and efforts toward mass incarceration have rendered the black community unable to reproduce itself since many of its residents of marrying age have been incarcerated during

their reproductive years. This also impacts some women in these communities since the mass exodus of men to prison leaves them without a suitable partner to procreate and serve as role models to younger generations of blacks. Similarly, the rate of imprisoned women with children has further devastated the black community leaving dependents displaced on family members (Messner & Rosenfeld, 2007; Stevenson, 2006).

Some scholars argue that mass incarceration efforts have destabilized the black community by throwing it into disarray creating weak community controls among informal institutions such as the family, peer groups, churches, school, and other control units. This has challenged families ability to protect children from violence, drugs, gangs, and other problems. Unfortunately, the children become collateral damage (Stevenson, 2006). Moreover, power threat theorists discussed earlier, view DMC as a strategy to prevent the black population from reproducing itself since the fewer blacks there are, the lower the threat they pose to the social structure. Notwithstanding, after being part of DMC, the deviant label received by prisoners may convince some that they are exactly what the label suggests, criminals. Additionally, incarceration disqualifies many people from pursuing certain employment as well as educational opportunities needed to escape a life of poverty (Cahn, 2006). In an effort to prevent more black youths from entering into the justice system and adding to the DMC, reforms must be made in several areas. While the US is currently allocating fewer federal dollars to states to combat the problem, efforts from several private organizations are showing promise at reducing DMC (Nellis & Richardson, 2010). Therefore, we recommend the following policies be implemented: training in cultural competency and implicit bias, increasing community-based detention alternatives, engaging in data driven solutions, and reducing barriers to family involvement.

### *Training in cultural competency and implicit bias*

Because many practitioners may be unaware that they harbor racist attitudes that manifests in their thoughts, language, and exchanges with minorities, juvenile justice decisionmakers (e.g., police, judges, prosecutors, probation officers) should receive training in cultural competence and implicit biases. During training, practitioners will be sensitized to the problems of DMC and focus on detention reform. The objective is to give officers an awareness of the problem before they interact with juveniles (Cabaniss et al., 2007). Studies find that as soon as a juvenile enters the juvenile justice system, officials quickly judge their likelihood of posing threat to the community, reoffending, or eluding justice. The perception of how the juvenile will respond in each instance is typically based on race. Therefore, the perception that officials have of race invariably affects the actions they take (Cabaniss et al., 2007). We recommend that cultural competency and implicit bias training begins at the academy and remains

part of continuing education. In the 1990s, research experts highlighted the need for these actors to receive special training and assistance if their role required them to use risk assessment instruments before processing. Moreover, policymakers play an important role in juvenile processing since they create laws that can adversely impact them. As such, some experts suggest that policymakers should be required to add a racial impact statement to any proposed legislation that impacts sentencing. They posit that when this occurs, it makes everyone involved in the legislative process review and anticipate any disparate outcomes based on race/ethnicity (Mauer, 2009). Beyond this, policymakers should advocate that courts reframe from using extralegal factors when imposing punishment on minority youths since research finds that they typically use race/ethnicity before processing offenders. Experts contend that if they focus on the offense, youth contact will be proportionate to offenders representation in the general population (McCarter, 2011; Cabaniss et al., 2007).

### *Increasing community based detention alternatives*

Research has uncovered evidence that shows that effective alternatives given to juvenile offenders can have important advantages as well as positive outcome. Cabaniss and colleagues (2007) provide that research using a cost-benefit analysis revealed that treatment components such as providing juveniles with individual and family therapy saved tax payers more money compared with sentencing offenders to traditional detention for longer periods of time. Some studies compared the cost associated with punitive long term detention with reduced criminal offending, improved youth education, and reductions in drug abuse, teenage pregnancy, child abuse and neglect, and found that community based programs were more effective at preventing recidivism and giving relief to strained state correctional budgets (Mallett, 2018). Rust (1999) recommends using alternatives because the majority of youths are not serious or chronic offenders. Therefore, they should be placed under house arrest with unannounced visits and receive random phone calls by probation officers or other supervisors. Other alternatives could include structured day programs that provide intensive supervision, and shelters for runaways, the homeless, or those in need of around the clock supervision. These alternatives are not punitive or stigmatizing. For example, in a program entitled, *The Detention Division Advocacy Project (DDAP)* in San Francisco, CA, agencies monitor youths instead of placing them in secure detention. Juveniles are given intensive monitoring in their homes and community by representatives who offer evidence-based treatments and protocols such as therapeutic approaches to youths and their families to address the clients specific needs (Mallett, 2018; Mendal & Middaugh, 2003). In an evaluation of DDAP's success, research report that approximately 80% of youth did not recidivate and appeared at their court hearing. As such, correctional experts

argue that these and other programs should be used to combat DMC, along with other efforts such as youth development facilities and residential treatment programs since research findings suggest that youth placed in these programs are less likely to recidivate (Mendal & Middaugh, 2003).

### *Engaging in data driven solutions*

Experts suggest that policymakers and practitioners use evidence-based data before deciding on the type of intervention to impose on offenders (Cabaniss et al., 2007). Moreover, OJJDP recommends that an effective way to reduce DMC is to collect, review, and analyze data from nine decision points in the juvenile justice system: arrest, referral to court, diversion, secure detention, petition (charges filed), delinquent finding, probation, confinement in secure correctional facilities and transfer to adult court. OJJDP holds that since states also collect data on race/ethnicity, these processes can be observed with respect to any disparate treatment that may occur. Experts argue that reviewing juvenile processing data will allow for decision-point mapping which can be used to detect important steps in reducing DMC (Nellis, 2005). Closely monitoring these data can reveal critical points in the process that can lead to pathways for reform. For example, in an investigation conducted by the probation department in *Santa Cruz, CA* to determine which juveniles (with respect to race/ethnicity) were being arrested, detained, and placed in programs, data were collected and analyzed at each decision point to map the outcome. The results revealed that 64% of the juveniles placed in detention were minority-Hispanic. In response, efforts were made to address DMC since it was determined that cultural and language factors influenced the outcome. After three years, that number was reduced to 50% (Hoytt et al., 2002). Similarly, in 1993, mapping decisions based on data were used to isolate juvenile justice decisions in Multnomah, Oregon. The findings showed that detention processing and police referrals were major factors that contributed to DMC in the juvenile justice system. In response, a pathway was created. More specifically, between 1993 to 2000, a new instrument was created based on data related to race/ethnicity and juvenile processing. Researchers report that the instrument was a racially and ethnically neutral risk assessment used to guide detention decisions, but when initially introduced, blacks and Hispanic youths were almost twice as likely compared with whites to be detained. However, by 2000, they were only slightly more likely to be given detention. In the end, the new assessment tool, along with alternatives to detention, and diversity training, successfully reduced the detention population since it experienced a 64% drop from 1993 to 2000 (Hoytt et al., 2002). Another example of using juvenile evidence based data to impact change occurred in Cook County, Illinois where efforts were placed on using detention reform to reduce the disparity in arrests since 90% of the juveniles in

detention were minorities. Cook County implemented strategies on several levels that included offering cultural sensitivity training, making changes to its intake process, and improving judicial representation. It also added more detention alternatives. After assessing the impact of these efforts, between 1996 and 2000, minority offenders benefited most with a reduced daily detention population by 31 percent (Hoytt et al., 2002).

### *Reducing barriers to family involvement*

Juvenile experts have long argued that families with youths who have entered the juvenile justice system struggle to understand the complexity of the legal system. Because the system is esoteric, most families that experience the system, do not know what will happen next to their child, or whether they themselves have a role in the process. Therefore, they are overwhelmed, confused, and demoralized (Frabutt et al., 2005). This can also exacerbate the situation if their children display counterproductive outbursts in front of a judge that make them look less than innocent or worthy of being diverted to an alternative program. Because of this, in 1996, the *Public Defender's Office* in Cook County, IL created the *Detention Response Unit* (DRU) to assist juveniles facing detention and to get families involved in the justice process. DRU's goals were to reduce juvenile courtroom antics based on fear. To defuse this, DRU educated youth's on what to expect in the court process, advised offenders on how to display proper decorum, and it helped to confirm they had ties to the community. DRU also got families involved by impressing upon parents and guardians that the optics in the courtroom look better when they attend their youth trial. Juvenile experts believe that families are important to court proceedings and signal to judges and probation officers that they are willing to assist their troubled youths (Hoytt et al., 2002).

As stated earlier, some justice experts argue that DMC persists because judges and juvenile probation officers believe that the parents or guardians of detained youths, lack the commitment and resources needed to properly supervise them if they are diverted from formal processing to an alternative (Hager, 2021; Cahn, 2006). In an effort to determine the appropriateness of returning youths to their families, officials in Santa Cruz, CA quickly realized that many juvenile justice agencies lacked enough Spanish speaking employees as part of intake and case management staff. In response, the county prioritized hiring Spanish speaking staff members to assist the disproportionate Spanish speaking youth housed at detention centers. This allowed the intake department to form partnerships with community-based agencies by bringing staff into contact with parents and guardians to help Spanish speaking parents. Intake officers provided parents with an opportunity to get involved by sharing their concerns, willingness, and

ability to meet supervisory expectations that were mandated by the court. Subsequently, more than twice as many youths were diverted to alternative programs designed to meet the needs of Spanish speaking offenders.

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