**Minority Youth and Crime: Minority Youth in Court**

Youth in general, and young minority males in particular, often are demonized by legislators, the media, scholars, and the public at large. These attacks reinforce stereotypes and place a particularly heavy burden on young Black and Latino males.

LINDA S. BERES AND THOMAS D. GRIFFITH, “DEMONIZING YOUTH”1

In June 2001 Lionel Tate, an African American boy who was 12 years old when he killed a 6-year-old family friend while demonstrating a wrestling move he had seen on television, was sentenced to life in prison without the possibility of parole. Tate, who claimed that the death was an accident, was tried as an adult in Broward County, Florida; he was convicted of first degree murder. One month later, Nathaniel Brazill, a 14-year-old African American, was sentenced by a Florida judge to 28 years in prison without the possibility of parole. Brazill was 13 years old when he shot and killed Barry Grunow, a popular 30-year-old seventh grade teacher at a middle school in Lake Worth, Florida. Although Brazill did not deny that he fired the shot that killed his teacher, he claimed that he had only meant to scare Grunow and that the shooting was an accident. Like Tate, Brazill was tried as an adult; he was convicted of second degree murder.

These two cases raised a storm of controversy regarding the prosecution of children as adults. Those on one side argue that children who commit adult crimes, such as murder, should be treated as adults; they should be prosecuted as adults and sentenced to adult correctional institutions. As Marc Shiner, the prosecutor in Brazill’s case, put it, “This was a heinous crime committed by a young man with a difficult personality who should be behind bars. Let us not forget a man’s life has been taken away.”2 Those on the other side contend that prosecuting children as adults is “unwarranted and misguided.” They assert that children who commit crimes of violence usually suffer from severe mental and emotional problems and that locking kids up in adult jails does not deter crime or rehabilitate juvenile offenders. Although they acknowledge that juvenile offenders should be punished for their actions, they claim that incarcerating them in adult prisons for the rest of their lives “is an outrage.”3 According to Vincent Schiraldi, president of the Justice Policy Institute, “In adult prisons, Brazill will never receive the treatment he needs to reform himself. Instead, he will spend his time trying to avoid being beaten, assaulted, or raped in a world where adults prey on, rather than protect, the young.”4

Nathaniel Brazill is still incarcerated in the Brevard Correctional Institution. Assuming that none of his pending appeals are successful, he will not be released until 2028, when he will be 41 years old.5 Lionel Tate’s conviction, on the other hand, was overturned by a Florida appellate court in 2003. The court ruled that Tate should be retried because his competency to stand trial was not evaluated before he went to trial. The state decided not to retry Tate and instead offered him a plea agreement—Tate pled guilty to second degree murder in exchange for a sentence to time served (which was about 3 years), plus 1 year of house arrest and 10 hours of probation.6 He was released from prison in January 2004. In May 2005 he was back in jail in Fort Lauderdale, Florida, after he allegedly robbed a pizza delivery man at gunpoint. Because he was on probation at the time of the crime, Tate faced a potential life sentence on the robbery charge.7 In 2006 he was sentenced to 30 years in prison on a gun possession charge and in 2008 he was sentenced to 10 years in prison for the robbery.

**Goals of the Chapter**

The prosecution of children as adults, and the potential for racial bias in the decision to “waive” youth to adult court, is one of the issues we address in this chapter. We also discuss racial/ethnic patterns in victimization of juveniles and in offending by juveniles, the treatment of juveniles by the police, and police use of gang databases. We end the chapter with a discussion of the treatment of minority youth by the juvenile justice system.

After you have read this chapter:

1. You will have explored the myths and realities about victimization of and crime by minority youth.
2. You will have examined the relationship between the police and racial and ethnic minority youth.
3. You will have reviewed recent research on racial disparities in the juvenile justice system.

**Young Racial Minorities as Victims and Offenders**

**Juveniles as Victims of Crime**

In Chapter 2 we showed that, regardless of age, African Americans have higher personal theft and violent victimization rates than other racial / ethnic groups and that Hispanics generally have higher victimization rates than non-Hispanics. However, information concerning the racial and ethnic trends in victimization for juveniles is scarce. In this section we examine National Crime Victimization (NCVS) data, supplemented by National Incident Based Reporting System (NIBRS) data and Supplemental Homicide Reports (SHR) from the FBI. We first discuss property victimization, followed by violent victimization and homicide victimization.

**Property Crime Victimization**

Using information from the 1996 and 1997 NCVS, the Office of Juvenile Justice and Delinquency Prevention released a brief on “Juvenile Victims of Property Crime.”8 Their findings indicated that one of every six juveniles (defined as youth aged 12 to 17) had been the victim of property crime.9 This rate was 40 percent higher than the property crime victimization rate for adults.10

Table 10.1 offers a comparison of juvenile and adult property crime victimization rates for this time period by race and ethnicity. A ratio of juvenile to adult rates higher than 1:1 indicates that the juvenile victimization rate is higher than the adult rate. The ratio of 1:1.4 for whites, for example, indicates that the property crime victimization rate for white juveniles is higher than the property crime victimization rate for white adults; moreover, as indicated by the asterisk, the difference in the rates for adults and juveniles is statistically significant. This pattern is found for all three racial categories. Hispanic property crime victimization rates, however, do not vary significantly between juveniles and adults, but non-Hispanic rates do vary.

Table 10.1 Juvenile and Adult Property Victimization Rates by Race and Ethnicity (1996 and 1997 Combined)

|  |  | Property Crime Rate (Per 1,000 Population) | | Property Crime Ratio (Juvenile/Adults) |
| --- | --- | --- | --- | --- |
|  |  | Juvenile | Adult |  |
| Victim Race | |  |  |  |
|  | White | 162 | 114 | 1:1.4\* |
|  | African American | 194 | 151 | 1:1.3\* |
|  | Other | 155 | 108 | 1:1.4\* |
| Victim Ethnicity | |  |  |  |
|  | Hispanic | 143 | 133 | 1:1.1 |
|  | Non-Hispanic | 170 | 117 | 1:1.5\* |

\*Juvenile rate divided by adult rate; significant difference at the 0.05 level or below.

**SOURCE: Office of Juvenile Justice and Delinquency Prevention, “Juvenile Victims of Property Crimes” (Washington, DC: U.S. Department of Justice, 2000).**

Looking at the victimization rates for juveniles only in Table 10.1, we see that African American youth have the highest property crime victimization rate, followed by white youth, then “other race” (American Indian / Alaska Native and Asian / Pacific Islander) youth. With regard to ethnicity, non-Hispanic juveniles report a higher rate of property crime victimization than Hispanic juveniles. The racial pattern of property crime victimization among juveniles, in other words, mirrors the overall pattern for all ages combined (see Chapter 2); both comparisons show the highest rates for African Americans. The victimization rates of Hispanic and non-Hispanic juveniles (higher rates for non-Hispanics), on the other hand, differ from the rates for all age groups combined (higher rates for Hispanics).11

The FBI also collects information about crime victims through the NIBRS. These data do not represent the entire U.S. population, but they do provide substantial information on the victims of crime in the jurisdictions covered. Using this information, researchers estimate that juveniles with the following characteristics have a relatively high risk for property crime victimization: “African American juveniles, juveniles in urban areas, and juveniles in the West.”12 In short, these victimization patterns closely mirror “the higher risk for adults in these categories.”13

**Violent Crime**

In general, violent victimization rates are somewhat higher for younger age groups than for older age groups. For example, in 2009 the violent victimization rate for youth from 12 to 15 years old was 36.8 victimizations for every 1,000 persons in that age group, and the rate for youth 16 to 19 years old was 30.3 victimizations for every 1,000 persons in that age group. In contrast, the rate for individuals who were 20 to 24 years old was 28.1 per 1,000, and the rate for those who were 25 to 34 years old was 21.5 per 1,000. The rates for simple assault were 25.9 for those who were 12 to 15, 19.3 for those who were 16 to 19, 16.3 for those who were 20 to 24, and 13.4 for those who were 25 to 34.14

The most recent data on violent victimization by age, race, and gender are for 2007. These data reveal that the overall violent victimization rate, which in years past was higher for African Americans than for whites, is now very similar for these two groups. For example, in 2000 the violent victimization rates for youth ages 12 to 15 were 66.7 for African Americans and 58.7 for whites; in 2007 the rates were 46.1 for African Americans and 42.1 for whites.15 Thus, the victimization rates for both groups declined from 2000 to 2007, but the rate for African Americans fell more sharply than did the rate for whites.

Data on violent victimization rates broken down by age, race, and gender reveal that *young African American males* have a greater likelihood than other offenders of being victims of robbery but that the rates for overall violence are very similar for young African American males and for offenders other than white females.16 These data reveal that in 2007 the violent victimization rate for youth between the ages of 12 and 15 was 46.1 for African American males, 47.9 for white males, 46.2 for African American females, and 36.1 for white females. For violent crime in general, then, the rates for African American males, African American females, and white males differed by less than two percentage points. In contrast, the robbery victimization rate for African American males (9.1) was considerably larger than the rate for white males (5.4) and was more than 10 times the rate for white females (0.9) and African American females (0.0).

A 2003 report by the Bureau of Justice Statistics revealed that African American and Hispanic youth were more likely than white youth to be victims of crimes committed with weapons.17 This was true for crimes committed with any weapon and for crimes committed with a firearm, and it was true for youth between the ages of 12 and 14 as well as youth between the ages of 15 and 17. Among the 15- to 17-year-olds, for example, the rate of violent victimizations with a firearm for white youth was only half the rate for Hispanic youth; the rate for African American youth was even higher than the rate for Hispanic youth.

The question, of course, is why African American and Hispanic youth are more likely than whites to be the victims of violent crime. To answer this question, Janet L. Lauritsen used 1995 data from the National Crime Victimization Survey to explore the effects of individual, family, and community characteristics on the risk for nonlethal violence among youth.18 She disaggregated violent incidents into incidents perpetrated by strangers and those perpetrated by non-strangers, and she distinguished incidents that occurred in the youth’s own neighborhood from those that occurred elsewhere. She found that youth living in single-parent families had higher risks for violence than those living in two-parent families, and that the risk for violence was much higher for youth living in the most disadvantaged communities.19

According to Lauritsen, “because family and community characteristics vary among racial and ethnic groups in the United States, it is important to consider differences in victimization risk across racial and ethnic groups.”20 As shown in Table 10.2, when she examined the risk for violence by race and gender, she found that young males faced a substantially higher risk of violence than young females; this was true for both stranger and non-stranger violence and for all violence as well as violence that took place in the youth’s own neighborhood. She also found that,

Table 10.2 Risk for Stranger and Non-Stranger Violence for African American, Hispanic, and White Youth

|  |  | Stranger Violence | | Non-Stranger Violence | |
| --- | --- | --- | --- | --- | --- |
|  |  | All Violence | Neighborhood Violence | All Violence | Neighborhood Violence |
| **Males** | | 34.9 | 20.2 | 25.0 | 14.4 |
|  | African American | 35.8 | 27.1 | 25.5 | 17.1 |
|  | Hispanic | 43.4 | 31.2 | 24.4 | 13.1 |
|  | White | 33.2 | 16.6 | 25.0 | 14.0 |
| **Females** | | 19.8 | 10.1 | 23.1 | 12.8 |
|  | African American | 24.3 | 14.2 | 30.1 | 22.7 |
|  | Hispanic | 22.7 | 14.1 | 16.3 | 10.3 |
|  | White | 18.2 | 8.5 | 22.7 | 11.0 |

**SOURCE: Janet L. Lauritsen, “How Families and Communities Influence Youth Victimization” (Washington, DC: U.S Department of Justice, 2003). Adapted from Table 5.**

* white, African American, and Hispanic males had roughly equal risks of non-stranger violence, but young white males had a lower risk of victimization for stranger violence in their own neighborhoods than African American and Hispanic young males; and
* African American girls faced much higher risks of non-stranger violence than either Hispanic or white girls, and both African American girls and Hispanic girls were more likely than white girls to be victimized by a stranger in their neighborhoods (see also Box 10.1, which discusses in more detail the victimization of young African American girls).

To determine whether these patterns could be explained by other factors, Lauritsen used analytical techniques that simultaneously controlled for individual, family, and community characteristics. She found that the amount of time the youth spent at home and the length of time the youth had lived in his/her current home had a negative effect on risk of violent victimization, and that youths who lived in single-parent families faced a greater risk than those who lived in two-parent families. She also found that youth who lived in communities with higher percentages of female-headed families and higher percentages of residents under the age of 18 had higher likelihoods of violent victimization.21

The most interesting finding from this analysis was that the racial and ethnic differences in risk for violent victimization disappeared when the characteristics of the youth’s family and community were taken into account. The racial and ethnic differences discussed earlier, in other words, “are primarily a reflection of community and family differences rather than the result of being part of a particular racial or ethnic group.”22 Thus, African American and Hispanic youth have greater risks for violent victimization than white youth because they are more likely than white youth to spend time away from home, to live in single-parent families, to have less-stable living arrangements, and to live in disadvantaged communities. As Lauritsen noted, “the sources of risk are similar for all adolescents, regardless of their race or ethnicity.”23

**Box** **10.1. Victimization of Young African American Girls**

In *Getting Played: African American Girls, Urban Inequality, and Gendered Violence*, Jody Miller examines the victimization experiences of African American girls living in disadvantaged neighborhoods in St. Louis, Missouri. She uses in-depth interviews with young African American women and men to investigate “the social contexts in which violence against young women in disadvantaged communities emerges, with an emphasis on the situations that produce and shape such events.”24

Miller focuses on young girls’ victimization experiences in their neighborhoods, their schools, and their relationships. Noting that most of the youth interviewed for her study lived in extremely disadvantaged neighborhoods in which drug dealing, street gangs, and violence were commonplace, Miller demonstrates that young girls faced particular risks in these male-dominated neighborhoods. They witnessed violence against other women that occurred in public view, were subjected to sexual come-ons by young men and sexual harassment by adult men, and faced an ongoing risk of sexual assault and sexual coercion. In response to these dangers, girls adopted gendered risk-avoidance strategies: they avoided public places, especially at night, and they relied on others, especially male relatives and friends, for protection. They also criticized girls who engaged in risky behavior or wore provocative clothing, arguing that doing so heightened girls’ risk of victimization. According to Miller, “the public nature of violence against women ... created a heightened vigilance and awareness among girls of their own vulnerability, but it also resulted in coping strategies that included victim-blaming as a means of psychologically distancing themselves from such events.”25

Miller also discusses sexual harassment of girls at school, noting that a majority of the girls she interviewed reported experiencing inappropriate sexual comments or being grabbed or touched in ways that made them feel uncomfortable. She stated that these types of harassment were “an everyday feature of the cultural milieu at school” and were not taken seriously by school personnel.26 Miller also notes that the girls who were subjected to this type of treatment had a limited arsenal of effective responses. Avoidance was not an option in schools where youths were constantly in contact with one another and standing up for oneself carried significant risks. As she put it, “Their attempts to defend themselves were read by young men as disrespect, and the incidents quickly escalated into hostile confrontations when young women challenged young men’s sexual and gender entitlements. Thus, young women were in a lose-lose situation.”27

One of the most troubling findings of Miller’s study is the high rate of sexual violence experienced by the girls. She found that half of the girls, whose mean age was only 16, had experienced some form of sexual coercion or sexual assault and that a third reported multiple experiences with sexual victimization. In contrast, the boys who were interviewed did not see their behaviors as sexual violence but as persuasion. Miller notes that much of the sexual violence, including gang rape, took place at unsupervised parties, where drugs and alcohol were readily available. As she explained, “Such social contexts not only made young women more vulnerable to sexual mistreatment but also enhanced the likelihood that girls would be viewed as either willing participants or deserving victims.”28

Miller concludes that her research “points to the clear need to address violence against girls in disadvantaged communities in a systematic fashion.”29 Although she acknowledges that “there are no simple answers or easy solutions,” she nonetheless suggests that the problem can be ameliorated by “remedies that attend to the root causes of urban disadvantage” and by “improving institutional support for challenging gender inequalities and strengthening young women’s efficacy.”30 She recommends that policy makers consider ways to make disadvantaged neighborhoods safer, that police adopt community policing strategies designed to engender trust and confidence in the police, that school personnel take a more proactive approach to addressing sexual harassment, and that community service agencies develop ways of providing stable adult role models and mentors for youth at risk.

**Homicide Victimization**

In 2005, 1 in every 10 murder victims was under the age of 18; 4.9 percent of the victims were under age 14, and 5.1 percent were between 14 and 17.31 Although homicide events are fairly rare (16,397 in 2005), racial patterns and trends by age are available. The Supplemental Homicide Reports (SHR) collected by the FBI indicate there are important racial patterns to be found in homicide trends. As discussed in Chapter 2, African Americans generally are overrepresented both as homicide victims and offenders. Although the highest homicide rates regardless of race and age are found among 18- to 24-year-olds, youth between the ages of 14 and 17 have rates that are similar to those for the 25-and-older age group.32

The homicide victimization rates for 14- to 17-year-olds, which are presented in Table 10.3, indicate that homicide rates declined dramatically from 1990 to 2005. For each of the four groups—white males, white females, African American males, and African American females—the rates peaked in 1995, declined substantially by 2000, and remained relatively steady from 2000 to 2005. Aside from the changes over time, the most startling finding revealed by the data presented in Table 10.3 concerns the differences in homicide victimization rates by race. Regardless of gender, African American juveniles have substantially higher victimization rates than white juveniles. Throughout the time period, the rate for African American females was approximately four times greater than the rate for white females, and the rate for African American males was six to seven times greater than the rate for white males. In fact until 2005 the homicide victimization rates for African American females were higher than the rates for white males.

Table 10.3 Juvenile Homicide Victimization Rates (per 100,000 population, ages 14–17) by Race and Gender

|  | 1990 | 1995 | 2000 | 2005 |
| --- | --- | --- | --- | --- |
| White male | 7.5 | 8.6 | 4.1 | 4.4 |
| White female | 2.5 | 2.7 | 1.4 | 1.1 |
| African American male | 59.0 | 63.2 | 25.8 | 26.4 |
| African American female | 10.3 | 11.9 | 4.5 | 4.0 |

SOURCE: James Allen Fox and Marianne W. Zawitz, *Homicide Trends in the United States*, (Washington, DC: U.S. Department of Justice, 2010). Available at: <http://bjs.ojp.usdoj.gov/content/homicide/homtrnd.cfm>.

It thus seems clear that African American youth are overrepresented as crime victims in the United States. African American juveniles have the highest property crime victimization rates of any group, and African American males and females are substantially more likely than white males and females to be homicide victims. As the study conducted by Lauritsen revealed, these racial and ethnic differences can be attributed primarily to race / ethnicity–linked differences and the characteristics of the families and the communities in which the youth live.

**Juveniles as Offenders**

Creating a profile of the juvenile offender is not an easy task. Much of the available data relies on arrest statistics and/or the perceptions of crime victims. Some critics argue that the portrait of the offender based on these data is biased (because of racial differences in reporting and racial bias in decisions to arrest) and suggest that the picture of the typical offender should be taken from a population of adjudicated offenders. We discuss this alternative picture of the juvenile offender in the section on juveniles in the correctional system, which appears later in this chapter.

**Juvenile Arrests**

Table 10.4 presents UCR arrest data for persons under the age of 18. The racial differences in these arrest statistics are similar to those for offenders in all age groups. The overrepresentation of African American youth for violent crimes is notable. In 2009 African Americans made up 51.2 percent of all arrests of youth for violent Index Crimes. Among young offenders arrested for homicide and robbery, African Americans constituted 58.0 percent and 67.3 percent, respectively, of all arrestees. African American juveniles also were overrepresented among arrests for serious property (Part 1 / Index) crimes, but the proportions are smaller than for violent crime (33.2 percent for serious property crime versus 51.2 percent for violent crime).

Table 10.4 Percent Distribution of Arrests by Race, under 18 Years of Age, 2009

|  | % White | % African American | % American Indian | % Asian |
| --- | --- | --- | --- | --- |
| **Total** | 65.9 | 31.3 | 1.2 | 1.6 |
| **Part 1 / Index crimes** |  |  |  |  |
| Murder and nonnegligent manslaughter | 40.4 | 58.0 | 0.9 | 0.7 |
| Forcible rape | 63.4 | 34.5 | 0.8 | 1.3 |
| Robbery | 31.1 | 67.3 | 0.4 | 1.2 |
| Aggravated assault | 55.4 | 42.4 | 1.0 | 1.2 |
| Burglary | 60.9 | 37.3 | 0.9 | 1.0 |
| Larceny-theft | 65.0 | 31.8 | 1.2 | 2.0 |
| Motor vehicle theft | 54.0 | 43.2 | 1.5 | 1.4 |
| Arson | 76.7 | 20.6 | 1.3 | 1.4 |
| **Violent crime** | 46.4 | 51.6 | 0.8 | 1.2 |
| **Property crime** | 63.9 | 33.2 | 1.2 | 1.7 |
| **Part 2 crimes** |  |  |  |  |
| Other assaults | 58.6 | 39.2 | 1.1 | 1.1 |
| Forgery and counterfeiting | 66.4 | 32.2 | 0.5 | 0.9 |
| Fraud | 61.9 | 36.0 | 1.1 | 1.0 |
| Embezzlement | 63.8 | 33.3 | 0.2 | 2.7 |
| Stolen property; buying, receiving, possessing | 54.0 | 43.6 | 0.8 | 1.0 |
| Vandalism | 78.4 | 19.2 | 1.2 | 1.2 |
| Weapons: carrying, possessing, etc. | 60.7 | 37.3 | 0.8 | 1.2 |
| Prostitution and commercialized vice | 36.7 | 58.4 | 0.4 | 1.5 |
| Sex offenses (except forcible rape and prostitution) | 71.2 | 26.6 | 0.8 | 1.4 |
| Drug abuse violations | 72.4 | 25.6 | 0.9 | 1.1 |
| Gambling | 6.8 | 92.7 | 0.0 | 0.5 |
| Offenses against family and children | 73.9 | 24.3 | 1.3 | 0.4 |
| DUI | 92.0 | 5.1 | 1.8 | 1.2 |
| Liquor laws | 89.4 | 6.2 | 3.1 | 1.3 |
| Drunkenness | 88.5 | 8.7 | 1.9 | 0.8 |
| Disorderly conduct | 56.8 | 41.4 | 1.0 | 0.8 |
| Vagrancy | 71.5 | 27.3 | 0.4 | 0.7 |
| All other offenses (except traffic) | 69.2 | 28.0 | 1.1 | 1.8 |
| Suspicion | 42.3 | 57.1 | 0.0 | 0.6 |
| Curfew and loitering law violations | 60.8 | 37.1 | 1.0 | 1.2 |
| Runaways | 66.6 | 26.7 | 2.2 | 5.4 |

SOURCE: Sourcebook of Criminal Justice Statistics, Table 4.10. Available at: <http://www.albany.edu/sourcebook/pdf/t4102009.pdf>.

Native American youth make up less than 1 percent of the juvenile population; they were slightly overrepresented in juvenile arrest figures for Index offenses (1.2 percent of all arrestees), especially motor vehicle theft (1.5 percent of all arrestees). Asian / Pacific Islander youth, who make up less than 3 percent of the U.S. population, were not overrepresented for any Part 1 / Index offenses.

The data presented in Table 10.4 reveal more variability in the race of juveniles arrested for the less serious Part 2 offenses. White juveniles were overrepresented for driving under the influence, liquor law violations, and drunkenness; they represented about 90 percent of arrestees in each category. African Americans made up fewer than 9 percent of juveniles arrested for these offenses. A similar pattern is found for vandalism, where the racial makeup of arrestees is consistent with the racial makeup of the general population. African American juveniles were overrepresented among arrestees for a number of these less serious offenses, including gambling (92.7 percent), prostitution (58.4 percent), offenses involving stolen property (43.6 percent), disorderly conduct (41.4 percent), other assaults (39.2 percent), weapons offenses (33.2 percent), fraud (36.0 percent), embezzlement (33.3 percent), and drug abuse violations (25.6 percent).

Native American / American Indian youth were overrepresented for three of the liquor-related Part 2 offenses: DUI, liquor law violations, and drunkenness. They made up 3.1 percent of all arrests for liquor law violations, 1.8 percent of all arrests for driving under the influence, and 1.9 percent of all arrests for drunkenness. Asian / Pacific Islander youth were overrepresented only for the status offense of running away and were significantly underrepresented for offenses such as liquor and drug abuse violations.

**Self-Reported Violent Behavior**

Data on juvenile offending also comes from surveys in which youth are asked to self-report delinquent acts. The National Longitudinal Survey of Adolescent Health, for example, gathered data from students attending 132 schools throughout the United States.33 Youth between the ages of 11 and 20 were asked to indicate the number of times in the past 12 months they engaged in four types of serious violent behavior: getting into a serious fight, hurting someone badly enough to need bandages or care from a doctor or nurse, pulling a knife or gun on someone, and shooting or stabbing someone.

Thomas McNulty and Paul E. Bellair used these data to examine racial and ethnic differences in violent behavior. As shown in Table 10.5, there were significant differences between white adolescents and each of the four other groups on the first two items. Asians were less likely than whites to have been in a serious fight or to have injured someone else; African Americans, Hispanics, and Native Americans, on the other hand, were more likely than whites to have engaged in these types of violent behavior. Asians also were less likely than whites to have pulled a knife or gun on someone else, but African Americans and Hispanics were more likely than whites to have pulled a gun or knife on someone or to have shot or stabbed another person.34 McNulty and Bellair used these data to create a serious violence scale, which focused on the breadth of violent activity (that is, whether the respondent engaged in the activity or not). The scale ranged from zero (respondent had not engaged in any of the types of violent behavior) to four (respondent had engaged in all four types of violence).35 They found that Native American adolescents were the most likely to have engaged in violent behavior (mean = .66), followed by Hispanics (.45), African Americans (.43), whites (.30), and Asians (.17). Overall, then, there were large and statistically significant differences between white youth and youth in each of the other four groups. Asians were less likely than whites to have engaged in violent behavior; Native Americans, Hispanics, and African Americans were more likely than whites to have participated in violence.

Table 10.5 Self-Reported Violent Behavior, by Race and Ethnicity: Mean Percent Who Reported Engaging in Each Type of Violence

|  | Serious Fighting | Caused Injury | Pulled Knife or Gun | Shot or Stabbed | Serious Violence Scale |
| --- | --- | --- | --- | --- | --- |
| Asian | .115\* | .032\* | .014\* | .013 | .17\* |
| African American | .210\* | .102\* | .086\* | .031\* | .43\* |
| Hispanic | .236\* | .119\* | .066\* | .030\* | .45\* |
| Native American | .402\* | .166\* | .079 | .009 | .66\* |
| White | .179 | .074 | .032 | .012 | .30 |

\*Group mean is significantly different from mean for white adolescents (P ≤ .05).

SOURCE: Thomas L. McNulty and Paul E. Bellair, “Explaining Racial and Ethnic Differences in Serious Adolescent Violent Behavior,” *Criminology* 41 (2003), pp. 709–748, Appendix 1 and Table 1.

Somewhat different results emerged from a study of violent offending among eighth-grade students in 11 cities throughout the United States.36 Dana Peterson and her co-authors used self-report data to examine the prevalence of violent offending and, for active offenders, their levels of offending (that is, the average number of offenses committed by offenders who reported engaging in the behavior). When they examined annual prevalence rates (that is, the percentage of youth who reported engaging in the behavior during the previous 12 months), they found that African American youth were more likely than White or Asian youth to have engaged in serious violence but that the percentages of African American, Hispanic, and Native American youth who reported involvement in serious violence were very similar (32 percent for African Americans, 30 percent for Hispanics, and 35 percent for Native Americans). Moreover, the authors also found that there were “no statistically significant race differences in levels of offending once offending begins.”37

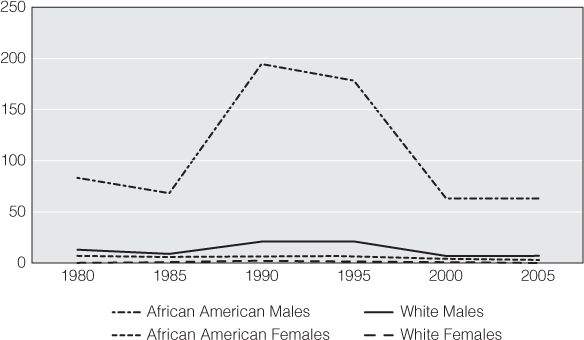
Peterson and her colleagues concluded that the results of their study “call into question the extent to which violent juvenile offending can be characterized as a minority male problem.”38 These researchers did find that males and racial minorities were overrepresented among violent offenders, but the differences were not as great as arrest data from the Uniform Crime Reports would suggest. As they put it, “Although there may be a ‘racial gap’ in terms of self-reported violence prevalence, no racial gap appears in frequency of violent offending among active offenders.”39

**Homicide Offenders**

Data on homicide offenders reveal that offending peaks at around age 18, that males are overrepresented as offenders, that roughly 50 percent of all homicides are committed by offenders known to the victim (non-strangers), and that the victim and the offender come from the same age group and racial category. The Supplemental Homicide Reports (SHR) collected by the FBI can be used to calculate approximate rates of homicide offending by age, race, and gender. We consider these approximate rates because the data come from reports filled out by police agencies investigating homicides, rather than from convicted offenders. As a consequence, these data may reflect a number of biases and should be viewed with caution.

The SHR data indicate that offending rates vary by age group and that the pattern is similar to that found for victimization rates: the 18-to-24-year-old group has the highest offending rate, followed by the 14-to-17-year-old group, with those 25 and older having the lowest offending rates.40 Figure 10.1 displays homicide offending rates from 1980 to 2005 for white males, white females, African American males, and African American females aged 14 to 17.41 Two trends are apparent. First, over time, the homicide offending rate for African American males has been substantially higher than the rates for the other three groups. In 2005, for example, the rate for young African American males (64.1) was 8 times the rate for young white males (7.9), 16 times the rate for young African American females (4.0), and more than 60 times the rate for young white females (0.7). The second trend revealed by the data is that the homicide offending rates for each group peaked in either 1990 or 1995 and declined dramatically after 1995. The rate for African American males, for example, was 194.0 in 1990, 178.6 in 1995, 63.2 in 2000, and 64.1 in 2005. For white males the rates fell from 22.0 (1990 and 1995) to 7.9 (2005).

Figure 10.1 Homicide Offending Rates for Youth age 14 to 17 by Race and Gender

[](https://portal.phoenix.edu/content/ebooks/9781111346928-the-color-of-justice.-race-ethnicity-and-crime-i/jcr:content/images/10fig01_alt.gif)

SOURCE: James Allen Fox and Marianne W. Zawitz, *Homicide Trends in the United States*, (Washington, DC: U.S. Department of Justice, 2010). Available at: <http://bjs.ojp.usdoj.gov/content/homicide/homtrnd.cfm>.

The intraracial pattern identified in Chapter 2 for all homicides—that is, most homicides involve victims and offenders of the same race—is found for juvenile homicides as well. However, interracial homicides are more common among young perpetrators.42

**Explaining Racial and Ethnic Differences in Violent Behavior**

The data discussed thus far reveal that there are racial and ethnic differences in violent behavior among juveniles. Data on homicide indicate that African American males have the highest offending rate and self-report data on other types of violence reveal that Asians and whites have lower rates of offending than Native Americans, Hispanics, and African Americans.

Researchers have advanced a number of explanations for these racial and ethnic differences. Although a detailed discussion of these explanations is beyond the scope of this book, they generally focus on the effects of community social disorganization,43 individual and family level risk factors,44 weakened family attachments and weak bonds to school and work,45 and involvement with delinquent peers and gangs.46 Most studies focus on *either* individual/family influences or community level risk factors such as social disorganization. There are very few studies that examine the causes of violent crime across these levels of analysis.

An exception to this is the recent study by McNulty and Bellair (discussed earlier); this study found that Asians were significantly less likely than whites to engage in serious violent behavior and that Native Americans, Hispanics, and African Americans were more likely than whites to report they had committed violent acts.47 To explain these differences, McNulty and Bellair controlled for individual factors (for example, gender, age, use of alcohol/drugs, easy access to a gun, and prior violent behavior), family characteristics (for example, type of family structure, parents’ education and income), social bonds indicators (for example, family attachment, school bonding, grades in school), involvement in gangs, exposure to violence, and community characteristics (for example, social disorganization and residential stability). They found that the racial/ethnic differences in violent behavior disappeared when they included these explanatory factors in a single model. As they noted, “statistical differences between whites and minority groups are explained by variation in community disadvantage (for blacks), involvement in gangs (for Hispanics), social bonds (for Native Americans), and situational variables (for Asians).”48

The authors of this study concluded that their results had important implications for implementing policies designed to reduce youth violence. They noted, however, that “the implementation of social programs is unlikely to alter contemporary patterns of racial and ethnic group involvement in violent behavior without amelioration of the fundamental social and economic inequalities faced by minority group members.”49

Similar results were found by Paula J. Fite, Porche Wynn, and Dustin A. Pardini,50 who used data from the Pittsburgh youth survey to examine discrepancies in violent arrest rates between African American and white male juveniles. They found that 38.4 percent of the African American boys, but only 24.6 percent of the white boys, were arrested for a violent offense as juveniles. They also found, however, that race was significantly correlated with 10 of the 14 risk factors they were examining, including conduct problems, low academic achievement, family socioeconomic status, poor parent-child communication, peer delinquency, neighborhood disadvantage and neighborhood problems.

The authors used statistical techniques that allowed them to determine whether these risk factors could explain the relationship between race and likelihood of arrest as a juvenile. As they noted, “If race is no longer a significant predictor of arrests after the inclusion of the risk factors in the model, then it suggests that race only indirectly affects arrest through its relation with one or more risk factors in the model.”51 In fact, their results were consistent with this: once the risk factors were added to the model, race was no longer a predictor of arrest for a violent crime.

Further analysis revealed that several of the risk factors had a significant effect on the likelihood of a violence-related arrest. The odds of arrest were higher for youth with conduct problems, low academic achievement, problems in communicating with parents, delinquent peers, and neighborhood problems. These five risk factors accounted for 70 percent of the relationship between race and arrest for a violent offense.52

In terms of policy implications, the authors of this study concluded that interventions designed to reduce juvenile arrests should focus on young boys exhibiting early signs of conduct problems such as fighting, stealing, and vandalizing property. Noting that low academic achievement also was associated with an increased risk of arrest, they suggested that “programs designed for children exhibiting co-occurring conduct disorder symptoms and academic problems will likely have the greatest impact on disproportionate minority arrest rates.”53

**Box** **10.2. Race, Crime, and the Media**

In a 2001 review of over 70 studies focusing on crime in the news, Lori Dorfman and Vincent Schiraldi, of the Berkeley Media Studies Group, asked the following questions: Does news coverage reflect actual crime trends? How does news coverage depict minority crime? Does news coverage disproportionately depict youth of color as perpetrators of crime?54

The authors of the report concluded that “the studies taken together indicate that depictions of crime in the news are not reflective of the rate of crime generally, the proportion of crime that is violent, the proportion of crime committed by people of color, or the proportion of crime that is committed by youth. The problem is not the inaccuracy of individual stories, but the cumulative choices of what is included in the news—or not included—presents the public with a false picture of higher frequency and severity of crime than is actually the case.”55

Dorfman and Schiraldi noted that although crime dropped 20 percent from 1990 to 1998, crime news coverage increased by over 80 percent.56 Moreover, 75 percent of the studies found that minorities were overrepresented as perpetrators;57 over 80 percent of the studies found that more attention was paid to white victims than to minority victims.58 The authors concluded that the studies revealed that a “misinformation synergy” occurs in the way crime news is presented in the media.59 The result is a message that crime is constantly on the increase, the offenders are young, minority males, and their victims are white.

**Juveniles of Color and the Police**

The racial/ethnic patterns found in data on arrests of juveniles raise questions about the general pattern of relations between the police and juveniles. We discussed this subject in Chapter 4. It is useful to review the major points here.

First, juveniles have a high level of contact with the police, and juveniles of color have particularly high rates of contact. Several factors explain this pattern. Most importantly, young people tend to be out on the street more than adults. This is simply a matter of lifestyle related to the life cycle. Low-income juveniles are even more likely to be out in public than middle-class youth. Middle-class and wealthy people have more opportunities for indoor recreation: family rooms, large back yards, and so on. A study of juvenile gangs in the 1960s found that gang members regarded the street corner as, in effect, their private space.60 At the same time, juveniles are more likely to be criminal offenders than middle-age people. Criminal activity peaks between ages 14 and 24. For this reason, the police are likely to pay closer attention to juveniles—and to stop and question them on the street—than to older people (for further discussion of this, see Focus on An Issue: The Use of Gang Databases).

Second, in large part because of the higher levels of contact, juveniles consistently have less favorable attitudes toward the police. Age and race, in fact, are the two most important determinants of public attitudes, with both young people and African Americans having the most negative view of the police. As Chapter 4 explains, the attitudes of Hispanics are less favorable than non-Hispanic whites but not as negative as those of African Americans. When age and race are combined, the result is that young African Americans have the most negative attitudes toward the police.61

Attitudes—and behavior that reflects negative attitudes—can have a significant impact on arrest rates. In his pioneering study of arrest patterns, Donald Black found that the demeanor of the suspect was one of the important determinants of officers’ decision to make an arrest. With other factors held constant, individuals who are less respectful or more hostile are more likely to be arrested. Black then found that African Americans were more likely to be less respectful of the police, and consequently were more likely to be arrested. Thus the general state of poor relations leads to hostility in individual encounters with the police, which in turn results in higher arrest rates.62

A study published in 2003 used data from the National Incident-Based Reporting System (NIBRS) to assess whether the likelihood of arrest varied by the race of the juvenile in incidents involving murder, a violent sex offense, robbery, aggravated assault, simple assault, or intimidation.63 (These incidents were selected because they were the ones in which there was interaction between the offender and the victim, and victims were asked to describe the characteristics of the offender.) Carl E. Pope and Howard N. Snyder found that white juveniles were significantly more likely than African American juveniles to be arrested: whites made up 69.2 percent of all juvenile offenders (based on victim’s perceptions) but 72.7 percent of all juvenile offenders who were arrested. The results of a multivariate analysis that controlled for other incident characteristics (for example, the number of victims; the age, sex, and race of the victim; the relationship between the victim and the offender; and the offender’s sex) revealed that the likelihood of arrest did not vary for white and nonwhite juveniles. This was true for each state and for each of the types of offenses examined. According to Pope and Snyder, “Overall, the NIBRS data offer no evidence to support the hypothesis that police are more likely to arrest nonwhite juvenile offenders than white juvenile offenders, once other incident attributes are taken into consideration.”64

**Focus on an Issue:** **The Use of Gang Databases**

In the late 1980s California became the first state to create a computerized database of suspected gang members. Originally known as GREAT (Gang Reporting, Evaluation, and Trafficking System), by 2000 CalGang contained the names of over 300,000 suspected gang members. In fact the CalGang database included more names than there were students in the University of California system.65

As concerns about youth violence mounted during the early 1990s, other jurisdictions followed California’s example. Laws authorizing law enforcement agencies to compile databases of gang members were enacted in Colorado, Florida, Illinois, Georgia, Tennessee, Texas, Minnesota, Ohio, and Virginia. The FBI also maintains a database, the Violent Gang and Terrorist Organization File, which became operational in 1995.66

The criteria for inclusion in a gang database—which typically includes information about the individual (name, address, physical description and/or photograph, tattoos, gang moniker), the gang (type and racial makeup), and a record of all police encounters with the individual—are vague. The Texas statute, for example, states that an individual can be included in the gang database if two or more of the following conditions are met: (1) self-admission by the individual of criminal street gang membership; (2) an identification of the individual as a criminal street gang member by an informant or other individual of unknown reliability; (3) a corroborated identification of the individual by an informant or other individual of unknown reliability; (4) evidence that the individual frequents a documented area of a criminal street gang, associates with known criminal street gang members, and uses criminal street gang dress, hand signals, tattoos, or symbols; or (5) evidence that the individual has been arrested or taken into custody with known criminal street gang members for an offense or conduct consistent with criminal street gang activity.67 Critics of the use of gang databases point to the third criterion, which allows entry of “associates” of gang members without evidence of actual gang membership, as especially problematic. According to a former California attorney general, the CalGang database mixes “verified criminal history and gang affiliations with unverified intelligence and hearsay evidence, including reports on persons who have committed no crime.”68

Other critics suggest that the gang databases, which are racially neutral on their face, are racially biased. One observer, for example, stated that “it’s not a crackdown on gangs; it’s a crackdown on blacks.”69 Statistics on the composition of gang databases confirm this. In 1997 in Orange County, California, for example, Hispanics, who made up only 27 percent of the county population, made up 74 percent of the youth in the database; in fact 93 percent of those included in the database were people of color. In 1993 African Americans made up 5 percent of Denver’s population but 47 percent of those in the gang database; Hispanics made up 12 percent of the population but 33 percent of the gang database.70 In Schaumburg, Illinois (a suburb of Chicago), African Americans made up 3.7 percent of the village’s population but 22 percent of gang members in the database.71

Gang database supporters counter that these statistics simply reflect the composition of criminal street gangs. The fact that most of the individuals whose names appear on gang databases are African American, Hispanic, and Asian, in other words, is due not to racially discriminatory policing but to the fact that most of those who belong to street gangs are racial minorities. Critics, however, maintain that the vagueness of the criteria for inclusion in the database, coupled with accounts by youth of color of repeated stops and frequent questions about gang membership and the extremely high percentages of African Americans and Hispanics in gang data-bases in cities like Los Angeles and Denver, “support claims that the number of racial minorities who are not gang members but are included in the database is disproportionate.”72

**The Use of Gang Databases: Police Harassment and Sentence Enhancements**

Critics’ concerns about racial and ethnic disparities in gang databases focus on the potential for police harassment, as well as the fact that in many states inclusion in a gang database may result in harsher sentences. Two incidents in California illustrate the potential for police harassment. The first took place in Garden Grove. In 1993, three Asian teens were stopped by Garden Grove police officers at a strip mall that the officers claimed was frequented by gang members. The officers questioned the youths, took down information on them that was later entered into the gang database, and took photographs of them without their permission.73 The second incident took place in Union City. In 2002 Union City police officers called a “gang intervention meeting” at a local high school. They rounded up 60 students, most of whom were Hispanic and Asian, and sent them to separate classrooms based on their race / ethnicity. The students were then searched, interrogated, and photographed; the information was collected; and the photographs of the students were entered into the gang database.74 Both of these cases resulted in suits filed by the ACLU of Northern California. In the first case, a settlement was reached in which the police department agreed to take photographs only if they had reasonable suspicion of criminal activity and written consent. The settlement in the second case is similar; it required police to destroy the photographs and other material collected during the sweep and prohibits further photographing of students for the gang database.

There also is evidence that inclusion in a gang database may lead to harsher treatment for youth convicted of crimes. In Arizona, for example, the prosecutor may increase the charges from a misdemeanor to a felony if the offense was committed for the benefit of a gang; if the youth is adjudicated delinquent, the prosecutor may request a sentence enhancement for gang-related activity.75 In 2000, 60 percent of California voters approved Proposition 21, The Gang Violence and Juvenile Crime Prevention Act, which increased the sentence enhancements for gang-related crimes. If the crime is serious, 5 years are added to the sentence; if the crime is violent, 10 years are added. Proposition 21 also makes it easier to prosecute juveniles who are alleged gang members as adults, allows the police to use wiretaps against known or suspected gang members, and adds gang-related murder to the list of special circumstances that make offenders eligible for the death penalty.”

If, as critics contend, inclusion in a gang database is more likely for youth of color, these gang-related sentence enhancements, which are racially neutral on their face, may have racially discriminatory effects. As Marjorie S. Zatz and Richard P. Krecker noted, “if ascriptions of gang membership did not carry penalties, defining gang membership in racialized ways might be innocuous.... But allegations of gang membership do carry added penalties, at least in Arizona.” Noting that Hispanic boys and girls were more likely than whites to be identified as gang members, and thus more likely to be subject to the penalty enhancements, they asked, how does this differ “in effect even if not in intent, from saying that the severity of sanctions is increased for Latinos?”76

**Race/Ethnicity and the Juvenile Justice System**

One particularly troubling aspect of juvenile justice as it has been constructed throughout the 20th Century is its disproportionate involvement, in an aggregate social sense, with youths from the lowest socioeconomic strata, who at least in the latter half of the 20th Century overwhelmingly have been children of color.77

Although most research on the effect of race on the processing of criminal defendants has focused on adults, researchers have also examined the juvenile justice system for evidence of racial discrimination. Noting that the juvenile system, with its philosophy of *parens patriae*,78 is more discretionary and less formal than the adult system, researchers suggest that there is greater potential for racial discrimination in the processing of juveniles than in the processing of adults. In cases involving juveniles, in other words, criminal justice officials are more concerned about rehabilitation than retribution, and they have discretion to decide whether to handle the case formally or informally. As a result, they have more opportunities than those who handle cases involving adults to take extralegal factors such as race / ethnicity and gender into consideration during the decision-making process.

**Focus on an Issue:** **The Past, Present, and Future of the Juvenile Court**

The traditional view of the emergence of the juvenile court in America pictures the “child savers” as a liberal movement of the late nineteenth century, made up of benevolent, civic-minded, middle-class Americans who worked to help delinquent, abused, and neglected children who were suffering due to the negative impact of the rapid growth of industrialization. Although the emergence of the juvenile court is most often described as the creation of a welfare agency for the humane treatment of children,79 Anthony Platt highlighted the movement’s social control agenda as well. According to Anthony Platt, the “child saving movement” did little to humanize the justice system for children, but rather “helped create a system that subjected more and more juveniles to arbitrary and degrading punishments.”80

Platt contended that the attention of the juvenile court was originally focused on a select group of at-risk youth: court personnel originally focused on the children of urban, foreign-born, poor families for their moral reclamation projects.81 Barry Feld argued that in modern times the juvenile court continues to intervene disproportionately in the lives of minority youth.82 He asserted that the persistent overrepresentation of minority youth at all stages of the system is largely the consequence of the juvenile court’s unstable foundation of trying to reconcile social welfare and social control agendas. This conceptual contradiction allows “public officials to couch their get-tough policy changes in terms of ‘public safety’ rather than racial oppression.”83

Feld argued that the social welfare and social control aims of the juvenile court are irreconcilable, and that attempts to pursue and reconcile these two competing agendas have left the contemporary juvenile court in crisis. He called it “a conceptually and administratively bankrupt institution with neither a rationale nor a justification.”84 He also contended that the juvenile court today offers a “second-class criminal court for young people” and does not function as a welfare agency.85 Feld suggested that the distinction between adult and juvenile courts should be eliminated and that social welfare agencies should be used to address the needs of youth. His suggestion would make age a mitigating factor in our traditional, adjudicatory (adult) court system.

Would this policy suggestion ease the oppressive element of the juvenile court’s intervention in the lives of racial and ethnic minorities? Why or why not?

There is compelling evidence that racial minorities are overrepresented in the juvenile justice system. In 2005, for example, African Americans made up about 15 percent of the U.S. population aged 10 to 17 but 33 percent of all youth under juvenile court jurisdiction. Whites constituted approximately 80 percent of the youth population but only 64 percent of all offenders in juvenile court. African American juveniles were involved in 41 percent of person offense cases (murder, rape, robbery, and assault), 29 percent of property offense cases, 24 percent of drug offense cases, and 34 percent of public-order offenses.86 Stated another way, the total delinquency case rate for African American juveniles in 2005 (108.4) was more than twice the rate for white juveniles (44.4) and for Native American juveniles (53.3); the delinquency case rate for Asian juveniles was only 17.2.87

There also is evidence of racial disparity in the treatment of juvenile offenders. As shown in Table 10.6, which presents nationwide data on juvenile court outcomes in 2005, African Americans were treated more harshly than whites at several stages in the juvenile justice process. African Americans were more likely than whites to be detained prior to juvenile court disposition and to be petitioned to juvenile court for further processing. Among those adjudicated delinquent, African Americans were more likely than whites to be placed in a juvenile facility but somewhat less likely than whites to be placed on probation. White youth, on the other hand, were more likely than African American youth to be adjudicated delinquent. The data presented in Table 10.6 also reveal that Native Americans are treated more harshly than whites at all stages of the process; in fact, Native Americans are more likely than African Americans to be adjudicated delinquent, waived to adult court, and placed on probation.

Table 10.6 Juvenile Court Case Outcomes, 2005

|  |  | Whites | African Americans | Native Americans | Asians |
| --- | --- | --- | --- | --- | --- |
| **Delinquent Cases** | |  |  |  |  |
|  | Detained prior to juvenile court disposition | 18% | 26% | 20% | 22% |
|  | Petitioned to juvenile court | 53% | 62% | 56% | 59% |
| **Petitioned Cases** | |  |  |  |  |
|  | Adjudicated delinquent | 68% | 62% | 70% | 69% |
|  | Waived to adult court | 0.7% | 0.8% | 1.3% | 0.4% |
| Adjudicated Cases |  |  |  |  |  |
|  | Placed out of home | 21% | 26% | 26% | 22% |
|  | Placed on probation | 62% | 56% | 58% | 64% |

SOURCE: National Center for Juvenile Justice, *Juvenile Court Statistics 2005* (Washington, DC: Office of Juvenile Justice and Delinquency Prevention, 2008).

Much of the criticism of the treatment of racial minorities by the juvenile justice system focuses on the fact that racial minorities are more likely than whites to be detained in secure facilities prior to adjudication and sentenced to secure confinement following adjudication. Since 1988 the Juvenile Justice and Delinquency Prevention Act has required states to determine whether the proportion of minorities in confinement exceeds their proportion of the population. If there is disproportionate minority confinement, the state must develop and implement policies to reduce it. As shown in Table 10.6, 26 percent of African American and Native American youth who were adjudicated delinquent received an out-of-home placement disposition; for white youth, the figure was 21 percent. Among youth adjudicated delinquent for drug offenses, 29 percent of African American youth received an out-of-home placement, compared with 18 percent of Native American youth, 17 percent of Asian youth, and 15 percent of white youth.88

Although most of the statistics on disproportionate minority confinement compare African American and white youth, there is some state-level evidence that Hispanic and Native American youth are overrepresented in juvenile detention facilities. In Santa Cruz County, California, for example, Hispanics comprised 33 percent of the population ages 10 through 17 but made up 64 percent of the youths incarcerated in the Juvenile Hall on any given day in 1997 and 1998.89 A study in Colorado revealed that Hispanic youths were over-represented at all stages in the juvenile justice system, and a study in North Dakota found that Native American youth made up 8 percent of the juvenile population but 21 percent of secure detention placements and 33 percent of secure correctional placements.90

A report by the Building Blocks for Youth initiative, a national project to address unfairness in the juvenile justice system and to promote non-discriminatory and effective policies, also addressed this issue.91 The authors of the report, *And Justice for Some*, concluded that minority youth—and especially African American youth—receive harsher treatment than white youth throughout the juvenile justice system. The differences were particularly pronounced at the beginning stages of involvement with the juvenile justice system (that is, in terms of decisions regarding intake and detention) and at the end of the process (that is, in terms of decisions regarding out-of-home placement in a secure facility). With respect to detention prior to adjudication, the report found that minority youth were overrepresented, especially for drug offenses. White youth made up 66 percent of all youth referred to juvenile courts for drug offenses but only 44 percent of those detained. African American youth made up 32 percent of the drug offenders referred to juvenile court but 55 percent of those detained.92 There was a similar pattern for out-of-home placement: in every offense category, and especially for drug offenses, minority youth were more likely than white youth to be committed to a locked institution.93 Mark Soler, head of the Building Blocks for Youth initiative, stated that the report painted “a devastating picture of a system that has totally failed to uphold the American promise of ‘equal justice for all.’”

The figures presented in Table 10.6 and the statistics on disproportionate minority confinement do not take racial differences in crime seriousness, prior juvenile record, or other legally relevant criteria into consideration. If racial minorities are referred to juvenile court for more serious offenses or have more serious criminal histories than whites, the observed racial disparities in case processing might diminish or disappear once these factors were taken into consideration. Like research on sentencing in adult court, studies of juvenile court outcomes consistently reveal that judges base their decisions primarily on the seriousness of the offense and the offender’s prior record.94 Thus, “real differences in rates of criminal behavior by black youths account for part of the disparities in justice administration.”95

Research conducted during the past 20 years reveals that racial differences in past and current involvement in crime do not account for all of the differential treatment of racial minorities in juvenile court. Carl Pope and William H. Feyerherm, for example, reviewed 46 studies published in the 1970s and 1980s.96 They found that two thirds of the studies they examined found evidence that racial minorities were treated more harshly, even after offense seriousness, prior record, and other legally relevant factors were taken into account. A recent review of 34 studies published from 1989 to 2001 found a similar pattern of results.97 Eight of the 34 studies found that race and/or ethnicity had direct effects on juvenile court outcomes; 17 reported that the effects of race / ethnicity were contextual (that is, present at only some decision points or for some types of offenders); only one study reported no race effects.98 An analysis that focused explicitly on disproportionate minority confinement reached the same conclusion. According to David Huizinga and Delbert S. Elliot, “Even if the slightly higher rates for more serious offenses among minorities were given more importance than is statistically indicated, the relative proportions of whites and minorities involved in delinquent behavior could not account for the observed differences in incarceration rates.”99

The studies conducted to date also find evidence of what is referred to as “cumulative disadvantage”100 or “compound risk.”101 That is, they reveal that small racial differences in outcomes at the initial stages of the process “accumulate and become more pronounced as minority youths are processed further into the juvenile justice system.”102 The Panel on Juvenile Crime, for example, calculated the likelihood that a youth at one stage in the juvenile justice process would reach the next stage (the transitional probability), as well as the proportion of the total population under age 18 that reached each stage in the juvenile justice process (the compound probability).103 The panel did this separately for African American and white youth and then used these probabilities to calculate the African American–to–white relative risk and the African American–to–white compound risk. As shown in Table 10.7, 7.2 percent of the African American population under age 18, but only 3.6 percent of the white population under age 18, was arrested. African Americans, in other words, were twice as likely as whites to be arrested. Of those arrested, 69 percent of the African Americans and 58 percent of the whites were referred to juvenile court. Taking these differences into account resulted in a compound probability—that is, the proportion of the total youth population referred to juvenile court—of 5.0 percent for African American youth and 2.1 percent for white youth. Thus African Americans were 2.38 times more likely than whites to be referred to juvenile court. These differences in outcomes, as Table 10.7 shows, meant that at the end of the process African Americans were more than three times as likely as whites to be adjudicated delinquent and confined in a residential facility. As the panel pointed out, “at almost every stage in the juvenile justice process the racial disparity is clear, but not extreme. However, because the system operates cumulatively the risk is compounded and the end result is that black juveniles are three times as likely as white juveniles to end up in residential placement.”104

Table 10.7 Juvenile Justice Outcomes for African Americans and Whites: Compound Risk

|  | Transitional Probabilitya | | Compound Probabilityb | | Black to WhiteRisk | |
| --- | --- | --- | --- | --- | --- | --- |
| Outcome | African Americans | Whites | African Americans | Whites | Relative Riskc | Compound Riskd |
| Arrested | .072 | .036 | .072 | .036 | 2.00:1.00 | 2.00:1.00 |
| Referred to juvenile court | .690 | .580 | .050 | .021 | 1.19:1.00 | 2.38:1.00 |
| Case handled formally | .620 | .540 | .031 | .011 | 1.15:1.00 | 2.82:1.00 |
| Adjudicated delinquent / found guilty | .550 | .590 | .0168 | .0067 | 0.93:1.00 | 2.51:1.00 |
| Residential placement | .320 | .260 | .0053 | .0017 | 1.23:1.00 | 3.12:1.00 |

aThe transitional probability = the proportion of youth at one stage who proceed to the next stage.

bThe compound probability = the proportion of the population under age 18 that reach each stage in the process.

cThe relative risk = the ratio of the black transitional probability to the white transitional probability.

dThe compound risk = the ratio of the black compound probability to the white compound probability.

SOURCE: Adapted from The Panel on Juvenile Justice, *Juvenile Crime Juvenile Justice* (Washington, DC: National Academy Press, 2001), Figure 6.3 and Table 6.5.

In the sections that follow, we summarize the findings of five recent, methodologically sophisticated studies. The first is a comparison of outcomes for African Americans and whites in Florida. The second is an analysis of outcomes for African American, Hispanic, and white youth in Pennsylvania. The third, which also examines the treatment of juveniles in Pennsylvania, is an exploration of the degree to which outcomes are affected by the urbanization of the jurisdiction and the youth’s family situation. The fourth study is an examination of outcomes for white and African American youth in Georgia, which analyzes the degree to which admitting guilt affects adjudication and disposition. The fifth study uses data from Nebraska to explore the extent to which black males aged 16 to 17 are treated differently than other youth. We also discuss evidence concerning racial disparities in waivers to adult criminal court.

**Race / Ethnicity and Juvenile Court Outcomes in Five Jurisdictions**

**Processing Juveniles in Florida**

Donna M. Bishop and Charles S. Frazier examined the processing of African American and white juveniles in Florida.105 In contrast to previous researchers, most of whom focused on a single stage of the juvenile justice process, these researchers followed a cohort of 54,266 youth through the system from intake through disposition. They examined the effect of race on five stages in the process: (1) the decision to refer the case to juvenile court for formal processing (rather than close the case without further action or handle the case informally); (2) the decision to place the youth in detention prior to disposition; (3) the decision to petition the youth to juvenile court; (4) the decision to adjudicate the youth delinquent (or hold a waiver hearing in anticipation of transferring the case to criminal court); and (5) the decision to commit the youth to a residential facility or transfer the case to criminal court.

Table 10.8 displays the outcomes for African American and white youth, as well as the proportion of African Americans in the cohort at each stage in the process. These data indicate that African Americans were substantially more likely than whites to be recommended for formal processing (59.1 percent versus 45.6 percent), petitioned to juvenile court (47.3 percent versus 37.8 percent), and either incarcerated in a residential facility or transferred to criminal court (29.6 percent versus 19.5 percent). As the cohort of offenders proceeded through the juvenile justice system, the proportion that was African American increased from 34.0 percent (among those recommended for formal processing) to 43.1 percent (among those committed to a residential facility or transferred to criminal court). As Bishop and Frazier pointed out, however, these differences could reflect the fact that the African American youths in their sample were arrested for more serious crimes and had more serious prior criminal records than white youths. If this were the case, the differences would reflect racial disparity but not racial discrimination.

Table 10.8 Race and Juvenile Justice Processing in Florida, 1979–1981

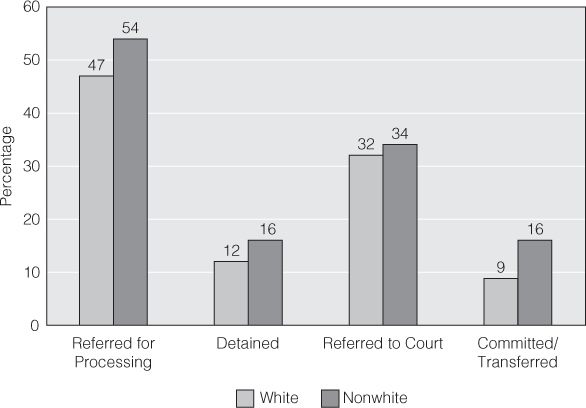
|  | Recommended for Formal Processing | Detained | Petitioned to Juvenile Court | Adjudicated Delinquent | Incarcerated/Transferred |
| --- | --- | --- | --- | --- | --- |
| African Americans | 59.1% | 11.0% | 47.3% | 82.5% | 29.6% |
| Whites | 45.6 | 10.2 | 37.8 | 80.0 | 19.5 |
| Proportion |  |  |  |  |  |
| African American | 34.0 | 30.0 | 32.4 | 33.3 | 43.1 |

SOURCE: Adapted from Donna M. Bishop and Charles E. Frazier, “The Influence of Race in Juvenile Justice Processing,” *Journal of Research in Crime and Delinquency* 25 (1988), pp. 242–263, p. 250.

When the authors controlled for crime seriousness, prior record, and other predictors of juvenile justice outcomes, they found that the racial differences did not disappear. Rather, African Americans were more likely than whites to be recommended for formal processing, referred to juvenile court, and adjudicated delinquent. They also received harsher sentences than whites. These findings led Bishop and Frazier to conclude that “... race is a far more pervasive influence in processing than much previous research has indicated.”106

A follow-up study using more recent (1985–1987) Florida data produced similar results.107 As shown in Figure 10.2, Frazier and Bishop found that outcomes for “typical” white and nonwhite youth varied significantly. They defined a typical youth as “a 15-year-old male arrested for a misdemeanor against person (e.g., simple battery), with a prior record score consistent with having one prior referral for a misdemeanor against property (e.g., criminal mischief).”108 Compared to his white counterpart, the typical nonwhite youth was substantially more likely to be recommended for formal processing, held in secure detention prior to disposition, and committed to a residential facility or transferred to criminal court. They also found that being detained had a significant effect on subsequent outcomes; youth who were detained were significantly more likely than those who were released to be referred to juvenile court and, if adjudicated delinquent, to be committed to a residential facility or transferred to criminal court. Thus, nonwhite youth, who were more likely than white youth to be detained, were sentenced more harshly both because of their race (a direct effect) and because of their custody status (an indirect effect).

Figure 10.2 Juvenile Court Outcomes for “Typical” Florida Youth, 1985–1987

[](https://portal.phoenix.edu/content/ebooks/9781111346928-the-color-of-justice.-race-ethnicity-and-crime-i/jcr:content/images/10fig02_alt.gif)

SOURCE: Adapted from Charles E. Frazier and Donna M. Bishop, “Reflections on Race Effects in Juvenile Justice,” in *Minorities in Juvenile Justice*, Kimberly Kempf Leonard, Carl E. Pope, and William H. Feyerherm (Thousand Oaks, CA: Sage, 1995).

Frazier and Bishop also conducted interviews with criminal justice officials. During the interview, the respondent was asked whether the findings of harsher treatment of nonwhites “were consistent with their experiences in Florida’s juvenile justice system between 1985 and 1987.”109 Most of the intake supervisors and public defenders stated that they believed juvenile justice dispositions were influenced by the race of the youth. In contrast, only 25 percent of the prosecutors and 33 percent of the judges believed that nonwhites were treated more harshly than similarly situated whites.

Although some of the racial differentials in treatment were attributed to racial bias—that is, to prejudiced individuals or a biased system of juvenile justice—a number of respondents suggested that the race effects actually reflected differences in economic circumstances or family situations. As one prosecutor observed, “The biggest problem is the lack of money and resources. Blacks don’t have the resources. Whites are more likely to have insurance to pay for treatment. The poor I saw were always poor, but the black poor were poorer yet.” Other respondents cited the fact that white parents were more likely than black parents to be able to hire a private attorney and, as a result, got more favorable plea bargains. Other officials mentioned the role played by family considerations, noting that youth from single-parent families or families perceived to be incapable of providing adequate supervision were treated more harshly than those from intact families. Although they acknowledged that this practice had a disparate effect on minority youth, most officials defended it as “fair and appropriate.” As one judge stated, “Inadequate family and bad neighborhood correlate with race and ethnicity. It makes sense to put kids from these circumstances in residential facilities.”110

Frazier and Bishop concluded that the results of their study “leave little doubt that juvenile justice officials believe race is a factor in juvenile justice processing.”111 They noted that the fact that some officials believed that race directly affected juvenile justice outcomes, whereas others thought that the effect of race was subtle and indirect, meant that “policies aimed at eradicating discrimination must focus both on individual racism and on racism in its most subtle institutional forms.”112 They offered the following recommendations:113

* States should establish procedures for all the agencies comprising the juvenile justice system to require reporting, investigating, and responding to professionals whose decisions appear to have been influenced by racial or ethnic bias.
* State legislatures should mandate the development of a race, ethnic, and cultural diversity curriculum that personnel at every level of the juvenile justice system should be required to complete.
* Intake policies and practices should be altered so that youths referred for screening are not rendered ineligible for diversion and other front-end programs if their parents or guardians (a) cannot be contacted, (b) are contacted but are unable to be present for an intake interview, or (c) are unable to participate in family-centered programs.
* In any situation in which persons with economic resources (e.g., income or insurance benefits) are allowed to arrange for private care as a means of diversion from the juvenile justice system or less harsh formal dispositions, precisely the same treatment services should be made available at state expense to serve the poor—whether minority or majority race youths.

Frazier and Bishop acknowledged that these “fairly modest proposals” were unlikely to eliminate racial discrimination that had “survived for generations in a legal environment that expressly forbids it.” Nonetheless, they were “cautiously optimistic” that their recommendations would have some effect. As they stated, “if implemented with a genuine interest in their success, such policies will both help reduce discriminatory actions and promote equal justice.”114

**Processing Juveniles in Pennsylvania**

Kimberly Kempf Leonard and Henry Sontheimer115 explored the effect of race and ethnicity on juvenile justice case outcomes in Pennsylvania. Although African Americans and Hispanics accounted for only 19 percent and 4 percent, respectively, of the general youth population in the 14 counties included in the study, they comprised 46 percent (African Americans) and 7 percent (Hispanics) of all referrals to juvenile court.116

Like the two studies discussed earlier, this study used a multivariate model to examine the effect of race / ethnicity on a series of juvenile justice outcomes. Leonard and Sontheimer found that both African American and Hispanic youth “were more likely than whites with similar offenses, prior records, and school problems to have their cases formally processed, especially in nonrural court settings.”117 They also found that minority youth were significantly more likely than whites to be detained prior to adjudication, and that detention was a strong predictor of subsequent outcomes. African American and Hispanic youth, in other words, were detained more frequently than whites and, as a result, were more likely than whites to be adjudicated delinquent and placed in a residential facility following adjudication.

Leonard and Sontheimer suggest that their findings have important policy implications. In particular, they recommend that

[The] criteria used by individual intake officers should be evaluated to determine whether factors that may more often negatively affect minorities are accorded importance. Racially neutral criteria in detention decisions should be established ... Cultural bias, including value judgments not based on fact (such as notions that minority parents may not provide adequate supervision for their children or that certain neighborhoods are not conducive to growing up well, must not influence detention.118

**Intake and Disposition Decisions in Pennsylvania**

A second study of juvenile justice decision making in Pennsylvania focused on two stages in the process: the decision to formally refer a youth to the juvenile court rather than handle the case informally and the decision to place the youth in a secure detention facility following adjudication.119 As shown in Table 10.9, which displays the bivariate relationships between the two outcomes and the legal and extralegal variables that may affect those outcomes, Christina DeJong and Kenneth C. Jackson found that African American and Hispanic youth were more likely than white youth to be referred to juvenile court; they also were more likely to be committed to a detention facility. The likelihood of a formal referral also was greater for youth with the following characteristics: male, aged 15 and older, living in a single-parent (mother only) family, not in school, charged with a drug offense, charged with a felony, and with two or more prior arrests. A similar pattern of results was found for the decision to place the youth in a secure facility.

Table 10.9 The Characteristics of Youth Formally Referred to Juvenile Court and Placed in Secure Confinement Following Disposition

|  |  | Formally Referred (%) | Placed in Secure Facility (%) |
| --- | --- | --- | --- |
| Race / Ethnicity | |  |  |
|  | White | 49.5 | 14.9 |
|  | Black | 61.4 | 17.8 |
|  | Hispanic | 59.4 | 22.9 |
| Gender | |  |  |
|  | Male | 57.5 | 17.1 |
|  | Female | 38.4 | 12.9 |
| Age | |  |  |
|  | 12 and below | 43.7 | 11.8 |
|  | 13 | 50.0 | 14.3 |
|  | 14 | 51.9 | 17.5 |
|  | 15 | 56.9 | 12.7 |
|  | 16 | 58.6 | 21.0 |
|  | 17 and above | 54.7 | 17.1 |
| Living with mother only | | 65.9 | 17.8 |
| Living with both parents | | 55.1 | 10.7 |
| In school | | 61.0 | 15.8 |
| Not in school | | 68.2 | 22.6 |
| Charge Type | |  |  |
|  | Property | 66.2 | 16.1 |
|  | Violent | 61.2 | 15.9 |
|  | Drug | 71.6 | 23.7 |
|  | Other | 29.6 | 15.6 |
| Charge Seriousness | |  |  |
|  | Felony | 78.5 | 19.5 |
|  | Misdemeanor | 35.8 | 12.5 |
| Number of Prior Arrests | |  |  |
|  | None | 48.7 | 10.5 |
|  | One | 64.7 | 22.9 |
|  | Two | 70.1 | 32.2 |
|  | Three or more | 76.4 | 35.8 |

SOURCE: Adapted from Christina DeJong and Kenneth C. Jackson, “Putting Race Into Context: Race, Juvenile Justice Processing, and Urbanization,” *Justice Quarterly* 15 (1998), pp. 487–504, Table 2. Reprinted by permission of the publisher (Taylor & Francis Ltd, <http://www.tandf.co.uk/journals>).

Further analysis of the data using multivariate techniques led DeJong and Jackson to conclude that race / ethnicity did not have a significant effect on either outcome once the other variables were taken into consideration. Although Hispanics were significantly more likely than whites and African Americans to be formally referred to juvenile court, the referral rates for African American and white youth did not differ. And neither Hispanics nor African Americans faced greater odds than whites of commitment to a secure facility. The race of the youth, however, did affect these outcomes indirectly. In particular, white youth who lived with both parents were less likely than those who lived in single-parent families to be formally referred to juvenile court or placed in secure confinement following disposition. Among African American youth, on the other hand, living with both parents rather than in a single-parent household did not have these positive effects. As DeJong and Jackson pointed out, “Black youths are treated the same whether they are living with parents or with their mothers only; for these youths, family status does not protect against [formal referral or] incarceration.”120 In addition, African American youth, but not white youth, were treated more harshly in rural counties than in urban or suburban counties.

DeJong and Jackson speculated that the fact that family status did not affect outcomes for African American youth might be due to juvenile justice officials’ stereotyped beliefs about African American families. That is, officials “may view all black fathers as absentee” or “may view the black family structure as weak.”121 If this is the case, African American youth who live in two-parent families would not be regarded as better candidates for diversion or for treatment within the community than those who live in single-parent families. This type of subtle discrimination may be more common than the overt discrimination that characterized the system in earlier eras.122

**Adjudication and Disposition Decisions in Georgia**

A study of juvenile court outcomes in Georgia focused on the interaction between the race of the juvenile and admitting or denying the crime.123 R. Barry Ruback and Paula J. Vardaman posited two opposing effects for admitting/denying guilt, one based on the youth’s potential for rehabilitation and the other based on due process considerations. They asserted that if the primary goal of the juvenile justice system was rehabilitation, then indicators of amenability to rehabilitation should be important predictors of case disposition. Since admitting guilt signals that the youth accepts responsibility for his actions and feels remorse and also indicates that the youth may be a good candidate for treatment rather than punishment, an admission of guilt should—again, if rehabilitation is the goal—lead to more lenient treatment. On the other hand, if the goal of the court is to punish the guilty, *denial* of guilt might lead to more lenient treatment. This might be particularly true, according to Ruback and Vardaman, in large urban jurisdictions with heavy caseloads. If the youth denies that he is guilty, the court must hold an evidentiary hearing and prove the charges. Prosecutors might prefer to dismiss the case rather than use their limited resources to secure a conviction.

Ruback and Vardaman found that whereas African Americans were overrep-resented in juvenile court populations in the 16 Georgia counties they examined, white youth were treated more harshly than African American youth.124 White juveniles (43 percent) were more likely than African American juveniles (39 percent) to be adjudicated delinquent, and African American juveniles (29 percent) were more likely than white juveniles (23 percent) to have their cases dismissed. The authors also found that white youth were substantially more likely to admit the crimes they were accused of committing: 66 percent of the whites, compared to only 51 percent of the African Americans, admitted their guilt.

When Ruback and Vardaman compared adjudication outcomes for African American and white youth, controlling for crime seriousness, prior record, whether the case was heard in an urban or rural county, whether the youth admitted guilt, and the youth’s age and gender, they found that race had no effect. Admitting guilt, on the other hand, had a strong effect on the likelihood of being adjudicated delinquent. Youth who admitted their guilt were more likely to be adjudicated delinquent. The odds of being adjudicated delinquent also were higher in rural than in urban counties.

The authors of the study concluded that the harsher treatment of white youth could be attributed to two factors. First, whites were more likely than African Americans to admit guilt, and admitting guilt led to a higher likelihood of being adjudicated delinquent. Second, cases involving whites were more likely than those involving African Americans to be processed in rural courts, where the odds of being adjudicated delinquent were higher.125 They also suggested that their results might reflect judges’ beliefs that white youths would be more likely to benefit from the interventions and services available to the court. Thus,

an intervention by the court may be deemed more likely to affect the future behavior of white juveniles (who generally have shorter legal histories), while the same intervention with Black juveniles (who generally have longer legal histories) may be perceived as wasted effort. It may be ... that only white juveniles are believed to be worth investing resources in so as to reduce the chances of their committing future crimes.126

Ruback and Vardaman maintained that this also might explain why white youth admitted their guilt at a higher rate than African American youth. That is, juvenile justice officials might have urged whites to admit the crime so that they could receive an informal adjustment and court intervention.

**Race / Ethnicity, Gender, and Age: Juvenile Justice in Nebraska**

The studies discussed thus far all tested for the direct effects of race / ethnicity; that is, these studies examined whether African American and Hispanic youth were treated more harshly than white youth. Dae-Hoon Kwak used Nebraska data to examine the interactions among age, gender, race / ethnicity, and four juvenile court outcomes: detention, petition, adjudication, and disposition.127 He controlled for the seriousness of the offense, the youth’s prior delinquency referrals, whether the case was handled by a separate juvenile court or a regular county court, and the year of the referral. He found that each of the offender characteristics affected some or all of the outcomes: youth of color generally were treated more harshly than white youth, younger offenders were treated more leniently than offenders who were between the ages of 13 and 17, and males were more likely than females to be petitioned and transferred to legal custody.128

Kwak then compared outcomes for African American males who were 16 or 17 years old with outcomes for other categories of offenders. Although he found differences for each of the four outcomes, the most consistent outcomes were found for the disposition decision, which was measured by a dichotomous variable that differentiated between decisions that transferred the legal custody of the youth (that is, transferred the youth to a secure facility or into the custody of a public agency) and those that did not (that is, probation, dismissal of charges with a warning from the judge, or a fine). As shown in Table 10.10, African American males, aged 16 and 17, received substantially harsher dispositions than all of the other groups, except for Hispanic females aged 10 through 12, black males aged 13 through 15, Hispanic males aged 13 through 15, and Native American males aged 16 and 17. Of particular interest is the fact that white males, regardless of age, were substantially less likely than 16- and 17-year-old African American males to have their legal custody transferred to a secure facility or a state agency. The probability differences were 21.0 percent for white males aged 10 through 12, 13.9 percent for white males aged 13 through 15, and 17.7 percent for white males aged 16 and 17. Overall, then, male teenagers of color, and especially African American male teenagers, were treated more harshly than other offenders.

Table 10.10 Differences in the Probabilities of Placement in a Secure Facility or Transfer to a State Agency

| Probability Differences Between African American Males, Ages 16 and 17, and... | | |
| --- | --- | --- |
| White Female | | |
|  | Age 10–12 | –18.7% |
|  | Age 13–15 | –17.2% |
|  | Age 16–17 | –18.8% |
| Black Female | |  |
|  | Age 10–12 | –26.1% |
|  | Age 13–15 | –6.8% |
|  | Age 16–17 | –19.6% |
| Hispanic Female | |  |
|  | Age 10–12 | Not significant |
|  | Age 13–15 | –12.2% |
|  | Age 16–17 | –22.6% |
| Native American Female | |  |
|  | Age 10–12 | –28.0% |
|  | Age 13–15 | –12.0% |
|  | Age 16–17 | –16.8% |
| White Male | |  |
|  | Age 10–12 | –21.0% |
|  | Age 13–15 | –13.9% |
|  | Age 16–17 | –17.7% |
| African American Male | |  |
|  | Age 10–12 | –12.8% |
|  | Age 13–15 | Not significant |
| Hispanic Male | |  |
|  | Age 10–12 | –26.3% |
|  | Age 13–15 | Not significant |
|  | Age 16–17 | Not significant |
| Native American Male | |  |
|  | Age 10–12 | –24.0% |
|  | Age 13–15 | –6.6% |
|  | Age 16–17 | Not significant |

SOURCE: Dae-Hoon Kwak, “The Interaction of Age, Gender, and Race / Ethnicity on Juvenile Justice Decision Making in Nebraska.” Unpublished master’s thesis, University of Nebraska at Omaha, 2004.

In summary, the results of the studies reviewed here suggest that the effect of race / ethnicity on juvenile court outcomes is complex. Some researchers conclude that race and ethnicity have direct or overt effects on case outcomes. Research conducted in Florida and Pennsylvania, for example, found that racial minorities were treated more harshly than whites at several stages in the juvenile justice process, including detention, and that detention had significant “spillover effects” on subsequent adjudication and disposition decisions. Other researchers conclude that the effect of race / ethnicity is indirect rather than direct. Research conducted in Pennsylvania, for instance, found that living in a two-parent family benefitted whites but not African Americans, while research in Georgia found that the *harsher* treatment of white youth reflected their higher rates of admitting guilt and a greater likelihood of being prosecuted in rural rather than urban jurisdictions. And a study conducted in Nebraska revealed that teenage boys were singled out for harsher treatment if they were racial minorities, especially if they were African Americans.

These studies also suggest that the effect of race on juvenile justice outcomes may vary from one jurisdiction to another and highlight the importance of conceptualizing decision making in the juvenile justice system as a process. According to Philip E. Secret and James B. Johnson,129 “in examining for racial bias in juvenile justice system decisions, we must scrutinize each step of the process to see whether previous decisions create a racial effect by changing the pool of offenders at subsequent steps.” The importance of differentiating among racial and ethnic groups is also clear. As one author noted, “Circumstances surrounding the case processing of minority youths not only may be different from those for whites, but also may vary among minority groups.”130

**Transfer of Juveniles to Criminal Court**

In 2009 juveniles accounted for 9.6 percent of all arrests for murder/manslaughter, 14.5 percent of all arrests for forcible rape, 25.2 percent of all arrests for robbery, and 11.9 percent of all arrests for aggravated assault.131 The number of juveniles arrested increased 100 percent between 1985 and 1994132 but declined by 18 percent from 1994 to 2003.133 Juvenile arrests for *violent* crimes increased from 66,976 in 1985 to 117,200 in 1994 (an increase of 75 percent), but declined to 92,300 (a decrease of 32 percent) in 2003 and to 68,074 (a further decline of 26 percent).

The increase in juvenile crime during the 1980s and early 1990s, coupled with highly publicized cases of very young children accused of murder and other violent crimes, prompted a number of states to alter procedures for handling certain types of juvenile offenders. In 1995, for example, Illinois lowered the age of admission to prison from 13 to 10. This change was enacted after two boys, ages 10 and 11, dropped a 5-year-old boy out of a 14th-floor window of a Chicago public housing development. In 1996 a juvenile court judge ordered that both boys, who were then 12 and 13, be sent to a high-security juvenile penitentiary; her decision made the 12-year-old the nation’s youngest inmate at a high-security prison.134

Other states responded to the increase in serious juvenile crime by either lowering the age when children can be transferred from juvenile court to criminal court and/or expanding the list of offenses for which juveniles can be waived to criminal court. A report by the United States General Accounting Office indicated that between 1978 and 1995, 44 states passed new laws regarding the waiver of juveniles to criminal court; in 24 of these states the new laws increased the population of juveniles that potentially could be sent to criminal court.135 California, for example, changed the age at which juveniles could be waived to criminal court from 16 to 14 (for specified offenses); Missouri reduced the age at which children could be certified to stand trial as adults from 14 to 12. By 2004 there were 15 states with mandatory waiver in cases that met certain age, offense, or other criteria and 15 states with a rebuttable presumption in favor of waiver in certain kinds of cases. Currently, all but four states give juvenile court judges the power to waive jurisdiction over juvenile cases that meet certain criteria—generally, a minimum age, a specified type or level of offense, and/or a sufficiently serious record of prior delinquency.136 And 15 states have direct file waiver provisions, which allow the prosecutor to file certain types of juvenile cases directly in criminal court. (See Box 10.3 for the criteria that courts can use in making the waiver decision.)

**Box** **10.3. *Kent* v. *United States* [383 U.S. 541 (1966)]: Criteria Concerning Waiver of Jurisdiction from Juvenile Court to Adult Court**

In 1996 the United States Supreme Court ruled in *Kent* v. *United States* that waiver hearings must measure up to “the essentials of due process and fair treatment.” The court held that juveniles facing waiver are entitled to representation by counsel, access to social services records, and a written statement of the reasons for the waiver. In an appendix to its opinion, the court also laid out the “criteria and principles concerning waiver of jurisdiction.” The criteria that courts are to use in making the decision are:

* The seriousness of the alleged offense and whether protection of the community requires waiver.
* Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.
* Whether the alleged offense was against persons or against property.
* Whether there is evidence upon which a Grand Jury may be expected to return an indictment.
* The desirability of trial and disposition of the entire offense in one court when the juvenile’s associates are adults who will be charged with a crime in criminal court.
* The sophistication and maturity of the juvenile as determined by consideration of his home, environmental situation, emotional attitude, and pattern of living.
* The record and previous history of the juvenile.
* The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the juvenile by the use of procedures, services, and facilities currently available to the Juvenile Court.

A 2008 report by the National Center for Juvenile Justice noted that the number of delinquency cases waived to criminal court increased by 80 percent from 1985 to 1994 but declined by 51 percent between 1994 and 2001.137 (The report attributed the decline in the number of cases waived to criminal court in part to statutory changes that excluded certain cases from juvenile court or allowed prosecutors to file serious cases directly in criminal court.) During most of this time period, the waiver rate was highest for person offenses; from 1989 to 1992, the rate was higher for drug offenses than for person offenses. Not surprisingly, cases involving older youth were more likely than those involving youths 15 and younger to be waived, and cases involving males were substantially more likely than those involving females to be waived.138

There also is evidence that cases involving racial minorities are more likely than those involving whites to be transferred to criminal court. For example,

* In 2005 the percentage of delinquency cases waived to criminal court nationwide was 0.7 percent for white youth, 0.8 percent for African American youth, 1.3 percent for Native American youth, and 0.4 percent for Asian youth. Among youth charged with drug offenses, the rate was 0.7 for whites, 1.0 percent for African Americans, 1.4 percent for Native Americans, and 0.3 percent for Asians.139
* In 1996 youth of color accounted for 75 percent of Los Angeles County’s population between the ages of 10 and 17 but 95 percent of the youths whose cases were waived to adult court; Asian Americans were 3 times more likely than white youth, Hispanics were 6 times more likely than white youth, and African Americans were 12 times more likely than white youth to be waived to adult court.140
* African American youth comprised 60 percent and Hispanics made up 10 percent of juveniles waived to adult court in Pennsylvania in 1994; white youth made up only 28 percent of these cases.141
* African Americans made up 80 percent of all waiver request cases in South Carolina from 1985 through 1994. Eighty-one percent of the cases involving African American youth were approved for waiver to adult court, compared to only 74 percent of the cases involving white youth.142

Decisions to transfer juveniles to adult criminal courts are important because of the sentencing consequences of being convicted in criminal rather than juvenile court. Although there is some evidence that transferred youth are treated more leniently in criminal court than they would have been in juvenile court143—in large part because they appear in criminal court at a younger age and with shorter criminal histories than other offenders—most studies reveal just the opposite. Jeffrey Fagan, for example, compared juvenile and criminal court outcomes for 15- and 16-year-old felony offenders in New York (where they were excluded from juvenile court) and New Jersey (where they were not).144 He found that youth processed in criminal courts were twice as likely as those processed in juvenile courts to be incarcerated.

A more recent study compared sentencing outcomes of juveniles (those under age 18) and young adults (those ages 18 to 24) processed in Pennsylvania’s adult criminal courts from 1997 to 1999.145 When they examined the raw data, Megan C. Kurlycheck and Brian D. Johnson found that the mean sentence imposed on juvenile offenders was 18 months, compared to only 6 months for young adult offenders. These differences did not disappear when the authors controlled for the seriousness of the offense, the offender’s criminal history, the offense type, whether the case was settled by plea or trial, and the offender’s gender. Once these factors were taken into consideration, juveniles still received sentences that were 83 percent harsher than those imposed on young adults.146 Further analysis revealed that “‘being juvenile’ resulted in a 10-percent greater likelihood of incarceration and a 29-percent increase in sentence length.”147

These findings led Kurlychek and Johnson to suggest that “the transfer decision itself is used as an indicator of incorrigibility, threat to the community, and/or lack of potential for rehabilitation, resulting in a considerable ‘juvenile penalty.’”148 Evidence that African American and Hispanic youth face higher odds of being transferred to adult court than do white youth suggests that this “juvenile penalty” is not applied in a racially neutral manner.

**Explaining Disparate Treatment of Juvenile Offenders**

The studies discussed above provide compelling evidence that African American and Hispanic juveniles are treated more harshly than similarly situated white juveniles. The question, of course, is why this occurs. Secret and Johnson149 suggest that juvenile court judges may attribute positive or negative characteristics to offenders based on their race / ethnicity. Judges, in other words, may use extralegal characteristics like race to create “a mental map of the accused person’s underlying character” and to predict his/her future behavior.150 As Coramae Richey Mann notes, officials’ attitudes “mirror the stereotype of minorities as typically violent, dangerous, or threatening.”151 Alternatively, according to Secret and Johnson, the harsher treatment of African American and Hispanic juveniles might reflect both class and race biases on the part of juvenile court judges. As conflict theory posits, “the individual’s economic and social class and the color of his skin ... determine his relationship to the legal system.”152

These speculations regarding court officials’ perceptions of minority and white youth have not been systematically tested. Researchers assume that findings of differential treatment of racial minorities signal the presence of race-linked stereotypes or racially prejudiced attitudes, but there have been few attempts to empirically verify either the existence of differing perceptions of white and minority youth or the degree to which these perceptions can account for racial disparities in the juvenile justice system.

A recent study by George S. Bridges and Sara Steen153 addressed this issue by examining 233 narrative reports written by juvenile probation officers in three counties in the state of Washington during 1990–1991. The narratives, which were used by the court in determining the appropriate disposition of the case, were based on interviews with the youth and his/her family and on written documents such as school records and juvenile court files. Each narrative included the probation officer’s description of the youth’s crime and assessment of the factors that motivated the crime, as well as an evaluation of the youth’s background and assessment of his/her likelihood of recidivism. The information gleaned from these narratives was used “to explore the relationship between race: officials’ characterizations of youths, their crimes, and the causes of their crimes; officials’ assessments of the threat of future crime by youths; and officials’ sentence recommendations.”154

Bridges and Steen’s review of the narratives revealed that probation officers described black and white youth and their crimes differently. They tended to attribute crimes committed by whites to negative environmental factors (poor school performance, delinquent peers, dysfunctional family, use of drugs or alcohol), but to attribute crimes committed by African Americans to negative personality traits and “bad attitudes” (refusal to admit guilt, lack of remorse, failure to take offense seriously, lack of cooperation with court officials). They also found that probation officers judged African American youth to have a significantly higher risk of re-offending than white youth.

Further analysis, which controlled for the juvenile’s age, gender, prior criminal history, and for the seriousness of the current offense, confirmed these findings. As the authors note, “Being black significantly reduces the likelihood of negative *external* attributions by probation officers and significantly increases the likelihood of negative *internal* attributions, even after adjusting for severity of the presenting offense and the youth’s prior involvement in criminal behavior.”155 To illustrate these differences, the authors discuss the narratives written for two very similar cases of armed robbery, one involving a black youth and one involving a white youth. The black youth’s crime was described as “very dangerous” and as “premeditated and willful,” and his criminal behavior was attributed to an amoral character, lack of remorse, and no desire to change. In contrast, the white youth was portrayed as an “emaciated little boy” whose crime was attributed to a broken home, association with delinquent peers, and substance abuse.

Bridges and Steen’s examination of the factors related to probation officers’ assessments of the risk of re-offending revealed that youth who committed more serious crimes or had more serious criminal histories were judged to be at higher risk of future offending. Although none of the offender’s demographic characteristics, including race, was significantly related to assessments of risk, probation officers’ attributions of delinquency did affect these predictions. Youth whose delinquency was attributed to negative internal causes were judged to be at higher risk of future delinquency than youth whose crimes were attributed to negative external factors. According to Bridges and Steen, “This suggests that youths whose crimes are attributed to internal causes are more likely to be viewed as ‘responsible’ for their crimes, engulfed in a delinquent personality and lifestyle, and prone to committing crimes in the future.”156

The authors of this study concluded that race influenced juvenile court outcomes indirectly. Probation officers were substantially more likely to attribute negative internal characteristics and attitudes to African American youth than to white youth; these attributions, in turn, shaped their assessments of dangerousness and their predictions of future offending. As Bridges and Steen state, “Insofar as officials judge black youths to be more dangerous than white youths, they do so because they attribute crime by blacks to negative personalities or their attitudinal traits and because black offenders are more likely than white offenders to have committed serious offenses and have histories of prior involvement in crime.”157

The results of this study illustrate the “mechanisms by which officials’ perceptions of the offender as threatening develop or influence the process of legal decision-making.”158 They suggest that perceptions of threat and, consequently, predictions about future delinquency are influenced by criminal justice officials’ assessments of the causes of criminal behavior. Thus, “officials may perceive blacks as more culpable and dangerous than whites in part because they believe the etiology of their crimes is linked to personal traits” that are “not as amenable to the correctional treatments the courts typically administer.”159

**Juveniles Under Correctional Supervision**

As the previous section illustrates, the racial makeup of juveniles at key stages of the juvenile justice system varies by decision type. Generally, nonwhite youth (the majority of whom are African American) are overrepresented at every stage of decision making. Nonwhite youth also are at greater risk of receiving harsher sanctions than white youth. For example, nonwhite youth are detained in secure custody prior to their juvenile court hearing at rates that exceed those for white youth, regardless of the seriousness of the delinquency offense. Recently, there has been a decline in the proportion of white youth detained but an increase in the proportion of African American youth in custody.160

Table 10.11 presents data on the racial and ethnic makeup of juvenile offenders who were placed in a secure public or private residential facility in 2006 after being adjudicated delinquent.161 White and Asian youth are underrepresented among youth in residential placement, while African American, Hispanic, and Native American / Alaskan Native youth generally are overrepresented. For all of the criminal offense types (violent, property, drug, public order), youth of color made up about two-thirds of all youth in secure residential facilities. For status offenses (running away from home and truancy), on the other hand, whites comprised the largest proportion of offenders placed in secure confinement. Among youth in residential facilities in 1999, racial minorities were overrepresented in every state in the United States, and in some states there were more than twice as many racial minorities in secure facilities as there were in the juvenile population. For instance, racial minorities made up 37 percent of the juvenile population but 84 percent of those in residential placement in New Jersey. The figures were 15 percent (population) and 59 percent (residential placement) for Wisconsin, 18 percent (population) and 55 percent (residential placement) for Rhode Island, and 25 percent (population) and 77 percent (residential placement) for Connecticut.162

Table 10.11 Racial and Ethnic Profile of Juvenile Offenders in Residential Placement, 2006

|  |  | Percentage of Youth in Residential Placement in Each Racial/Ethnic Group | | | | |
| --- | --- | --- | --- | --- | --- | --- |
| Most Serious Offense | | White | African American | Hispanic | American Indian | Asian |
| Total | | 35 | 40 | 20 | 2 | 1 |
| Delinquency Cases | | 34 | 41 | 21 | 2 | 1 |
|  | Violent Offenses | 32 | 44 | 20 | 2 | 1 |
|  | Property Offenses | 37 | 37 | 21 | 2 | 1 |
|  | Drug Offenses | 32 | 44 | 22 | 1 | 1 |
|  | Public-Order Offenses | 34 | 40 | 22 | 2 | 1 |
| Status Offenses | | 50 | 33 | 8 | 5 | 1 |

SOURCE: Bureau of Justice Statistics, *Sourcebook of Criminal Justice Statistics 2006*, online edition, [www.albany.edu/sourcebook](http://www.albany.edu/sourcebook), Table 6.10.

There also is evidence that African American males are incarcerated in state prisons at disproportionately high rates. In 1999 youth under the age of 18 accounted for only 2 percent of all new court commitments to adult prisons; in the 37 states that provided data to the National Corrections Reporting Program, there were 5,600 new court commitments involving youth younger than 18 at the time of admission.163 Almost all of these youth (96 percent) were male and more than half of them (57 percent) were African American males. African American males made up 57 percent of new admissions for homicide, 75 percent of new admissions for robbery, and 84 percent of new admissions for drug offenses.164

**Conclusion**

The victimization and offending patterns for juveniles mirror those for adults. Juveniles of color, and particularly African American males, face a higher risk of victimization than white juveniles. This pattern is found for property crime, violent crime, and homicide. In fact, the homicide victimization rate for young African American females is higher than the rate for young white males.

Although the common perception of the juvenile offender is that he/she is a person of color,165 the data discussed above indicate that whites constitute the majority of juvenile offenders for most crimes. The notable exceptions (among the more serious index offenses) are robbery, where over half of those arrested are African American, and murder and non-negligent manslaughter, where African American youth comprise nearly half of all arrestees. The overrepresentation of African American juveniles in arrest statistics is not a constant, however. The most pronounced disparities are found for violent crimes, where from one-third to one-half of all arrestees are African American. There is less racial disparity for property offenses; for these crimes, between one-fourth and one-third of those arrested are African American. Further, whites are overrepresented among arrestees for many of the drug and alcohol offenses.

Recent methodologically sophisticated research reveals that racial and ethnic differences in juvenile victimization and offending rates can be attributed in large part to family and community characteristics. African American and Hispanic youth are more likely than white youth to be the victims of violent crime because they spend more time away from home and are more likely to live in single-parent households and disadvantaged communities. Similarly, the higher rates of violent offending found among minority youth, as compared to white youth, reflect the fact that minority youth are more likely to live in disadvantaged neighborhoods, to be members of gangs, and to have weak bonds to social institutions such as schools. The sources of risk of victimization and offending are similar for all teenagers, but the likelihood of experiencing these risk factors is higher for youth of color than for white youth.

## The results of studies examining the effect of race / ethnicity on juvenile justice processing decisions suggest that the juvenile justice system, like the criminal justice system for adults, is not free of racial bias. There is compelling evidence that racial minorities are treated more harshly than whites at various points in the juvenile justice process. Most importantly, minority youth are substantially more likely than white youth to be detained pending disposition, adjudicated delinquent, and waived to adult court. They also are sentenced more harshly than their white counterparts, at least in part because of the tendency of criminal justice officials to attribute their crimes to internal (personality) rather than external (environmental) causes. Notes

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The Color of Justice. Race, Ethnicity, and Crime in America, Fifth Edition

Chapter 10: Minority Youth and Crime: Minority Youth in Court

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CHP 11

**The Color of Justice**

Race, ethnicity, and crime are bound together in American society. It is impossible to discuss policing, sentencing, the death penalty, or employment in the criminal justice system without confronting issues of race and ethnicity and the disparities that exist throughout the system. And as we explained in Chapter 3, it is impossible to discuss crime without considering the social and economic inequalities that exist in American society, which contribute directly and indirectly to criminal behavior.

One major contribution of this book is our effort to disentangle the misunderstandings that exist with regard to race, ethnicity, and the justice system and to gain a clearer understanding of the complex reality of American society. One problem involves the terms “race” and “minorities.” As we have explained, it is important to distinguish between race and ethnicity. First, these are different parts of the social reality of America. They are also reflected in official data on crime and justice. Second, different racial and ethnic groups have very different experiences with the justice system. African Americans and Native Americans experience the highest crime rates and also the highest rates of victimization. Asian Americans have the lowest rates of crime and victimization. Hispanic Americans fall somewhere between non-Hispanic whites and African Americans, with lower rates of both criminal behavior and victimization.

Another contribution of this book is to highlight the great complexity of crime and justice in this country. We have done this for a reason. Debates over criminal justice are so often cast in oversimplified terms that distort reality. You hear sweeping statements such as “crime just keeps going up and up,” or “dangerous criminals all get off easy,” or “immigrants are responsible for the crime increase.” Not one of these statements is true. If we know anything about criminal justice, it is that each and every topic—criminal behavior, policing, sentencing—is extremely complex. There are no simple answers.1

**Explaining Persistent Racial and Ethnic Disparities**

In the end, what can we say about race, ethnicity, and crime in America? Given all the complexities, can we make any generalizations? We believe that a fair assessment of the evidence indicates that the criminal justice system is characterized by disparities based on race and ethnicity. It is impossible to ignore the disproportionate number of minorities arrested, imprisoned, and on death row. Some of the decisions that produce these results involve discrimination. Michael Tonry, one of the leading experts on race, ethnicity, and criminal justice, concluded that in the end, after all the evidence is considered, “race matters.”

Not everyone agrees with our conclusion. As we discussed in Chapter 1, some people argue that the over-involvement of people of color in criminal activity, along with some other factors, explains the disparities in arrests, sentencing, and imprisonment. We cited Heather Macdonald as one proponent of this view.2

Our conclusion is a modulated one. We do not claim that race and ethnicity explain all of the disparities that exist, but they are important factors that cannot be ignored. The best research indicates persistent patterns of racial and ethnic disparities in the critical decision points of arrest and sentencing. This view is reinforced by the technique of meta-analysis, which systematically reviews all the research on a particular topic. Our conclusion is supported by others. A recent review of all the studies of police arrest decisions concluded that race is a factor: “We report with confidence that the results are not mixed. Race matters.” The evidence clearly indicates that “race does affect the likelihood of an arrest.” The chances of a person of color being arrested are 30 percent higher than for a white non-Hispanic person. A similar review of all the studies of sentencing, meanwhile, also found that race matters, although the effect was not as strong as in arrests.3

Patterns of crime and justice are continually changing (another important complexity). One of the most important developments of the past 20 years has been the great American crime drop, which began in the early 1990s and continued for nearly a decade. African Americans have been the primary beneficiaries of the great crime drop. The dramatic decline in homicides, particularly gun crimes among young men, has meant fewer deaths among primarily young African American men. Nonetheless, the racial disparity in both offenders and victims continues.4

**Explaining the Disparities: Systematic Discrimination?**

Do the racial and ethnic disparities that researchers have identified constitute discrimination? We believe the answer is yes, but (another complexity) it depends on how you understand the scope of discrimination.

As we explained in Chapter 1, there are different kinds of discrimination: systematic, individual, and contextual. (No one seriously argues that we have ever had a situation of pure justice.) Based on the evidence, we conclude that the system is characterized by *contextual discrimination*. Racial minorities are treated more harshly than whites at some stages of the criminal justice process (for example, the decision to seek or impose the death penalty) but no differently than whites at other stages (for example, the selection of the jury pool). The treatment accorded racial minorities is more punitive than that accorded whites in some regions or jurisdictions, but it is no different than that accorded whites in other regions or jurisdictions. For example, some police departments tolerate excessive force directed at racial minorities or the use of racial profiling, whereas others do not. Racial minorities who commit certain types of crimes (for example, drug offenses or violent crimes against whites) or who have certain types of characteristics (for example, they are young, male, and unemployed) are treated more harshly than whites who commit these crimes or have these characteristics.

Precisely because the discrimination that exists is buried deep within the justice system, and is often confounded by other factors (for example, different patterns of involvement in crime), it is often difficult to identify with precision. This also makes it easy for critics of our position to argue that no discrimination exists.

**Past and Present**

We are not arguing that the U.S. criminal justice system never has been characterized by systematic racial discrimination. In fact, the evidence discussed in earlier chapters suggests just the opposite. The years preceding the civil rights movement (pre-1960s) were characterized by blatant discrimination directed against African Americans and other racial minorities at all stages of the criminal justice process. This pattern of widespread discrimination was not limited to the South; it was found throughout the United States. Crimes among African Americans were completely ignored by police. Among persons shot and killed by the police, the ratio in the 1960s was eight African Americans for every one white person. The overwhelming number of people given the death penalty for rape were African Americans. (The Supreme Court has declared capital punishment for rape to be unconstitutional.) Clearly, we have made some progress since the days of the segregation era. But that should not be our standard. The proper standard is found in the words engraved above the Supreme Court building: Equal Justice Under Law.

Many of the worst forms of discrimination have been substantially reduced through new laws, court decisions, and political pressure. For example:

* Police and other criminal justice agencies no longer refuse to employ people of color.
* Policy reforms and a major Supreme Court decision have placed controls over police use of deadly force, thereby reducing disparities in persons shot and killed.
* Police no longer completely ignore crimes against African Americans, as was often the case in the segregation era.
* The bail reform movement of the 1960s eliminated the worst discrimination against poor people, which disproportionately affected people of color.
* African Americans can no longer be excluded from juries, as was the case in southern states in the segregation era.
* Sentencing reforms since the 1970s have attempted to insure that sentences are based on acceptable legal factors (the seriousness of the offense and the offender’s prior record), thereby curbing the worst forms of sentencing discrimination.
* Racial segregation in prisons has been declared unconstitutional and thereby eliminated.
* Supreme Court decisions on the death penalty have eliminated the uncontrolled discretion in death sentences that produced the mast blatant forms of racial discrimination.

**The Stubborn Persistence of Racial and Ethnic Disparities**

Despite the progress made in many areas, racial and ethnic disparities persist in the criminal justice system. Tonry puts it bluntly, pointing out that the unjust effects of race and ethnicity “are well known, have been well known, [but] have changed little in recent decades.” We think he understates the change and progress that has occurred, but he is absolutely correct about the stubborn persistence of the inequities. He explains this in terms of public indifference. Much of the public and most policy makers do not “much notice or care.”5

Public indifference to racial and ethnic discrimination is also affected by the increased racial polarization of American politics in recent years. A 2010 poll, for example, found that almost half (48 percent) of all white Americans think “discrimination against whites has become as big a problem as discrimination against blacks and other minorities.”6 Many non-Hispanic Americans feel that immigration, and unauthorized immigration in particular, is a major problem in this country. These feelings often lead to stereotyping of all immigrants and/or all Hispanic people. In this book, we have tried to provide objective evidence regarding immigration and crime (it is not a significant contributor to crime rates).

Tonry and his co-author Matthew Melewski suggest several strategies for reducing racial and ethnic disparities. First, they argue for “radical decarceration,” dramatically reducing the number of people the United States sends to prison. For the same reason our current incarceration policies disproportionately affect people of color, so a radical reduction in imprisonment would reduce that impact. Second, they recommend the abolition of other “disparity-causing policies,” including capital punishment, mandatory minimum sentencing laws, sentences of life without parole, and truth-in-sentencing laws. They should be replaced with what they describe as “principled” sentencing guidelines designed to implement shorter sentences proportionate to the harm done by the crime. Finally, they recommend “race and ethnicity impact statements.” These would be similar to fiscal impact statements for new legislation. Such statements, based on good research evidence, would highlight likely disparate racial and ethnic effects and therefore provide a warning against flawed proposed laws.7

To Tonry and Melewski’s list we would add reorienting the war on drugs. The long-standing American focus on criminalizing drugs, and indiscriminately treating all drugs the same in terms of their harm, lies at the root of many criminal justice policies that adversely affect people of color, in policing, prosecution, and sentencing. The drug war is solidly supported by public opinion, however, and so ending it would require a major public education effort, the likes of which we have never seen.

In the end, race and ethnicity are a major factor in crime and criminal justice in America. We hope that this book has clarified the issues, provided readers with the best current evidence on all the important topics, and sorted fact from fiction. This country has a long and tragic history with regard to race and ethnicity. Much progress has been made in recent decades, but as the evidence in this book indicates, unacceptable disparities continue to exist, and much remains to be done if we are to achieve the ideal of Equal Justice Under Law.

**Notes**

1For a discussion of popular myths about crime and justice, see Samuel Walker, *Sense and Nonsense About Crime, Drugs, and Community*, 7th ed. (Belmont: Cengage, 2011).

2Heather MacDonald, “Is the Criminal-Justice System Racist?” *City Journal* 18 (Spring 2008). Available at <http://wwwcity-journal.org/printable.php?id=2563>.

3Tammy Rinehart Kochel, David B. Wilson, and Stephen D. Mastrofski, “Effects of Suspect Race on Officers’ Arrest Decisions,” *Criminology* (Forthcoming, May 2011); Ojmarrh Mitchell, “A Meta-Analysis of Race and Sentencing Research: Explaining the Inconsistencies,” *Journal of Quantitative Criminology* 21 (December 2005), pp. 439–466.

4Alfred Blumstein and Joel Wallman, *The Crime Drop in America* (New York: Cambridge University Press, 2006).

5Michael Tonry and Matthew Melewski, “The Malign Effects of Drug and Crime Control Policies on Black Americans,” in *Crime and Justice: A Review of Research*, Tonry, ed., (Chicago: University of Chicago Press, 2008), pp. 1–44.

6Chalres M. Blow, “Let’s Rescue the Race Debate,” *New York Times*, November 20, 2010.

7Tonry and Melewski, “The Malign Effects of Drug and Crime Control Policies on Black Americans.”

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