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LCLE - Disproportionate Minority Contact Assessment Study Research Topics

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Introduction and Overview of This Study

The purpose of this study is to assess certain aspects of disproportionate minority contact (DMC) in the juvenile justice system of Louisiana, with a particular focus on eight parishes: East Baton Rouge, Jefferson, Caddo, Orleans, Calcasieu, Lafayette, Ouachita, and Rapides. This study is a component of Louisiana's effort to comply with the federal Juvenile Justice and Delinquency Prevention Act (JJDP Act) of 1974. Compliance with disproportionate minority contact requirements is required for the state to receive federal Title II Formula Block Grants.

There are four phases to this study. The first phase consists of assessing existing data on DMC in the eight subject parishes. This phase focuses on determining the adequacy of the existing data, making recommendations for improvements in data collection, determining whether additional state or local data that could be utilized to identify DMC, and identifying the occurrence of DMC within the eight subject parishes.

The second phase involves identifying research objectives to better understand where and why DMC is occurring. This document—the “briefing book”—is intended to facilitate this second phase. Stakeholders and experts in the juvenile justice system will utilize the briefing book, along with their understanding of the topic, to investigate research topics on DMC.

The third phase will include collecting data, and then researching and analyzing the data to fulfill the objectives outlined in phase two. During this phase, national best practices will also be analyzed in order to identify potential ways to mitigate the occurrence of DMC in Louisiana parishes.

The fourth and final phase will be to recommend next steps and final action items in order to mitigate DMC. This final action plan will identify the underlying causes of DMC, will outline a roadmap to reduce DMC, and will suggest procedures for improving the monitoring of DMC and monitoring the success of the proposed interventions.

The goal of this project is to set in motion policies and procedures to better monitor the occurrence of DMC and to reduce the incidence of DMC in Louisiana's juvenile justice system.

This document is a result of several meetings to discuss potential research topics for phase II of this project. The research topics listed in this document were presented and approved by the JJDP Advisory Board.

LCLE-DMC Assessment Study – Research Topics

DMC Assessment Topic 1: Discretion in the Juvenile Justice System

Consistent with national data, the overrepresentation of minority youth within the state of Louisiana can be found at almost every step of the juvenile justice system. Available data shows that the Relative Rate Index (RRI) among youth who are arrested ranges from 2.26 to 19.25 across the state. This overrepresentation persists among youth at almost every stage of the juvenile justice system including arrest, pre-adjudication detention, cases formally petitioned, and commitment to secure facilities. Research suggests that one possible explanation for these rates of disproportionality is bias and discrimination by juvenile justice decision makers as minority youth are more likely to be arrested, have their cases handled formally, be placed in pre-adjudication detention, be adjudicated delinquent, and be confined in a secure juvenile facility (Rivaux, 2006). This explanation is supported by research showing that overrepresentation of minority youth in the juvenile justice system is not necessarily related to higher participation rates in criminal activity, as self-report data has failed to reveal significantly different rates of offending either by frequency or variety (U.S. Department of Justice, 1999).

Bias by decision makers is particularly problematic in the juvenile justice system where there is often more discretion available for how juveniles are processed than is the case for adults. Decision making within the juvenile justice system is to some extent guided by statutes, administrative guidelines, and operating procedures. However, evidence suggests that because of a lack of clear decision criteria, considerable variability exists. This discretion is well documented across the country and has been observed in all phases of the juvenile justice continuum from arrest to disposition following adjudication (Johnson & Secret, 1995). Police, prosecutors, and juvenile court judges are the key figures in these decisions but other important personnel such as psychologists, social workers, and probation officers also play an important role (Hoge, 2002). For these officials, decisions are often based on judgments which are typically based on information about a youth, such as history of previous offenses or role in the offense. While it is clear that some level of discretion is necessary, if the needs of each youth are to be fully met, this indeterminacy in rules also provides room for personal prejudices and biases to operate and may contribute to decisions which are inconsistent with the objectives of the juvenile justice system and may contribute to unfairness.

The majority of decisions made within the juvenile justice system lack clear decision making criteria and are based on personal judgment and discretion; therefore, it is necessary to study discretion's impact on rates of disproportionality found within the juvenile justice system. The specific research question that guides this recommendation is:

1. Will racial disproportionality be higher where subjective decisions are made?

Methods to Collect Data. To assess the level of discretion at each decision point, GCR will complete a survey to assess the decision making process at each contact point. DMC committee members will assist GCR in identifying the appropriate people to send the survey and will serve as the local point person. The information provided by each agency, in each parish, will be correlated with the RRI at that particular decision point.

DMC Assessment Topic 2: DMC across Offense Level within Each Decision-Making Stage

The level of DMC can also vary within each decision-making stage based on certain characteristics. One important characteristic is type of offense. As a result, researchers and DMC experts recommend breaking down the RRI within each stage of the juvenile justice system by offense level. This means that, although the RRI may suggest a low level of DMC at a given stage of the juvenile justice system, breaking down the RRI by offense level may highlight a low level of DMC for certain offense categories and a greater level of DMC for other offense categories within each stage. For certain offenses, typically the more serious offense levels (i.e., violent felony), there is little discretionary power in the decision-making process. Therefore, the race/ethnicity of the youth would not be an important factor in determining the outcome. However, for nonserious offenses (i.e., status offenses, non-violent misdemeanors), discretion in which course of action to take against the youth is common (e.g., refer the child for formal processing or diversion).

A great deal of research indicates that minority youth are treated more harshly than White youth even when charged with the same offense(s) (Burns Institute, 2010). National data suggests that Black youth are *twice as likely* as White youth to be sent to secure facilities and are less likely to receive probation for drug offenses. Latino youth are also more likely to be prosecuted and are one and a half times more likely to be admitted to adult prison for drug-related offenses (NSDUH, 2005).

Available data from Louisiana also supports this research. As can be seen, the level of DMC varies across offense categories in Parish A and Parish C. In Parish A, DMC occurred at a higher

level for felony offenses, compared to misdemeanor and Formal FINS offenses. In Parish C, however, DMC occurred at a higher level when youth were referred to court for disturbing the peace and truancy and adjudicated for disturbing the peace and theft (i.e., nonserious offenses). These data highlight the importance of breaking down the RRI a step further to include an assessment of DMC across the most common offense categories within each decision-making stage.

Therefore, an additional research topic that is recommended is to calculate the RRI across the most common offense categories within each decision-making stage. The research questions that guides this recommendation is:

1. Will there be varying levels of DMC across offense categories?
2. Will the racial disparity across offense levels vary across different contact points?

Methods to Collect Data. To assess this research topic, administrative data from Jefferson Parish, Rapides Parish, and possibly Caddo Parish will be used. Current offense will be broken down three different ways: 1) felony, misdemeanor, FINS, 2) five most common offenses, and 3) violent felony, nonviolent felony, violent misdemeanor, nonviolent misdemeanor, and FINS. Racial identify will be measured as White, Black, and "Other". The available data will allow for assessment of varying DMC levels at arrest (Jefferson and Rapides), referrals to juvenile court (Jefferson, Rapides, Caddo), adjudication (Jefferson, Rapides, Caddo), probation (Jefferson, Rapides, Caddo), local detention (Rapides), secure confinement (Jefferson, Rapides, Caddo). GCR will request available data from all other study parishes.

DMC Assessment Topic 3: Examining Length of Custody on Placement

In addition to assessing the number of custody placements (i.e., admissions to detention, admissions to secure confinement) for each racial/ethnic group, it is also important to examine variations in the length of placements under juvenile justice system custody across these groups. The length of time a youth is on probation or incarcerated is also an important decision in the juvenile justice system and has the potential to highlight a high level of DMC. In particular, it is important to compare the length of time for a given placement for youth with similar offenses.

A great deal of research suggests that, for the same or similar offense, Black and Hispanic youth are incarcerated for a longer period of time than White youth (CJJ, 2001). For example, the National Council on Crime & Delinquency (2007) reported that

African American youth were confined on average for 61 days longer than White youth, and Latino youth were confined 112 days longer than White youth. Available Louisiana data parallels these national data. Based on data provided by the Office of Juvenile Justice, the average days in secure care custody in Parish B and Parish C was significantly higher for Black youth compared to White youth.

Understanding disparity in the average length of time for juvenile justice placements is also an important element of DMC because it provides information on the treatment of youth while in custody. There are a number of possible reasons why length of stay varies across racial/ethnic groups. One reason may be bias in the sentencing decisions of key juvenile justice personnel, for instance, a judge's sentencing decision or a probation officer's decision to release a child from probation. Another possible reason for longer time on custody for minority groups is treatment bias while on custody such as harsher treatment by a correctional officer or stricter supervision by a probation officer. Finally, the behavior of the youth also influences the length of time on probation or incarcerated. It is possible that minority youth are continuing to misbehave while on probation (e.g., violating probation) or incarcerated (e.g., fighting with other inmates) which extends their time under custody.

Based on national estimates, an assessment of average length of time on each custody placement is also examined when assessing DMC in Louisiana's juvenile justice system. Three hypotheses guide this recommendation:

1. Will minority youth have a larger probation term (i.e., ordered term and actual term) compared to White youth who have committed similar offenses?
2. Will minority youth have a larger average length of stay in local detention compared to White youth who have committed similar offenses?
3. Will minority youth have a larger average length of stay in secure confinement facilities compared to White youth who have committed similar offenses?

Methods to Collect Data. To examine length of custody placements, data from the Office of Juvenile Justice (OJJ), local probation offices, and parish juvenile detention centers will be collected. Local probation data may already be available from Jefferson, Rapides, and Caddo parishes. If available, this data will be used to examine both ordered and actual probation terms for minority youth compared to White youth who have committed similar offenses. Data available from the Office of Juvenile Justice contains probation data for parishes without local probation as well as secure confinement information. This data is currently available for Caddo, Calcasieu, Jefferson,

and Rapides parish and will be used to assess significant differences in both ordered and actual length of stay for minority youth compared to White youth who have committed similar offenses. Detention data, which is presently available from Rapides Parish, will be used to examine the average length of stay for minority youth in local detention compared to White youth who have committed similar offenses. GCR will request OJJ data, local detention, and local probation data from each of the remaining parishes.

DMC Assessment Topic 4: Understanding School-Based Arrests

The Relative Rate Index (RRI) data allows juvenile justice leaders to understand the rates of disproportionality found within their community at each decision point. However, this index fails to provide incite as to how these youth are entering the system. Research suggests that youth are entering the juvenile justice system at staggering rates through the school system, a phenomenon often referred to as the school to prison pipeline. The school to prison pipeline refers to the national trend of criminalizing youth within the school system and encompasses the growing use of zero-tolerance discipline, school-based arrests, alternative schools, and secure detention (ACLU, 2008). Children with emotional disturbances and other disabilities, particularly those of color, are even more vulnerable as they are more likely to be suspended, be arrested, and have the lowest graduation rates in the country (Southern Poverty Law Center, 2007).

Examples of this phenomenon can be found within the state of Louisiana. Available data shows that in 2008, 30% of arrests in Parish B were school-based. The majority of these arrests occurred for a misdemeanor offense. Additionally, 82% of youth arrested in school were Black. Schools, low on resources, are now turning to the juvenile justice system to handle in-school disciplinary issues. These effects are most harmful to minority youth and contribute to the high rates of DMC found within the juvenile justice community.

This data demonstrates the importance of understanding trends in school-based arrests as a necessary step in understanding why DMC is occurring in juvenile justice system and implementing interventions designed to reduce disparities. Two hypotheses guide this recommendation:

1. Will school-based referrals account for a significant amount of referrals into the juvenile justice system?
2. Will a large proportion of youth arrested from school be minorities?

Methods to Collect Data. GCR will contact each parish to determine to gather information on the detainments that are made at schools. GCR will first contact the sheriff's office in each parish to determine where that data will be gathered. The data gathered in this process will be related to the number of youth detained and common offenses committed.

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