

**OFFICE OF  
JUSTICE SYSTEMS ANALYSIS**

**DISPROPORTIONATE MINORITY CONFINEMENT  
IN NEW YORK STATE**

**PHASE II: ASSESSMENT**

170858



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IN NEW YORK STATE**

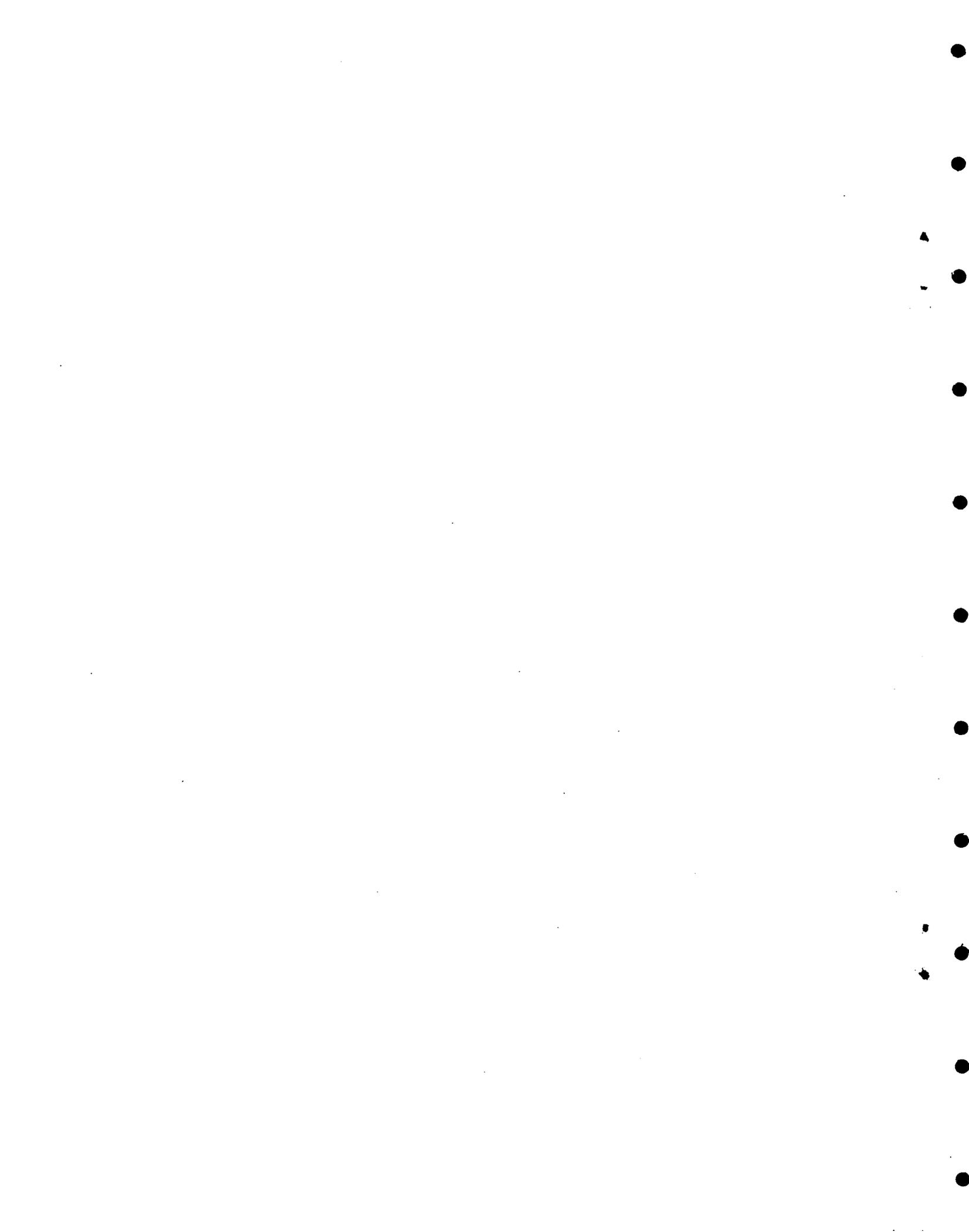
**PHASE II: ASSESSMENT**

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## **Executive Summary**

### **I. Introduction**

In 1988, Congress amended the Juvenile Justice and Delinquency Prevention Act of 1974 to require states to address the disproportionate representation of minority youth in their juvenile justice systems. The Act was initiated in response to findings that, across most jurisdictions in the United States, minority youth were overrepresented in the juvenile justice system relative to their proportion in the general population.

This federal mandate required documenting the extent to which members of racial and ethnic groups were represented at each stage of the juvenile justice system. Typical stages included arrest, detention, probation intake, family court, adjudication, and placement. States that found disproportionalities in processing stages were required to develop explanations of the origins of such disproportionalities. States that found race to be a factor in processing youth were expected to develop remedies.

The Office of Juvenile Justice and Delinquency Prevention (OJJDP) recommended that states formally divide their response into four phases: Identification (I), Assessment (II), Intervention (III), and Monitoring (IV). This report describes the findings of the Assessment Phase. It forms the basis for the Intervention Phase.

#### **A. Summary of Phase I: Identification**

Phase I and Phase II research were conducted in New York City, Monroe County, and Erie County. New York City is the most urbanized region in the state. Erie and Monroe counties are among the most urbanized counties outside of the New York City metropolitan area.

In 1992, statewide data showed that blacks accounted for 20 percent of 10 to 15 year olds, 42 percent of juveniles arrested for juvenile delinquency offenses, and 62 percent of juveniles placed in the custody of the Division for Youth. In New York City, blacks were overrepresented at most stages by a factor of two to one. In Monroe and Erie counties, they were overrepresented at most stages by a factor of four to one. Hispanics were not overrepresented

in New York City, but they were overrepresented in Monroe and Erie counties. In these counties, Hispanics were overrepresented in detention and placement facilities by about two to one.

The overrepresentation of minorities does not prove that the juvenile justice system discriminates against minorities. Minorities would be overrepresented at most stages in the juvenile justice system if they committed more crimes, were arrested for more serious offenses, or had more extensive prior records than whites.

## **II. Phase II Research**

The Phase II research is designed to identify processing decisions that result in minorities penetrating further into criminal and juvenile justice systems than whites. The deepest penetration is a sentence to the Division for Youth.

The goal of this research is to establish whether white and minority juveniles were processed in a similar manner at major decision points in juvenile and adult justice systems. Statistical models are used to separate the effects that race, ethnicity, and case characteristics -- like age at arrest, gender, offense seriousness, extent of prior involvement in the justice system -- have on decisions. A statistically significant race or ethnicity effect indicates that minorities were processed differently than whites. It demonstrates a disparity in a processing decision.

### **A. Disproportionality, Disparity, and Discrimination**

Distinctions need to be drawn between disproportionality, disparity, and discrimination.

**Disproportionality** at any stage in the juvenile justice system is measured by the ratio of the percentage of juveniles at that stage with membership in a particular group divided by the percentage of youth in the general population with membership in the same group. Ratios greater than one indicate that members of that group are found more often than would be expected had their number at that stage been proportional to their number in the population.

A racial **disparity** (at any stage in the juvenile justice system) is measured as a difference in how minorities and whites are processed that cannot be explained by measured variables that legitimately affect processing decisions. Disparity estimates represent what cannot be explained by available control variables. They indicate that problems exist. They do not indicate causes. Estimated disparities could be due to failing to control for key variables, to poorly coded data, to choosing the wrong statistical model, to institutional policies that adversely affect how minorities are processed, and to individual discrimination.

**Discrimination** is an action. It is the denial of opportunities and equal rights to individuals because of their membership in a particular group (Levin and Levin, 1982). Discrimination that is attributable to individual prejudices (negative attitudes held by individuals toward entire categories of people) is called individual discrimination. Discrimination that is attributable to the operation of society's institutions is called institutional discrimination (Schaefer, 1984). Institutional discrimination occurs even when laws, policies, procedures, bureaucratic structures, or programs are neutral on their face if they nevertheless operate systematically to the disadvantage of a particular group.

#### **B. Disparity: A Detailed Example**

Disparities were measured by comparing observed and statistically modeled percentages. The method is illustrated here with the decision to arrest juveniles taken into custody by the Rochester Police Department.

Disparity in arresting juveniles is presented in Table 1. The top section of the table shows that 36 percent of the whites and 42 percent of the minorities (blacks and Hispanics) taken into custody for criminal offenses were arrested. The difference between 42 and 36 percent does not demonstrate that minorities were arrested more often than similarly situated whites.

**Table 1: Disparity in Arresting Juveniles Taken into Custody by the Rochester Police Department**

Minority Status	Percent Arrested	Total Number of Cases	Number Arrested
Observed Data			
Whites	36%	280	100
Minorities	42%	1,643	687
If Minorities Were Processed As Whites Having Identical Values On 6 Significant Control Variables			
Minorities	39%	1,643	639
Disparity			
Sig Level	.26		
Difference	3%		48
Ratio	1.08		

A logit regression model was used to control for differences in **demographic characteristics** (age, gender), **arrest characteristics** (charge-class seriousness, number of charges, and type of offense), **prior record** (number of times taken into custody), and **minority status** (white vs. black or Hispanic) variables. All control variables were initially entered into a logit regression equation to explain the arrest decision. They were dropped from the equation one at a time until only significant variables remained in the final equation. If minority status was dropped, it was added at the last step to define the selected model. This procedure reduced the number of control variables that needed to be examined, and showed how the significant control variables and minority status simultaneously affected arrest decisions.

The final logit equation was used to estimate the percentage of minorities who would have been arrested had there been no disparity. This is equivalent to estimating the percentage of whites who would be arrested if they had exactly the same values on all significant control variables (age, charge-class seriousness, total charges, prior custodies, larceny charge, and weapons charge) as minorities. This percentage, called the **statistically simulated percentage**, equaled 39 percent. Had minorities been arrested as often as whites having identical values on the aforementioned statistically significant control

variables, then 39 (not 42) percent would have been arrested. The number of minority arrests would decrease by 48 from 687<sup>1</sup> (observed) to 639 (predicted by the simulated percentage). The disparity ratio shows that minorities were 1.08 times as likely to be arrested as whites having identical values on all significant control variables.

The significance level of the minority status parameter in the logit regression equation is also presented in Table 1. It exceeded .05, showing that minorities were not arrested significantly more often than whites. The significance level of .26 suggests that there was a one in four chance that the difference in arrest percentages between whites and minorities could have been as large as displayed in Table 1 had minorities been arrested in exactly the same manner as whites.

Regardless of the significance level, disparity in arresting minorities more often than whites does not demonstrate that police officers discriminated against minorities. Disparities represent what cannot be explained by the control variables. Significant disparities indicate that minorities are processed differently than whites; they do not indicate why.

### C. Research Design

The research questions, data sets, methods, and interviews differed by site. In Monroe County, disparities in arrest and disparities in detention following arrest were estimated for the city of Rochester. Disparities in forwarding cases from probation intake to the presentment agency, and in detention, adjudication, and placement decisions made in family court were estimated county-wide. Separate analyses were undertaken for juvenile delinquents (JDs) and persons in need of supervision (PINS). There were not enough arrests of juvenile offenders (JOs) to estimate disparities in processing juveniles in adult court. Disparity analyses were based upon computerized records that contained a wealth of information on offense

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<sup>1</sup>

The difference between the observed number arrested and the number implied by the simulated percentage illustrates disparity for the entire group of minorities. It does not illustrate disparity for particular individuals. It cannot be used to determine whether particular juveniles were processed in an unfair manner.

characteristics, prior record, behavioral problems, family problems, and family income.

In Erie County, disparities in detaining juveniles following arrest were estimated for the city of Buffalo, and disparities in forwarding JDs directly to family court following arrest were estimated county-wide. Disparities in forwarding JDs from probation intake to presentment, from presentment to family court, and in detention, adjudication, and placement decisions made in family court were estimated county-wide. Disparity analyses were based upon data in paper files maintained by the Buffalo Police Department, the Erie County Probation Department, and the Erie County Family Court. There were not enough juveniles arrested for JO offenses to estimate disparities in processing juveniles in adult court.

Interviews and focus groups of juvenile justice practitioners were held in Monroe and Erie counties to learn why practitioners believed minorities were disproportionately involved in the juvenile justice system, and to solicit their recommendations. This research provided a qualitative assessment of disparities in these counties.

The research in New York City was conducted by the New York City Criminal Justice Agency (CJA) using computerized records assembled from various sources. Disparities were estimated city-wide in five key decisions for processing JDs in the juvenile justice system and in five key decisions for processing JOs in the adult criminal justice system. In the juvenile justice system, disparities were estimated in forwarding minorities (blacks and Hispanics) compared to whites from probation intake to presentment, from presentment to family court, and in detention, fact-finding, and placement decisions made in family court.

There were not enough white juveniles in the adult system in New York City to estimate disparities in processing whites relative to minorities. Instead, disparities were estimated in processing blacks relative to Hispanics for arraignment in criminal court, detention following arraignment, arraignment in superior court, conviction in superior court, and sentencing in superior court. Differences in how whites and minorities were

processed were measured by comparing percentages of whites and minorities (without controls for legitimate factors) at each of the five aforementioned decision points.

Preliminary findings were presented at a workshop on September 13, 1995. Policy makers from across New York State discussed the statistical and qualitative research results, identified factors that might contribute to disproportionate minority confinement, and suggested remedies.

### **III. Major Findings**

#### **A. Disparities Were Similar for Blacks and Hispanics**

The research in Monroe County and New York City demonstrated that disparities affecting blacks were indistinguishable from disparities affecting Hispanics. Consequently, disparities were defined for blacks and Hispanics as if they represented a single racial/ethnic group. Ethnicity was not reported in Erie County.

#### **B. Differences in Arrest Rates Generated Disproportionalities**

Minorities were overrepresented in the juvenile justice system relative to their number in the population because they were arrested more frequently. All of the disparities following arrest had little effect on the number of minorities in the juvenile and adult justice systems relative to the number generated by differences in arrest rates.

1. In New York City, blacks were arrested nineteen times as often as whites for JO offenses; Hispanics nine times as often. Blacks were arrested eight times as often as whites for JD offenses; Hispanics five times as often.
2. In Rochester, blacks were taken into custody (the stage immediately preceding arrest) 2.6 times as often as whites; Hispanics 1.4 times as often.
3. In Buffalo, blacks were arrested four times as often as nonblacks for felony offenses; two times as often for misdemeanor offenses.

**C. Some Disparities and Differences in Detaining JDs and JOs in New York City**

There were no disparities in detention decisions in Erie County or Rochester, but there were disparities in New York City. In New York City, blacks and Hispanics charged with JD offenses were held in secure detention following their initial appearance in family court (first court appearance after petition is filed) 1.4 times as often as statistically simulated whites, constructed to be comparable to minorities with respect to significant control variables (arrest borough, charge-class seriousness at petition, type of weapon used, number of associates, whether there was a victim, age of the victim, most serious prior charge, most severe outcome in a previous case, and number of prior cases). Data were not available in New York City for estimating disparity in detention decisions at the time of arrest for JD offenses.

Among JOs arraigned in criminal (adult) court, the observed percentage held in detention was higher for minorities than for whites, but this difference does not necessarily represent disparity. Disparity could not be estimated, because there were not enough whites to control for differences in variables that legitimately affect detention.

**D. Disparities Could Not Be Estimated in Processing Whites and Minorities in the Adult System in New York City.**

There were not enough white JOs in New York City to estimate disparities in arraignment in criminal court following arrest for JO offenses, in arraignment in superior court, in conviction in superior court, or in sentencing in superior court. Minorities were arraigned for JO offenses in superior court more often than whites, but it could not be determined to what extent this difference was due to legitimate factors.

**E. Some Disparities in Forwarding JDs from Probation Intake to the Presentment Agency**

There were no disparities in forwarding JDs from probation intake to the presentment agency in New York City. Minorities were forwarded to presentment more often than

whites in Monroe and Erie counties. However, most of the differences were not due to decisions made by probation officers. In both counties, minorities failed to appear for probation interviews more often than whites. Failure-to-appear rates were particularly high for minority PINS in Monroe County. Juveniles who failed to appear were forwarded to presentment. In Erie County, minorities maintained their innocence more often than whites. This resulted in higher forwarding rates for minorities, because all JDs who maintain their innocence in this county must be forwarded to the presentment agency.

In Monroe County, minority JDs who could have been offered an adjustment were forwarded to presentment 1.3 times as often as statistically simulated whites, after removing cases forwarded because of non-appearance, detention needs, denial of guilt, or victim insistence and adjusting for differences on statistically significant control variables (truancy, diversion case, number of prior probation cases, and in detention). There were no disparities in forwarding PINS to presentment.

**F. No Disparities in Forwarding JDs from Presentment to Family Court**

There were no disparities in forwarding cases from the presentment agency to family court in Erie County or New York City. This disparity was not estimated in Monroe County.

**G. No Disparities in Fact-Finding or Adjudication Decisions for JDs or PINS in Family Court**

There were no disparities in adjudication decisions for JDs in Monroe or Erie County, or for fact-finding decisions for JDs in New York City. There were no disparities in adjudication decisions for PINS in Monroe County.

**H. Some Disparities in Placing PINS and JDs**

There were no disparities in placing JDs in Erie County. In Monroe County, minority PINS were placed **less** often than white PINS. There were no disparities in placing JDs in Erie or Monroe.

In New York City, minority JDs were placed with the Division for Youth 1.49 times as often as statistically simulated whites, constructed to be comparable to minorities with respect to significant control variables (remanded at arraignment, age at arrest, arrest borough, charge-class seriousness of the arrest, charge-class seriousness of the finding, age of any victim, most severe outcome in a previous probation case, number of prior probation cases, and whether the defendant had a warrant history).

**I. Processing Decisions Unaffected by Family Income in Monroe County**

Monroe County was the only site in this study that provided information on family income. Minorities were from low income families considerably more often than whites. However, decisions in probation and family court were unrelated to differences in family income once differences in charge seriousness, prior record, and age variables were taken into account.

**J. Processing Decisions Largely Unaffected by Behavioral and Family Problems in Monroe County**

Monroe County was the only site in this study that provided information on behavioral and family problems. Decisions in probation and family court for both JDs and PINS were largely unaffected by these variables. PINS with runaway problems were forwarded from probation intake to family court and held in detention in family court more often than PINS without runaway problems.

**IV. Interview and Focus Groups**

Personal interviews and focus groups were conducted in Erie and Monroe counties to discuss the overrepresentation of juveniles in the juvenile justice system and to learn the criteria that practitioners used to make decisions. School officials, police officers, probation officers, presentment agency attorneys, family court judges, and detention agency staff participated in this research. They identified local practices and policies that they believed contribute to the disproportionate presence of minorities in the juvenile justice system.

Workshop group discussions were conducted in September, 1995, following preliminary presentation of disparities estimated in the three study sites and summaries of the interviews and focus groups conducted in Erie and Monroe counties. The interviews, focus groups, and workshops suggested that there is a need for:

- expanding the availability of police diversion programs;
- instilling in juveniles a sense of responsibility for their actions;
- improving parenting skills and promoting parental accountability;
- reducing structural barriers to the provision of services;
- increasing the racial and ethnic diversity of professional staff in juvenile and adult justice agencies;
- training professional staff in cultural sensitivity;
- improving communication among schools, human service agencies, probation, and family court; and
- implementing coordinated intra- and inter-agency strategic planning.

## V. Conclusions

The principal goal of the Phase II research was to identify processing decisions that result in minorities penetrating further into the criminal and juvenile justice systems than whites. In fact, few disparities were uncovered in processing decisions following arrest. The analyses examined detention of arrestees in Erie County and the city of Rochester and found no disparities. There were no disparities in forwarding cases from probation intake to the presentment agency in New York City. Disparities at this decision point in Erie and Monroe counties were mostly attributable to legitimate factors (juveniles maintaining their innocence or failing to appear at intake hearings), not to decisions made by probation officers. Where the necessary data were available, the analyses found no disparities in forwarding cases from the presentment agency to family court (examined in Erie County and New York City), no disparities in fact-finding (examined in New York City), and no disparities in adjudication decisions (examined in Erie and Monroe counties).

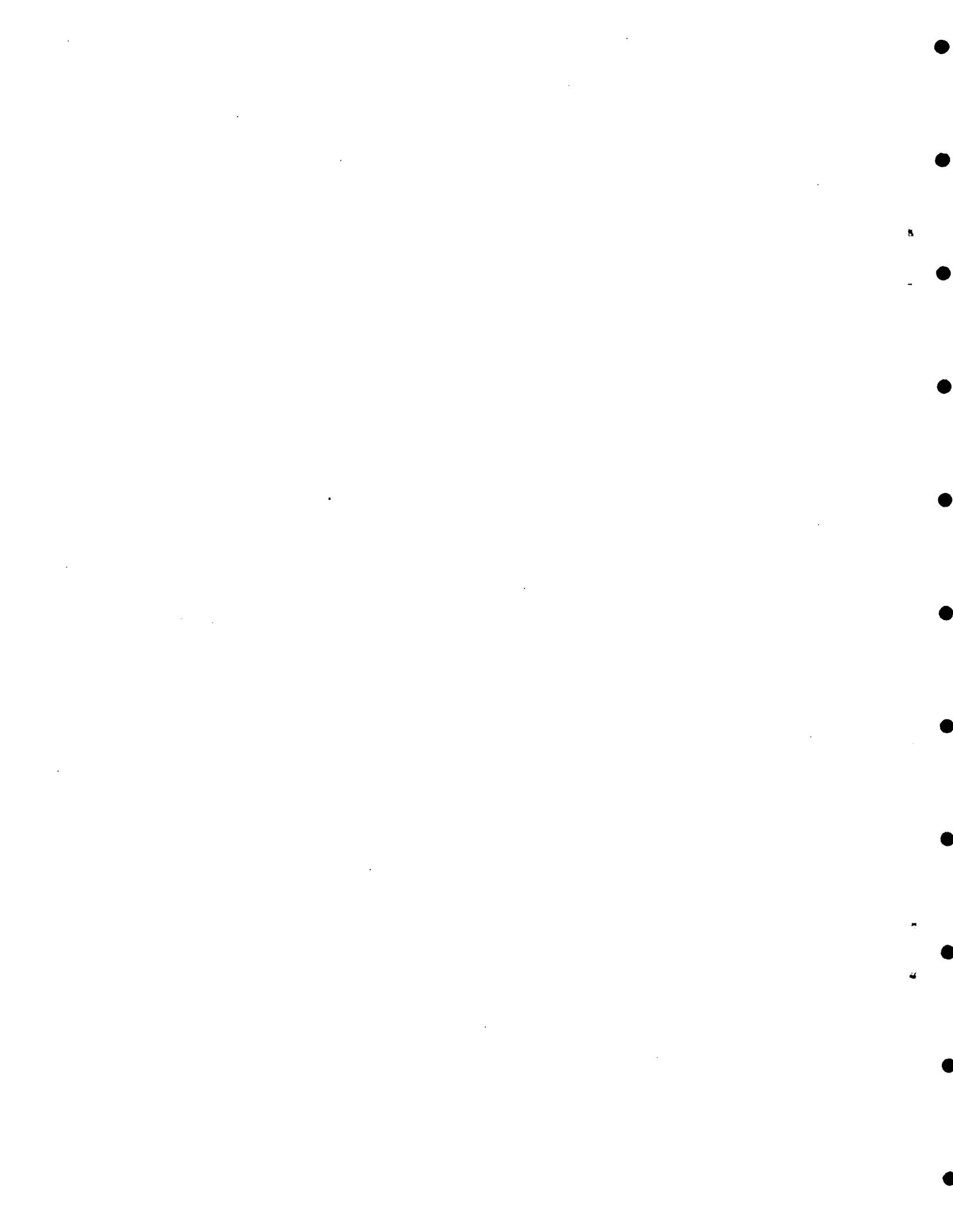
Disproportionate minority confinement was primarily a product of higher arrest rates of minorities compared to whites and not of subsequent processing decisions. In New York City, arrest rates for JO offenses were nineteen times higher for blacks than for whites, and they were nine times higher for Hispanics. Arrest rates for JD offenses were eight times higher for blacks than for whites, and they were five times higher for Hispanics. In Rochester and Buffalo, the differences were not as striking but were still significant.

The reasons minority arrest rates exceed those for whites are largely beyond the scope of this study. The differences may reflect factors outside the purview of the justice system, including differences in criminal behavior, attitudes of parents and complainants, school policies and procedures, the availability of certain diversion programs, and the availability of certain early intervention programs for high risk youth. It is also possible that arrest rates may be affected differentially by law enforcement practices that could not be examined in the current research. These might include the concentration of police resources in minority neighborhoods, differences among jurisdictions in

policing methods, or differences in the handling of informal contacts between police and youth. Notably, however, the research in Rochester found no evidence that the minority arrest rate was inflated by discriminatory actions of police officers. In that city, there were no significant disparities in arresting juveniles taken into custody, or in detaining arrested juveniles. This strongly suggests that the police in Rochester carried out these duties without regard to race and ethnicity.

While the study indicates that relatively small reductions in disproportionate minority confinement could be achieved by removing disparities in post-arrest processing, it does suggest some areas for improvement. After arrest, disproportionate minority confinement might be reduced by improving non-appearance rates at probation intake. In the juvenile justice system as elsewhere, "first appearances" are important; juveniles who fail to appear are required to be forwarded to presentment, where they face a greater risk of eventual confinement. The differential in non-appearance rates was especially large for PINS (persons in need of supervision) in Monroe County.

In New York City, disproportionate minority confinement might be reduced by examining more closely the detention and placement decisions in Family Court. The research indicates that minority youth are held in secure detention and placed more often into DFY facilities than whites having similar values on significant control variables. Further research should be undertaken to learn why this is so. This research should include additional control variables (e.g., income, youth's home situation); it should estimate disparities separately within each borough; and it should consider the extent to which juveniles were placed with the Division for Youth as a means of accessing services rather than as a means of sanctioning behavior. While this report does not permit one to conclude that the disparities observed in New York City are a function of race, they do warrant attention. At the time the research was undertaken, programs were being implemented in New York City to lessen reliance on secure detention. It was not possible to evaluate the impact of these programs in this report, but their development is noteworthy.



## Acknowledgments

Criminal justice practitioners in Monroe and Erie counties made this research possible. With almost no notice, Nicholas Ottaviani, Director of Probation in Erie County, provided space to house ten coders in the summer of 1995. Tony House, Intake Supervisor, explained how probation intake processes cases and helped us establish a field office. Steven Johnson, Probation Supervisor, generated a computerized listing of cases and processing outcomes that defined the universe of probation cases. Dorothy Seville and Eleanor Kugma supplied probation records throughout the summer. John O'Donnell, Administrative Family Court Judge, ensured that all agencies in Erie County cooperated with the research. Frank Boccio, clerk of the family court, provided access to files. Sandy Thomasula, helped define the universe of cases in family court and arranged for us to obtain family court records. Jim McCloud, Assistant County Attorney, provided insight into how minorities are processed throughout Erie County. Inspector Mullen, Chief of Detectives of the Buffalo Police Department, made their juvenile register, maintained by Sergeant Joseph Nigrelli, available for analysis, and provided space to house data coders.

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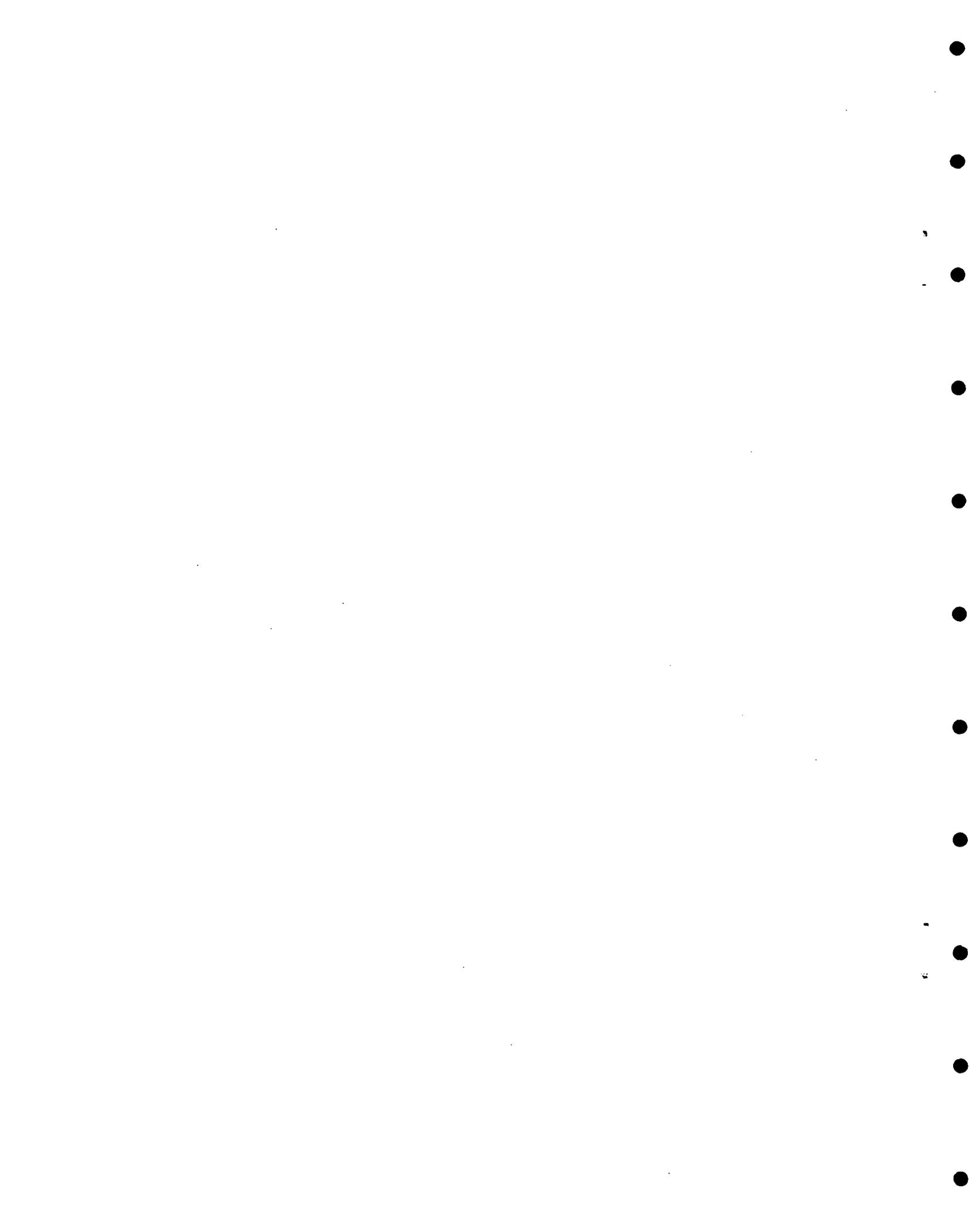
We extend a special thanks to students who spent their summer coding police, probation, and family court records in Erie County: Joseph Bauer, Cynthia Calkins, Suzette Cote, Jodi Cramer, James Dentice, Ann Marie Johnson, Sharon Maerten, Roberto Mercado, and Christine Spiers. We hope they maintain their keen interest in juvenile justice and wish them the best with their careers. We would also like to thank Agnes Culley for entering data into our field computer as it was coded.

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# Disproportionate Minority Confinement in New York State Phase II: Assessment

## I. Introduction

In 1988, Congress amended the Juvenile Justice and Delinquency Prevention Act of 1974 to require states to address the disproportionate representation of minority youth in their juvenile justice systems. This federal initiative was in response to data which revealed that "Hispanic male juveniles are confined at a rate 2.6 times that of white male juveniles... [while] for black male juveniles, the comparison produces an even higher ratio of four to one" (U.S. Department of Justice, 1990:2-3). In its annual report to the President and Congress, the Coalition for Juvenile Justice stated that (1993:12), "the statistical disparity among racial and ethnic groups at the various stages of the juvenile justice system is so thoroughly documented that any extensive discussion of the data would be redundant." An overview of juvenile justice trends in the states led the Coalition to the following conclusions (1993:13):

1. Over-representation of minority youth in secure confinement facilities is a general problem across almost all states. No region of the country or set of states can claim to be exempt from the issue.
2. Over-representation is not the same problem in all states. In some, it is a major problem for a relatively small group of youth. In others, it is a problem for a much larger group. The degree of over-representation and its location within the system changes across jurisdictions.
3. Over-representation is not an equivalent problem for all minority groups. In most situations African-American youth appear to be more overrepresented in secure confinement than other groups.

4. In general, the index of over-representation is lowest at the arrest stage, with increasing levels of over-representation as the juvenile justice system progresses toward one of two outcomes, either secure juvenile confinement or transfer to adult jurisdiction. This pattern is consistent with an interpretation that the processing within the juvenile justice system increases the difference between racial/ethnic groups.

In practical terms, this federal mandate first requires documenting the extent to which members of racial/ethnic groups are found at each stage of the juvenile justice system relative to their proportions in the general population. Typical stages include arrest, detention, adjustment, petition filing, adjudication, and placement. States that find disproportionalities in these various processing stages are required to seek explanations of such disproportionality. States that find that race is a factor in the processing of youth are expected to develop remedies.

For the sake of uniformity, the federal government recommended that states formally divide their responses to this initiative into four phases: Identification (I), Assessment (II), Intervention (III), and Monitoring (IV). This report describes the findings of the Assessment Phase. It forms the basis for the Intervention Phase.

#### **A. Phase I: Identification of Disproportionalities in New York State**

Phase I research asked whether minorities were over-represented in the criminal and juvenile justice systems. By agreement with the Office of Juvenile Justice and Delinquency Prevention (OJJDP), the assessment was undertaken in three major metropolitan areas: New York City, Erie County, and Monroe County. Disproportional minority representation was calculated by dividing the percentage of minority juveniles among juveniles receiving a particular case processing outcome (e.g., arrest, conviction, held in detention, sentenced to detention) by the percentage of minority juveniles aged 10 to 15 in the general population. Ratios greater than one indicate that minorities are overrepresented, while ratios less than one indicate that they are under-represented.

The Phase I research demonstrated disproportionate representation of minorities in New York State's juvenile justice system. In 1992, blacks accounted for 20 percent of the state's 10 to 15 year olds, 42 percent of juveniles arrested for juvenile delinquency offenses, 62 percent of juveniles held in secure detention, and 62 percent of juveniles placed in the custody of the Division for Youth.

In New York City, blacks accounted for 35 percent of juveniles aged 10 to 15, 62 percent of juveniles arrested for juvenile delinquency offenses, and 65 percent of juveniles held in detention following arrest. In other words, blacks were overrepresented by a factor of nearly two to one at both arrest and detention following arrest.

In general, Phase I research showed that blacks were overrepresented at most processing stages in the three sites studied. In New York City, blacks were overrepresented by a factor of two to one. In Monroe and Erie counties, they were overrepresented by a factor of four to one. Hispanics were not overrepresented in New York City, but they were overrepresented in Monroe and Erie counties. Asians were not overrepresented in Monroe and Erie counties. It was impossible to determine whether Asians were overrepresented in New York City because Asian race identifiers were not available to the Phase I researchers.

OJJDP interpreted disproportionality ratios greater than one as indicators of possible biases in how groups are processed by the juvenile justice system. Had ratios for blacks and Hispanics been close to one, or had they been less than one, then OJJDP would not have required New York State to proceed to Phase II research.

#### **B. Phase II: Assessment**

The over-representation of blacks statewide and of Hispanics in Erie and Monroe counties does not prove that the juvenile system discriminates against minorities. Minorities could be expected at each stage in the juvenile justice system more often than whites if they committed more crimes, were arrested for more serious offenses, or had more extensive prior contacts with the juvenile justice system.

The goal of the Phase II research is to establish whether white and minority juveniles are processed in the same manner at major decision points in juvenile and adult justice systems. Statistical models are used to untangle the effect that race, ethnicity, and case characteristics -- such as age of defendant, gender, offense seriousness, extent of prior involvement in the justice system -- have on decisions. A statistically significant race or ethnicity effect indicates that minorities are processed either more or less harshly than whites. It demonstrates the existence of a disparity in a processing decision.

A racial disparity (at any stage in the juvenile justice system) is a difference in how minorities and whites are processed that cannot be explained by control variables that legitimately affect processing decisions. Disparities are estimated for juveniles who reach the same stage in case processing decisions. They depend upon the quality and the adequacy of the control variables. They indicate that a problem exists. They do not indicate the cause. Disparities could be due to failing to control for key variables, to poorly coded data, to choosing the wrong statistical model, to institutional policies that adversely affect how minorities are processed, and to individual discrimination.

Disparity is not equivalent to discrimination. Discrimination is an action. It is the denial of opportunities and equal rights to individuals because of their membership in a particular group. (Levin and Levin, 1982). Discrimination that is attributable to individual prejudices (negative attitudes held by individuals toward entire categories of people) is called individual discrimination. Discrimination that is attributed to the "normal" operation of society's institutions is called institutional discrimination (Schaefer, 1984). In this context, "normal" means functioning in accordance with design. Nothing is implied about the desirability of unintended consequences of the design.

Individual discrimination does not necessarily presuppose individual prejudice. It is possible to discriminate without holding prejudicial attitudes, and it is possible to fail to discriminate while holding prejudicial attitudes.

Institutional discrimination can be difficult to recognize, because it is not explicitly directed at any particular racial or ethnic group. For example, Schaefer showed that even "neutral" institutional standards can have discriminatory effects. Before 1966, the Chicago Police Department enforced a height requirement for hiring officers. This requirement effectively barred Puerto Ricans from joining the force because, as a group, Puerto Ricans are shorter of stature than blacks and whites. This requirement was relaxed after the Puerto Rican Community accused the Chicago Police Department of police brutality following riots in the Puerto Rican community in 1966, and the Chicago Police Department admitted it had no Puerto Rican police officers. Other examples of institutional discrimination are discussed by Nelson (1994), Farrell and Swigert (1978), and Albonetti, et al (1989).

The present report identifies case processing decisions that contribute to the disproportionate representation of minority juveniles in juvenile and adult justice systems. It provides an empirically based source document for policy makers to guide their efforts to decrease the over-representation of minorities in juvenile and adult systems.

### **1. Research Sites and Principal Investigators**

Disparities were estimated in New York City, Monroe County, and Erie County. New York City is the most urbanized region in the state. Erie and Monroe counties are among the most urbanized counties outside of the metropolitan New York City area.

Disparities were estimated in Monroe and Erie counties by James Nelson and Sharon Lansing. Data in Monroe County were obtained from computerized records maintained by the Rochester Police Department, the Monroe County Probation Department, and the Monroe County Family Court. Data in Erie County were coded by hand from a police ledger maintained by the Buffalo Police Department, juvenile files maintained by the Erie County Probation Department and the Erie County Family Court.

Disparities in processing juveniles in New York City were taken from "Minority Over-Representation Among Juveniles in New York City's Adult and Juvenile Court Systems During Fiscal Year 1992" by Akiva Liberman, Laura Winterfield and Jerome McElroy. James Nelson reinterpreted their findings for the current report.

Thomas Harig of the New York State Commission of Correction directed interviews and focus groups of juvenile justice practitioners in Monroe and Erie counties. His work provides a qualitative assessment of disproportionalities in these counties.

Preliminary findings from Monroe County, Erie County, and New York City were presented at a workshop on September 13, 1995. Summaries of these sessions were prepared by Susan Jacobsen of the NYS Division of Criminal Justice Services.

## **2. Processing Decisions: JDs, PINS, and JOs**

Disparities were estimated for key decision points in processing juveniles in the juvenile and adult justice systems. Disparities in processing juvenile delinquents were examined in all three sites. Disparities in processing black vs. Hispanic juvenile offenders were examined in New York City. Disparities in processing persons in need of supervision were examined in Monroe County.

### **JD: Juvenile Delinquent**

A juvenile delinquent (JD) is a child aged 7 to 15 who, having committed an act that that would constitute a crime if committed by an adult, is not criminally responsible for such act by reason of infancy.<sup>1</sup> JD cases are processed by police, probation intake, presentment, and family court.

Legally, juveniles contacted for JD offenses are not JDs until adjudicated as such by the family court. However, to avoid awkward references, juveniles contacted for alleged JD offenses are simply called JDs in this report.

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<sup>1</sup> New York State Family Court Act 301.2(1).

When police take juveniles into custody for alleged commission of JD offenses, they frequently divert cases from penetrating further into the juvenile justice system. Police diversion includes releasing juveniles with a warning or enrolling them in special programs run by the police department or community agencies. Juveniles are arrested when they are referred by police to probation intake or family court, or when they are held in detention for further processing.<sup>2</sup>

Detention following arrest depends upon the seriousness of the charge and whether family court is in session. When family court is in session, arresting officers must take juveniles arrested for designated felony offenses directly to family court for pre-detention hearings.<sup>3</sup> Juveniles arrested for less serious offenses may be taken to family court for pre-detention hearings, but it is not required. At these hearings, juveniles are detained when the court believes there is a substantial risk that they will not appear on return dates or will commit other delinquent acts before return dates.<sup>4</sup> When detention is not warranted, juveniles can be released to parents or other legally responsible adults upon the issuance of a family court appearance ticket to both parties. Appearance tickets require juveniles and their parents or persons legally responsible for their care to appear at probation intake at specified times and dates. If parents or guardians cannot be located, juveniles must be detained following arrest.

When family court is not in session, arresting officers must detain juveniles whose parents or guardians cannot be located. If parents or guardians can be located, arresting officers may issue appearance tickets or detain juveniles whom they believe should be detained. Arresting officers may issue appearance tickets to juveniles arrested for designated felony offenses.

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<sup>2</sup> The Family Court Act 305.2 specifies that children taken into custody by the police can be (1) released to their parents or other persons legally responsible for their care upon issuance of a family court appearance ticket, (2) taken to family court, or (3) held in a detention facility.

<sup>3</sup> New York State Family Court Act 305.2.

<sup>4</sup> New York State Family Court Act 320.5(3).

At probation intake, juveniles can be diverted from penetrating further into the juvenile justice system. Probation officers divert cases by providing adjustment services. Adjustment services may involve informally resolving disputes between victims and offenders, arranging for or providing counseling, or requiring juveniles to participate in special programs. JDs considered unsuitable for adjustment services are forwarded to the presentment agency.

The presentment agency determines whether cases warrant filing petitions with family court, and if so, what charges should appear on petitions. Case processing ceases if the presentment agency declines to prosecute.

Guilt is established by admission or by fact-finding hearings in family court. When guilt is established, cases proceed to disposition hearings. Juveniles who the court believes do not need supervision treatment, or confinement are dismissed and not adjudicated, despite the fact that allegations were established. Sanctions for juveniles adjudicated JDs include conditional discharge, probation supervision, and placement.

#### **PINS: Person in Need of Supervision**

A person in need of supervision (PINS) is a juvenile less than 16 years of age who is incorrigible, ungovernable, habitually truant, or habitually disobedient and beyond the lawful control of parents, guardians, or other lawful custodians.<sup>5</sup> Juveniles charged with possession of marijuana (violation offenses only) are also processed as PINS. Note that PINS refers to person in need of supervision and persons in need of supervision depending upon context in this paper.

Legally, a juvenile processed for a PINS problem is not a PINS until adjudicated as such by family court. However, to avoid awkward references, juveniles processed for alleged PINS problems are simply called PINS in this report.

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<sup>5</sup> New York State Family Court Act 712.(a).

PINS cases are initiated differently than JD cases. PINS cases enter the juvenile justice system at probation intake based upon a PINS complaint. These complaints are usually filed by parents or school officials. If probation officers cannot adjust cases, they forward them to family court. If allegations are substantiated in family court, and if family court judges believe treatment or confinement is needed, then juveniles are adjudicated PINS. Sanctions, for juveniles adjudicated PINS include discharge with a warning, suspended judgment, probation supervision, and placement.

#### **JO: Juvenile Offender**

A juvenile offender (JO) is a child aged 14 or 15 who is held criminally responsible for particularly serious crimes specified in the Penal Law, or a child aged 13 who is held criminally responsible for second degree murder.<sup>6</sup> Following arrest, the district attorney decides whether to prosecute these cases in adult court. Cases that are processed in adult court must first be arraigned in criminal court. Following arraignment, they can be indicted on JO charges and prosecuted as adults in superior court, removed to family court and processed as JDs, or dismissed. Removals to family court can occur at any time following arraignment, including after conviction.

One fundamental difference between the juvenile justice and the adult criminal justice systems is that the family court, by statute, must be concerned with both the best interests of the juvenile and the protection of the community, whereas the adult criminal justice system is not required to address the best interest of the defendant. Sanctions can be more severe in the adult than in the juvenile system.

Legally, juveniles processed for JO offenses are not JOs until they are convicted of JO offenses in superior court. To avoid awkward references, juveniles processed for alleged JO offenses are simply called JOs in this report.

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<sup>6</sup> New York State Penal Law 10.00(18).

### 3. *Research Methods*

Disparities were estimated by controlling for differences in case characteristics that legitimately affect case processing decisions. The analyses in Monroe and Erie counties also controlled for concurrent case processing decisions. The technical details of estimating and interpreting disparities are presented with the first disparity analysis.

#### a) *Case Characteristics*

All JD and PINS analyses in this report included controls for the seriousness of the instant offense and the extent of the juvenile's prior contact with the juvenile justice system. Prior record and offense seriousness variables are labeled "legitimate," because they have a basis in law, and because most persons believe they should affect case processing decisions (Hagan and Bumiller, 1983).

All analyses included controls for differences in age and gender. Both of these variables provide a contextual setting that may legitimately affect case processing decisions. For example, the risk of recidivism and the needs of the juvenile may vary by age and gender. While it is not specified in Penal Law, some crimes committed by girls may be quite different than crimes committed by boys even when the boys and girls are charged with the same offenses.

Several analyses in Monroe County included controls for behavioral and family problems identified by probation officers. These problems have a legitimate influence on case processing decisions because the juvenile justice system is supposed to consider the best interest of the child.

Several analyses in Monroe County included controls for differences in family income. The influence of income on case processing is illegitimate to the extent that poorer juveniles are treated differently than more affluent juveniles because of differences in social or economic status, *per se*. The influence is legitimate (but perhaps undesirable) to the extent that the use of support services differ by income levels.

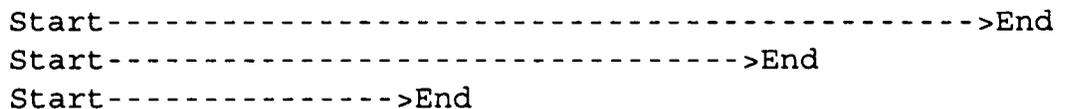
b) Rings

Most case processing studies treat persons arrested for crimes on different dates as unrelated persons arrested for unrelated crimes. This makes it easy to count arrests and study how arrests are processed. This method of count is preferred by OJJDP (U.S. Department of Justice, 1990).

One problem with this method is that case processing decisions involving the same juvenile are frequently related to each other. For example, consider the inappropriateness of analyzing one juvenile who was prosecuted in family court for three separate arrests as if he were three juveniles processed for separate arrests. Suppose that one arrest was disposed with placement to the Division for Youth and two were disposed with dismissals. From the juvenile's perspective, he was sentenced to placement. However, if these arrests were analyzed as independent events, two-thirds of the juveniles were dismissed and one-third were placed with the Division for Youth.

Greenstein's (1991) concurrency ring concept was used to combine cases involving the same juvenile into single units. Cases that had overlaps between the starting date of one case and the closing date of another case for the same juvenile were combined into a ring. Rings were defined in probation and family court. Frequently occurring types of rings are illustrated below:

Example 1: Cases start on the same date but end on different dates.



These cases occur in probation departments that enter separate reports for each victim involved in a crime incident. Cases can be disposed at different times depending upon the complexity of the crime and how victims cooperate with probation officers.

Example 2: Cases start on different dates but end on the same date.

```
Start----->End
  Start----->End
    Start----->End
```

This pattern occurs in family court when unrelated cases are consolidated. It could occur in probation departments that provide adjustment services over extended periods of time.

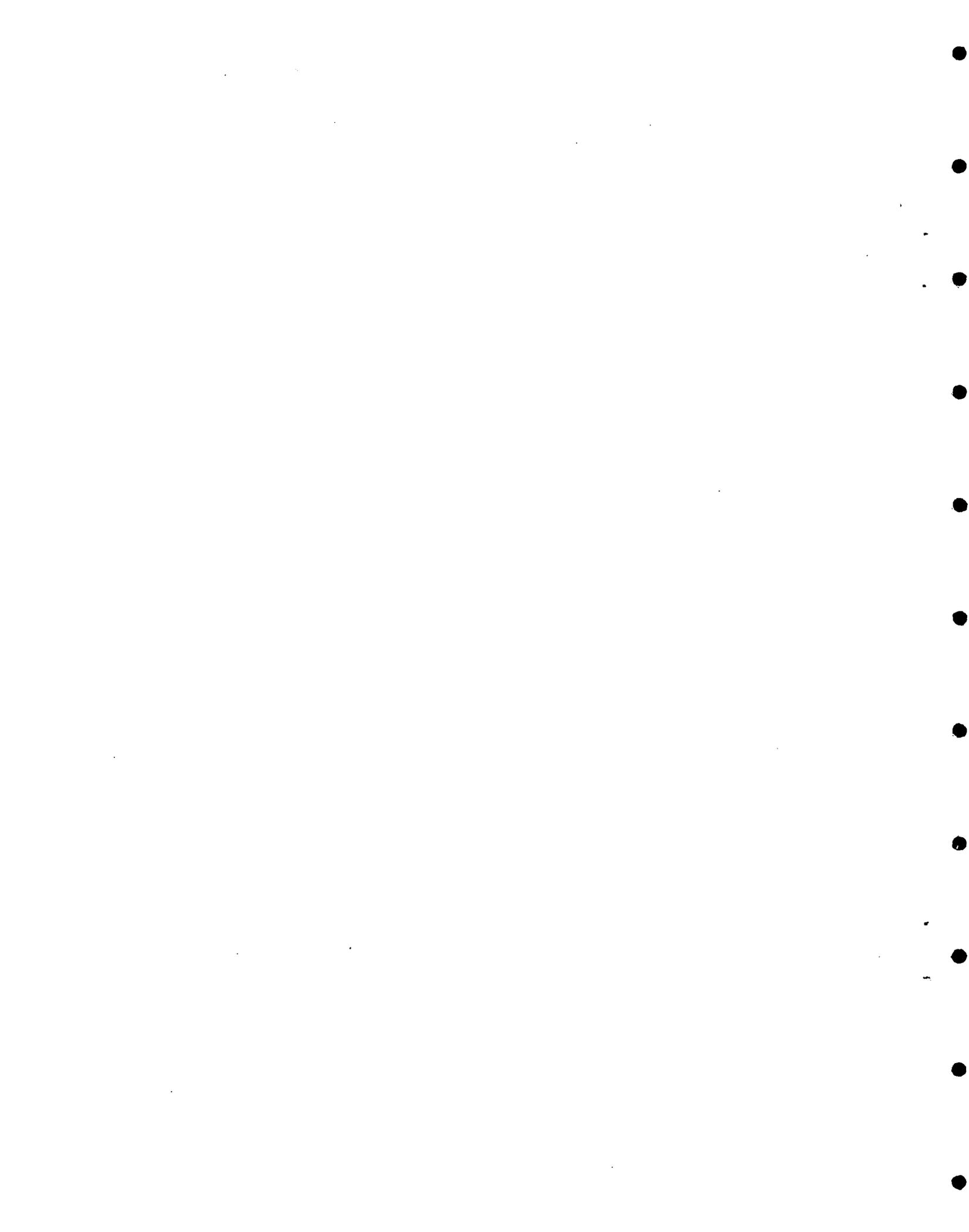
The largest ring was used as the unit of analysis in Monroe and Erie counties, but this approach was not used in New York City. Charge-class seriousness was measured by the case in the ring with the most serious charge. Disposition was measured by the case in the ring with the most serious disposition. Most rings contained only one case.

#### **4. An Overview of the Analyses**

The research questions, data sets, methods, interview and focus group activities are listed by site in Table 1. The complexity of the design makes it difficult to make sweeping generalizations across all jurisdictions. Not all questions can be addressed in all sites.

**Table 1: An Overview of Research Undertaken in the Phase II Assessment**

Type of Case, Research Method, Disparity Analysis	Monroe County	Erie County	New York City
Type of Case			
JOs	No	No	Yes
JDs	Yes	Yes	Yes
PINS	Yes	No	No
Research Methods			
Interviews and a Focus Group	Yes	Yes	No
Workshop Participants	Yes	Yes	Yes
Type of Quantitative Data	Computer Files	Paper Files	Computer Files
Time Period for Quantitative Data	Police 94-96 Other 93	Police 94 Other 93	91, 92
Comparison of Police Custody Rates	Yes	No	No
Comparison of Arrest Rates	Yes	Yes	Yes
Disparity Analyses			
Control Variables	Extensive	Adequate	Adequate
Unit of Analysis	Ring	Ring	Arrest
Arrest Given Custody	Yes	No	No
Detention Given Arrest	Yes	Yes	Yes
Presentment Given Probation Intake	Yes	Yes	Yes
Family Court Given Presentment	No	Yes	Yes
Detention Given Family Court	Yes	Yes	Yes
Days Detained	Yes	Yes	No
Finding of Guilt or Adjudication	Yes	Yes	Yes
Placement Given Finding or Adjudication	Yes	Yes	Yes



## II. Disparities in Monroe County

Monroe County maintains excellent computerized records describing how juveniles were processed by police, probation, and family court. It is the only county in this study that routinely records details on arrest decisions, PINS processing decisions, family income, behavioral and family problems. The richness of their data sets resulted in a more thorough, but necessarily more complex, analysis of processing decisions than was possible in Erie County or New York City.

Disparities were estimated in policing, probation, and family court decisions. Separate analyses were undertaken for PINS and JDs in probation and family court. Disparities were not estimated for JOs, because there were not enough cases to study.<sup>7</sup>

### A. Arrest and Detention Decisions Made by the Rochester Police Department

Disparity analyses were based upon data maintained in the Juvenile Central Registry (JCR), which was established by the Rochester Police Department in the 1970's to identify juveniles taken into custody throughout Monroe County. By 1996, this registry contained reports for all juveniles taken into custody by the Rochester Police Department, and for juveniles taken into custody by seven police agencies outside Rochester. Juveniles were taken into custody for committing status offenses (e.g. truancy, running away from home, unruly behavior), violation offenses, and criminal offenses.

A preliminary analysis suggested that arrest dispositions were under-reported outside Rochester. From mid-August, 1994 until late August, 1996, the JCR showed that 41 percent of juveniles taken into custody in Rochester for criminal offenses, but only 4 percent outside Rochester, were arrested. Seventy-six percent of juveniles taken into custody for felony offenses in Rochester, but only 8 percent outside Rochester, were arrested. These arrest percentages outside Rochester were much too low. In particular, the JCR showed that one agency outside Rochester arrested only 12 out of 1,094 juveniles it took into custody for criminal

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<sup>7</sup> Only 8 whites and 19 blacks were arrested for JO offenses in 1993.

offenses during the aforementioned time period. This number is not credible. The Monroe Probation Department processed 248 juveniles arrested by this agency in 1995.

The analyses of arrest and detention decisions were limited to juveniles taken into custody for misdemeanor or felony offenses in Rochester. Juveniles taken into custody outside Rochester were excluded from analysis because of the validity problem noted above. Juveniles taken into custody for violations, status offenses, or warrants were excluded from analysis because police had little discretion in processing these cases. They could not arrest juveniles taken into custody for status or violations offenses. They had little discretion in processing warrant cases, because arrest mandates are specified in warrants.

Demographic, charge, arrest, and detention information were obtained from the JCR in September of 1996. This file did not contain records for all juveniles ever taken into custody though, because cases were routinely purged when juveniles reached age 16 and one-half. To minimize the number of older cases lost to record purging, the analysis of arrest and detention decisions was limited to juveniles taken into custody after August 15, 1994.

Juveniles were coded "arrested" when they were placed in detention, taken to family court for detention hearings, or released to parents or guardians based upon appearance tickets. Juveniles who were released to their parents or guardians without appearance tickets, or whose cases were dropped, were not coded "arrested" even though they were taken into custody. This usage of arrest is consistent with how the Rochester Police Department defined arrest. It is not, however, consistent with how arrests were counted for the Uniform Crime Report. In Monroe County, custodies appear to have been counted as arrests in the 1993 Uniform Crime Report.

The race and ethnicity of juveniles taken into custody during the study period are presented in Table 2. Almost all juveniles were white, black, or Hispanic. Only 14 were Asian.

**Table 2: Race and Ethnicity of Juveniles Taken into Custody in Rochester for Misdemeanor or Felony Crimes**

Race and Ethnicity	Number	Percent*
White	266	14%
Black	1,403	73%
Hispanic	219	11%
Black-Hispanic	21	0%
Asian	14	1%
Total	1,923	100%*

\*Does not add to 100% due to rounding

Race and ethnicity are represented by three mutually exclusive categories in this report: white, black, and Hispanic. Hispanic juveniles include black and white juveniles. Juveniles classified black-Hispanic in the JCR were coded Hispanic. Juveniles classified white on some custodies but Hispanic on others were coded Hispanic. Juveniles classified black, Hispanic, and white on different custodies in the JCR were coded Hispanic. Juveniles classified black on some custodies but white on others were usually coded black. They were coded white when they were classified white on four or more custodies but black on one custody. Asian juveniles were excluded from study because there were not enough of them to make meaningful comparisons.

The number of juveniles aged 10 to 15 who resided in the City of Rochester in the 1990 census are presented by race and ethnicity in Table 3.<sup>8</sup> Eighty-nine percent of white juveniles in Monroe County resided outside Rochester. In sharp contrast, 85 percent of black juveniles and 77 percent of Hispanic juveniles in Monroe County resided in Rochester. These percentages demonstrate that limiting the study of arrest and detention decisions to Rochester shows how most minorities in Monroe County were processed; it does not show how most whites in Monroe County were processed.

<sup>8</sup> The number of white and the number of black juveniles reported in the census were adjusted downward so that the total number of whites, blacks, and Hispanics equaled the total juvenile population (excluding Asian and "Other" race juveniles). The adjustments were based upon the

**Table 3: Number of Juveniles Aged 10 to 15 in the 1990 Census in Monroe County and Rochester**

Race and Ethnicity	Census Area		Percent Living in Rochester
	Monroe County	City of Rochester	
White*	37,633	4,084	11%
Black*	9,351	7,946	85%
Hispanic	3,260	2,502	77%
<b>Total</b>	<b>50,244</b>	<b>14,532</b>	<b>29%</b>

\*Adjusted downward by the estimated number of white-Hispanics or by the estimated number of black-Hispanics.

The type of the most serious custody charge and the average charge-class seriousness of the charge are presented by race and ethnicity in Table 4. The charge-class seriousness was defined by the ordinal ranking of the type of charge (misdemeanor or felony) and its class (A through E): B misdemeanors = 1; A misdemeanors = 2; E felonies = 3; etc. The majority of juveniles were taken into custody for relatively minor assault, criminal mischief, larceny, or burglary crimes. In fact, 70 percent of whites, 68 percent of blacks, and 70 percent of Hispanics (percentages not displayed in this table) were charged with A misdemeanors. Whites were taken into custody more often than minorities for criminal mischief and sex offenses. Minorities were taken into custody more often than whites for weapons, robbery, and controlled substance crimes.

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presumption that 94 percent of the Hispanics in Monroe County and 93 percent in Rochester were white. These percentages were derived from census totals for Hispanics of all ages, assuming that the "other" racial category (frequently Puerto Rican or South American) reported to census workers represented a white race.

**Table 4: Ten Most Common Top Custody Charges and Average Charge-Class Seriousness of the Charge by Race and Ethnicity, Rochester**

Top Custody Charge	Average Seriousness	Race and Ethnicity				Significant Difference at .05 Level*
		White	Black	Hispanic	Total	
Assault	2.11	23%	25%	21%	24%	No
Criminal Mischief	2.05	29%	15%	20%	17%	Yes
Larceny	2.12	14%	17%	16%	17%	No
Burglary	2.84	8%	9%	13%	10%	No
Weapons	2.23	5%	9%	9%	8%	Yes
Theft	2.51	4%	6%	5%	6%	No
Sex Offenses	4.00	8%	3%	3%	4%	Yes
Robbery	5.22	2%	5%	3%	4%	Yes
Controlled Subst	4.95	1%	4%	5%	3%	Yes
Public Order	1.42	3%	2%	2%	2%	No
All Others	2.77	5%	5%	4%	5%	No
Total	2.51	100%	100%	100%	100%	
Number Cases		280	1,403	240	1,923	

\*Significance is based upon whites vs. minorities.

Dispositions are presented in Table 5. Minorities were arrested and detained or forwarded to court for detention hearings more often than whites. Thirty-five percent of the whites, 42 percent of the blacks, and 43 percent of the Hispanics taken into custody were arrested. Thirty-nine percent of the arrested whites, 49 percent of the arrested blacks, and 52 percent of the arrested Hispanics were detained or forwarded to family court by the police for detention hearings.

**Table 5: Disposition of Juveniles Taken into Custody for Misdemeanor or Felony Crimes, Rochester**

Disposition of Arrest	Race and Ethnicity of Juvenile			Total
	White	Black	Hispanic	
Total Diverted	65%	58%	57%	59%
Not Processed	0%	0%	0%	0%
Diverted to Parents	49%	44%	44%	45%
Diverted to Agency	15%	14%	13%	14%
Total Arrested	35%	42%	43%	41%
Appearance Ticket	21%	21%	20%	21%
Detention or Court	14%	21%	23%	20%
Detention or Court Given Arrested	39%	49%	52%	49%
Number Cases	266	1,403	240	1,909

### 1. Custody and Arrest Rates

Custody and arrest rates per 1,000 juveniles aged 10 to 15 and disproportionalities in custody and arrest decisions are presented in Table 6.<sup>9</sup> For both misdemeanor and felony offenses, blacks had the highest custody and arrest rates, and whites had the lowest.

<sup>9</sup> Starting with the 1991 report, *Crime in the United States*, the Uniform Crime Report calculated juvenile rates for children aged 10 through 17. To be consistent with this classification, and in recognition that juveniles aged 16 and above are processed as adults in New York State, crime rates were calculated for juveniles aged 10 to 15.

The juvenile population aged 7 to 9 was seldom taken into custody for criminal offenses or arrested in Rochester. Children in this age range represented only 5.3 percent of all custodies and .5 percent of all arrests.

**Table 6: Custody Rates, Arrest Rates, Custody Disproportionalities, and Arrest Disproportionalities by Race and Ethnicity, Rochester**

Offense and Population Characteristics	Race and Ethnicity				
	White	Hispanic	Black	Hispanic/White	Black/White
	Custody Rate per 1,000			Ratio of Rates	
Felonies	8	11	21	1.43	2.65
Misdemeanors	26	37	68	1.39	2.55
Total	34	48	88	1.40	2.58
	Arrest Rate per 1,000			Ratio of Rates	
Felonies	5	9	16	1.88	3.30
Misdemeanors	7	11	21	1.55	2.80
Total	12	21	37	1.68	3.00
	Population Characteristics				
Number Aged 10-15	4,084	2,502	7,946		
Percent of Population	28%	17%	55%		
Percent of Custodies	15%	12%	73%		
Percent of Arrests	13%	13%	74%		
	Custody Disproportionalities				
Felonies	0.51	0.72	1.34		
Misdemeanors	0.52	0.73	1.33		
Total	0.52	0.72	1.33		
	Arrest Disproportionalities				
Felonies	0.41	0.78	1.37		
Misdemeanors	0.48	0.75	1.35		
All	0.45	0.76	1.36		

The relative size of each racial and ethnic group and its contribution to the total number of custodies and arrests is presented in the center section of this table. Whites represented 28 percent of the juvenile population, 15 percent of all custodies for criminal offenses, and 13 percent of all juvenile arrests. Blacks represented 55 percent of the juvenile population, 73 percent of all custodies, and 74 percent of all arrests. Hispanics represented 17 percent of the juvenile population, 12 percent of all custodies, and 13 percent of all arrests.

The disproportionalities show that whites and Hispanics were under-represented in custody and arrest decisions; blacks were overrepresented. The use of these disproportionalities to identify potential biases in the juvenile justice system, as required by OJJDP, is misleading. These disproportionalities suggest that blacks, but not Hispanics, were overrepresented at custody and arrest. The problem with this interpretation is that Hispanics were under-represented relative to average rates in Rochester, which were inflated by high black rates. This caused the disproportionality ratio for Hispanics to be less than one, even though Hispanics were taken into custody and arrested more often than whites.

Ratios of minority to white custody rates, which are presented in the top of this table, show that Hispanics were taken into custody 1.4 times as often as whites; blacks 2.6 times as often. The ratios of minority to white rates were larger for arrest than for custody decisions. The increase in ratios from custody to arrest could be due to differences in legitimate variables that affected arrest decisions (seriousness of custody charges, extent of prior records, etc.) or biases in how often minorities taken into custody were arrested.

## ***2. Using Logit Regression Models to Estimate Disparities in Case Processing Decisions***

The finding that minorities who were taken into custody were arrested more often than whites does not, by itself, demonstrate that minorities were processed unfairly. Differences in arrest rates could be related to a number of variables that legitimately affect case processing decisions. The influence of such variables must be taken into account before it is possible to conclude that minorities were processed differently than whites.

Conceptually, the simplest way to estimate racial or ethnic bias is to compare dispositions for whites and minorities who share the same characteristics on all legitimate control variables. Unfortunately, such comparisons are difficult to devise and difficult to interpret. For example, consider estimating biases in arrest decisions by controlling for differences in the class of the top custody charge (felony or misdemeanor), gender

(male or female), and number of prior custodies (0, 1, 2, 3 or more). These controls would produce 20 possible comparisons involving minorities and whites. In Rochester, 19 such comparisons could be constructed. Some of these 19 comparisons would be based upon a substantial number of cases (e.g. 103 white and 440 minority males taken into custody for misdemeanor offenses had no prior police custodies) while others would be based upon a very small number of cases (e.g. one white and three minority females taken into custody for felony offenses had two prior police custodies). Because of differences in sample sizes, it would be difficult to devise a way to summarize differences in arrest decisions for these 19 comparisons, and this group of comparisons would be open to the criticism that offense seriousness cannot be controlled by merely categorizing the top custody charge into misdemeanor and felony offenses.

Logit regression models were used to approximate differences between comparable groups of whites and minorities.<sup>10</sup> The process involved several steps. First, relationships between a relatively large set of control variables (including minority status) and the processing decision (arrest given custody in this example) were entered into a logit regression model. The control variables were then removed from the equation one at a time until all control variables remaining in the equation were significantly related to the processing decision. If minority status was dropped from the equation, it was added back to the equation at the last step. This process substantially reduced the number of control variables that needed to be examined.

Second, the selected logit equation was used to estimate the probability of a particular decision (arrest in this case) for each minority had there been no disparity in this decision. This probability is equivalent to the probability of the decision for whites having the same values as minorities on all significant control variables.

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<sup>10</sup> Logit equations express the logarithm of the odds of a dichotomous outcome as a linear combination of "slope" coefficients multiplied by independent variables. Almost identical results can be obtained by estimating a regression equation using the probit of the probability of the outcome as the dependent variable. For probabilities in the range of .2 to .8, very similar results can also be obtained by ordinary least-squares regression analysis.

Third, these probabilities were averaged across all minorities. This average probability (multiplied by 100) is called the **statistically simulated percentage**. It shows the percentage of whites who would receive the disposition had they had exactly the same characteristics as minorities on the significant control variables. This is equivalent to processing minorities without disparities.

Fourth, the statistically simulated percentage was subtracted from the observed percentage for minorities receiving the disposition. Positive differences indicate that minorities received the disposition more often than expected had there been no disparities. Negative differences indicate the opposite.

### **3. Disparity in Arresting Juveniles in Rochester**

The control variables used to estimate disparity in the arrest decision are presented in Table 7. The first five variables were used to control for differences in age, gender, charge-class seriousness, number of charges, and prior times taken into custody. The next five variables were used to control for differences in specific types of offenses. The crime type controls-- labeled assault, burglary, criminal mischief, and larceny-- allowed different types of charges having the same class-charge seriousness rank to be processed differently<sup>11</sup>.

The control labeled "juvenile weapons" adjusted for the charge-class seriousness of PL 265.05 offenses. These offenses involved the possession of a weapon by a juvenile. They were not given a class and category in the Penal Law. We initially coded them as A misdemeanors because they appeared to be similar to other A misdemeanor weapons charges. The variable "juvenile weapons" allowed the seriousness of PL 265.02 offenses to be more or less serious than A misdemeanor offenses.

Table 7 shows that minorities had more extensive prior records and were more likely to be taken into custody for

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<sup>11</sup> Controls were not introduced for robbery and controlled substance offenses because too few whites were arrested for these offenses to distinguish the type of offense from the race of the offender. Controls were not introduced for sex offenses because too few juveniles were arrested for these offenses.

weapons offenses than whites. Whites were more likely to be taken into custody for criminal mischief offenses.

**Table 7: Means and Percentages of Control Variables Used to Estimate Disparities in the Arrest Decision, Rochester**

Control Variable	Race and Ethnicity			Total	Significant Difference at .05 Level*
	Whites	Blacks	Hispanics		
Age	13.3	13.5	13.8	13.5	No
Male	82%	77%	82%	78%	No
Charge-Class					
Seriousness	2.49	2.51	2.53	2.51	No
Total Charges	1.47	1.58	1.54	1.56	No
Priors	0.80	1.20	1.18	1.14	Yes
Assault	23%	25%	21%	24%	No
Burglary	8%	9%	13%	10%	No
Criminal Mischief	29%	15%	20%	17%	Yes
Larceny	14%	17%	16%	17%	No
Juvenile Weapons	3%	6%	8%	6%	Yes
Number of Cases	280	1,403	240	1,923	

\*Difference between whites vs. minorities (blacks and Hispanics).

The initial logit equation estimated the impact of **demographic characteristics** (age taken into custody, gender), **offense characteristics** (charge-class seriousness, number of charges, assault offenses, burglary offenses, criminal mischief offenses, larceny offenses, juvenile weapons offenses), **prior record** (number of prior custodies) and **minority status** on arrest. Prior record was supposed to be obtained for all juveniles taken into custody. Statistically insignificant variables were dropped one at a time until a parsimonious equation containing significant control variables and minority status was obtained.

The initial logit equations in Rochester, New York City, and Monroe County contained a coefficient for blacks and a separate coefficient for Hispanics. These two coefficients were replaced by a single coefficient (coded 1 for blacks or Hispanics, and 0 for whites), because disparity coefficients

for blacks were indistinguishable from disparity coefficients for Hispanics in all analyses.

The disparity analysis for arrest in Rochester is presented in Table 8.<sup>12</sup> The observed data, presented in the top section of the table, show that 36 percent of the whites and 42 percent of the minorities taken into custody were arrested. A total of 100 whites and 687 minorities were arrested.<sup>13</sup>

**Table 8: Disparity in Arresting Juveniles Who Were Taken into Custody for Misdemeanor or Felony Offenses, Rochester Police Department**

Minority Status	Percent Arrested	Total Number of Cases	Number Arrested
Observed Data			
Whites	36%	280	100
Minorities	42%	1,643	687
If Minorities Were Arrested as Often as Whites Having Identical Values on 6 Control Variables			
Minorities	39%	1,643	639
Disparity			
Sig Level	.26		
Difference	3%		48
Ratio	1.08		

Disparity and its consequences are displayed in the lower part of the table. Had minorities been arrested as often as whites having identical values on the statistically significant control variables (charge-class seriousness, number of charges, prior number of times taken into custody, larceny charges, and juvenile weapons charges), then 39 (not 42) percent of the minorities would have been arrested. The 39 percent figure is the statistically simulated

<sup>12</sup> The model can be represented as:  $\text{logit}(\text{arrest given custody}) = -6.67 + .18 * \text{minority} + .27 * \text{age} + .66 * \text{charge-class serious} + .30 * \text{total charges} + .39 * \text{prior custodies} - .51 * \text{larceny charge} - 1.14 * \text{Weapons charge}$  265.05 charge.

<sup>13</sup> Separate totals could have been generated for blacks and Hispanics. Separate totals were not calculated to simplify interpretations.

percentage.<sup>14</sup> It exceeded the observed percentage for whites, 36 percent, primarily because minorities had more extensive prior custody records than whites. It was less than the observed for minorities, 42 percent, because of disparity in the arrest decision.

The disparity difference shows that the number of minority arrests would decrease by 48 from 687 (observed) to 639 (predicted by the simulated percentage) if there were no disparity in this decision.<sup>15</sup> The disparity ratio shows that minorities were 1.08 times as likely to be arrested as whites having identical values on all significant control variables.

The disparity statistics --the disparity difference, the disparity ratio, and the number of cases affected -- are based upon using a logit equation to describe how control variables affected arrest decisions and using a step-wise procedure to select the most parsimonious equation. Different statistical models, different sets of control variables, and different methods for selecting statistically significant control variables could produce different values.<sup>16</sup>

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<sup>14</sup> This percentage was calculated by using all but the minority logit parameter to estimate the percentage of minority juveniles who were forwarded to probation intake. This calculation is easily done using a computer program, like SPSS. First, compute a variable that expresses the logit using all but minority status. In SPSS, the equation looks like: compute logitarr=-6.67 +.27\*age + etc. Second, convert this logit to a probability using the statement: compute probarr = exp(logitarr)/(1+exp(logitarr)), where exp is the exponential function. Third, calculate the mean of probarr by minority status. This mean multiplied by 100 for minorities is the statistically simulated percentage.

The difference between the observed number arrested and the number implied by the simulated percentage illustrates disparity for the entire group of minorities. It does not illustrate disparity for particular individuals. It cannot be used to determine whether particular juveniles were processed in an unfair manner.

<sup>16</sup> Preliminary analyses showed that dropping even significantly related variables did not necessarily affect disparity estimates. The original arrest analysis (not presented here) did not control for differences in types of charges. Adding controls for the type of charge reduced standard errors in the model, but did not affect the size of either the disparity difference or the disparity ratio.

The disparity statistics, by themselves, do not demonstrate that minorities were processed differently than whites. Even if whites and minorities were processed in exactly the same manner, selecting data in different time periods could show that minorities were arrested more often than whites in some periods, while whites were arrested more often than minorities in others.

The "Sig Level" in Table 8 displays the statistical significance of the minority status coefficient. This number assumes that the data were sampled from a population of juvenile cases. It equals the probability that the minority status coefficient could have been this large or larger in the sampled data had whites and minorities been treated in exactly the same manner in the population, and had the processing decision been accurately described by the selected logit model. The smaller the significance level, the greater the chance that minorities were processed differently than whites in the population.

Even though this study uses population data, not sample data, statistical inference is used to determine whether minorities were processed differently than whites. This procedure is simple, objective, and frequently used to identify important relationships in population data. In almost all analyses in this report, we use the .05 significance level to identify important relationships. Because the .26 significance level exceeds .05, we conclude that minorities were not arrested significantly more often than whites.

#### **4. *Disparity in Detaining Juveniles in Rochester***

Juveniles arrested for JD offenses could be given appearance tickets requiring them and their parents to appear at probation intake interviews, could be sent directly to family court for detention hearings, or could be placed into detention facilities until family court opened. Sometimes these decisions were determined by legal constraints or department policies and sometimes they were within the discretion of arresting officers.<sup>17</sup>

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<sup>17</sup> The conditions were specified on page 7.

Disparities in the detention decision were estimated by asking whether the Rochester police attempted to detain arrested minorities more often than arrested whites. This analysis was based upon attempts, rather than actual detentions, because the data source did not distinguish when juveniles were sent directly to detention from when they were sent to family court for detention hearings. However, most attempts were probably detentions because the Rochester Police Department's procedures specified that juveniles were to be taken to family court for detention hearings between 1:00 p.m. and 4:00 p.m., Monday through Friday. At other times, they were to be taken directly to the detention center. In other words, most of the time, juveniles were supposed to be taken to the detention center.

Disparity in detention following arrest is presented in Table 9.<sup>18</sup> The initial logit equation controlled for differences in **demographic characteristics** (age at custody, gender), **offense characteristics** (charge-class seriousness, number of charges, assault offenses, burglary offenses, criminal mischief offenses, larceny offenses, juvenile weapons offenses), **prior record** (number of prior custodies) and **minority status**.

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<sup>18</sup> The model can be expressed as:  $\text{logit}(\text{detention attempted}) = -6.61 + .33 \cdot \text{age} + .30 \cdot \text{charge-class serious} + .19 \cdot \text{total charges} + .29 \cdot \text{prior custodies} - .86 \cdot \text{larceny charge} + .45 \cdot \text{minority} - 0.66 \cdot \text{assault charge} - .95 \cdot \text{burglary charge}$ .

**Table 9: Disparity in Detaining or Sending Arrested Juveniles to Court for Detention Hearings, Rochester**

Minority Status	Percent Detained	Total Number of Cases	Number Detained
Observed Data			
Whites	39%	100	39
Minorities	50%	687	342
If Minorities Were Detained as Often as Whites Having Identical Values on 7 Control Variables			
Minorities	41%	687	281
Disparity			
Sig Level	.06		
Difference	9%		61
Ratio	1.22		

The table shows that the Rochester police attempted to detain 39 percent of arrested whites and 50 percent of arrested minorities. Had minorities been detained as whites having identical values on the statistically significant control variables (age, charge-class seriousness, total charges, prior police custodies, larceny charge, and assault charge), then 41 (not 50) percent would have been detained or forwarded to family court for a detention hearing. This disparity was not significant. In other words, minorities were not detained significantly more often than whites.<sup>19</sup>

**B. Probation Intake to the Presentment Agency or Family Court**

The analysis of case processing decisions made by probation intake was based upon all PINS and JD cases opened by probation intake in 1993. JD cases were either adjusted or forwarded to the presentment agency for review. The presentment agency drafted petitions for JD cases that warranted prosecution and forwarded them to family court. PINS cases were either adjusted or forwarded directly to

<sup>19</sup> Because .06 was almost significant, analyses were undertaken to learn whether there were significant disparities in any of Rochester's seven police districts. No significant disparities (.10 level) were uncovered.

family court. Petitions were normally drafted by probation officers.

Disparities were estimated in forwarding JDs to the presentment agency and in forwarding PINS to family court.<sup>20</sup> The unusually comprehensive computer files maintained in Monroe County's Probation Department made it possible to control for the influence of a large number of variables. The variables were examined in stages to deal with missing data problems and to estimate the impact of income after identifying the most important influences *sans* income. Stage I models controlled for the influence of demographic variables, offense characteristics, and prior record. Stage II models extended Stage I models by controlling for the influence of nine behavioral and family problem variables. Stage III models extended Stage II models by controlling for the influence of family income. Because of missing data, Stage II models were based upon fewer cases than the Stage I models for JDs, and Stage III models were based upon fewer cases than Stage II models for PINS and JDs.

#### **Stage I Control Variables**

The variables used in Stage I models are presented in Table 10. Minority status, coded "1" for minorities and "0" for whites, was also included in each model.

Table 10 shows that minorities, especially JDs, had more extensive prior records than whites. Among JDs, minorities were held in detention more often than whites. Among PINS, minorities had runaway problems more often than whites, but

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<sup>20</sup> A ring was classified as a PINS ring if it only contained PINS cases. A ring was classified as a JD ring if it contained at least one JD case, because JD cases were usually more serious than PINS cases.

whites had ungovernable behavior problems more often than minorities.<sup>21</sup>

**Table 10: Demographic, Offense Seriousness, and Prior Record Variables Used in Stage I Models by Minority Status and Type of Case, Monroe County**

Control Variables	PINS Cases			JD Cases		
	Average or Percentage		Significantly Higher for:	Average or Percentage		Significantly Higher for:
	Minorities	Whites		Minorities	Whites	
Age	14.5	14.9	Whites	14.4	14.5	
Male	33%	42%	Whites	80%	80%	
Diversion Case	22%	16%		11%	8%	
Number of Cases in Ring	1.00	1.01		1.09	1.13	
Runaway Case	35%	25%	Minorities	NA	NA	NA
Ungovernable Case	26%	39%	Whites	NA	NA	NA
Charge-Class Seriousness	NA	NA	NA	3.71	3.75	
Weapon Charge	NA	NA	NA	12%	13%	
In Detention at Probation Intake	NA	NA	NA	27%	15%	Minorities
Neglect Cases in Family Court	9%	6%		11%	7%	Minorities
Log Prior Probation Rings	0.45	0.33	Minorities	0.61	0.29	Minorities
Prior JD Adjudications	0.03	0.01		0.14	0.04	Minorities
Prior JD Cases in Family Court	0.09	0.03	Minorities	0.37	0.09	Minorities
Prior PINS Cases in Family Crt	0.15	0.11		0.11	0.04	Minorities
Number Cases	329	273		699	541	

NA: Not applicable

The diversion variable identified cases that were returned from family court to be processed another time by probation. Diverted cases were adjusted about as often as cases forwarded by the police. Among PINS, 34 percent of

<sup>21</sup> Several variables were not used in PINS and JD analyses. Charge-class seriousness was not coded for PINS because they were not charged with criminal offenses. Instead, case seriousness was controlled by distinguishing between runaway, ungovernable, and all other types of PINS cases.

Detention status following arrest was examined in JD but not PINS analyses. PINS could not legally be placed into secure detention.

The number of prior probation rings was transformed by taking the natural logarithm of the number of prior probation rings plus one. This transformation made differences between small numbers of prior rings, like 0 and 1, more important than differences between larger numbers of prior rings, like 3 and 4.

the diverted and 26 percent of the not diverted cases were adjusted. Among JDs, 51 percent of the diverted and 47 percent of the not diverted cases were adjusted.

It is unclear whether detention status should or should not be controlled in these analyses. Detention status was used as a control variable because the office policy is that adjustment service recommendations must be developed within three days following initial detention. Probation officers suggest that three days may be too short a period to develop adjustment services. Perhaps the inability of officers to develop a package of services within this three-day period contributed to the fact that 86 percent of the detained whites and 87 percent of the detained minorities were forwarded to the presentment agency.

### **Stage II Control Variables**

The Stage II model included the significant control variables in Stage I, minority status, and nine behavioral and family problems routinely recorded by probation officers.<sup>22</sup> Differences in behavioral and family problems were examined because they might explain why some juveniles were forwarded to family court. Unlike the adult system, the juvenile justice system is required to take the best interest of juveniles into account when processing cases.

The nine problems are presented in Table 11. The first four problems (runaway, truancy, curfew, and sexual behavior) were listed significantly more often for PINS than for JDs. The last four problems (family violence, school behavior, stealing, and family dysfunctions) were listed significantly more often for JDs than for PINS. Among PINS,

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<sup>22</sup> To reduce missing data, a program was written to review the probation records for each child and note whether any of the nine problems were ever mentioned. Eighty-six percent of the JDs and all but one PINS had at least one problem recorded at some time in their files. Because it was impossible to distinguish between "problems never recorded" and "the child has no problems", children without any problems recorded were coded as having missing data upon each of the nine problems. This affected 14 percent of the JD rings.

The inclusion of the problem variables resulted in Stage II models being based upon a less seriously prosecuted group of juveniles than Stage I models. JDs without problem data were forwarded to the presentment agency more often than JDs with problem data (63 vs. 51 percent). They were also held in detention following arrest more often than JDs with problem data (33 vs. 20 percent).

whites had drug or alcohol problems, family violence, and stealing problems listed significantly more often than minorities. Among JDs, whites had drug or alcohol problems listed more often than minorities, and minorities had school behavior problems listed significantly more often than whites.

**Table 11: Nine Behavioral and Family Problems Listed in Probation Records by Type of Case and Minority Status, Monroe County**

Identified Problem at Sometime in Juvenile's Record	PINS Cases			JD Cases		
	Average or Percentage		Significantly Higher for:	Average or Percentage		Significantly Higher for:
	Minorities	Whites		Minorities	Whites	
Runaway	78%	72%		26%	24%	
Truancy	71%	67%		38%	35%	
Curfew	37%	42%		32%	30%	
Sexual Behavior	19%	15%		10%	13%	
Drugs or Alcohol	16%	32%	Whites	20%	27%	Whites
Family Violence	22%	33%	Whites	50%	45%	
School Behavior	28%	27%		61%	49%	Minorities
Stealing	10%	21%	Whites	55%	59%	
Family Dysfunction	19%	19%		62%	66%	
Number of Cases	329	272		601	463	
Percent Reporting	100%	100%		86%	86%	

### Stage III Control Variables

The Stage III model examined the influence of the statistically significant variables in the Stage II model, minority status, and family income. Income was the last variable examined, because it is unclear whether differences in family income should be controlled in this study. Differences in family income should be controlled to the extent that family income directly affected services provided to juveniles. Controlling for differences in family income could show that less affluent juveniles were forwarded to family court more often, because their parents provided professional supportive services less often. However, differences in family income should not be controlled to the extent that juveniles from richer families were given preferential treatment over juveniles from poorer families because of differences in social class, *per se*. In

this case, controlling for differences in family income would wrongly suppress disparities.

Family income was recorded as a characteristic of the juvenile in the probation data file. It was missing in 17 percent of the PINS and 26 percent of the JD rings. Variation in income was not recorded over time.

Family income is presented by type of case and minority status in Table 12. For both PINS and JDs, family income was significantly higher for whites than for minorities. Among PINS, two-thirds of minorities but only one-third of whites had family incomes below \$10,000 per year. Among JDs, six in ten minorities, but only three in ten whites, had family incomes below \$10,000.

**Table 12: Family Income by Type of Case and Minority Status at Probation Intake, Monroe County**

Family Income	PINS Cases		JD Cases	
	Percentage		Percentage	
	Minorities	Whites	Minorities	Whites
< \$10,000	66%	35%	59%	32%
to \$20,000	14%	17%	20%	15%
to \$30,000	9%	21%	10%	13%
Above \$30,000	11%	27%	10%	41%
Number of Cases	267	230	504	416
Percent Reporting	81%	84%	72%	77%

**Reasons PINS and JD Cases Were Forwarded to Presentment or Family Court**

The primary reason that juveniles were forwarded to the presentment agency or family court is presented in Table 13. The percentages do not add to 100 percent because reasons were not specified in all decisions. For PINS, minorities were forwarded to presentment significantly more often than whites because of non-appearance. For JDs, minorities were forwarded to presentment more often than whites because of non-appearance and detention needs.<sup>23</sup>

<sup>23</sup> Probation records contained 27 codes describing how and why cases were disposed. These codes were combined into 11 reasons as follows: 0)

**Table 13: Primary Reason Cases Were Forwarded to Presentment or Family Court by Type of Case and Minority Status, Monroe County**

Reason	PINS			JDs		
	Percentage		Significantly Higher for:	Percentage		Significantly Higher for:
	Minorities	Whites		Minorities	Whites	
Detention Needed	3%	3%	Minorities	17%	10%	Minorities
Non-Appearance	47%	29%		9%	4%	Minorities
Denies Guilt	NA	NA		5%	4%	
Refused or Failed Adjustment	15%	17%		11%	8%	
Unsupportive Family	2%	3%		4%	2%	
Victim Insists	NA	NA	NA	6%	5%	
<b>Number of Cases</b>	<b>329</b>	<b>273</b>		<b>699</b>	<b>541</b>	

NA: Not Applicable

#### 1. Processing PINS in Probation

Two disparity analyses were undertaken. The first asked whether minorities were forwarded to family court more often than whites because of non-appearance. This analysis was based upon the disparity methodology, but is labeled "explained disparity" because it identified the extent to which minorities were forwarded to family court because they failed to appear more often than whites. Probation officers presumably had no discretion in this decision. The second asked whether minorities were forwarded to family court more often than whites among cases which were not forwarded because of non-appearance. Probation officers presumably had discretion in this decision. The origins of disparities in this decision are unknown.

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unknown; 1) PINS petitioner dropped the case; 2) case adjusted; 3) case adjusted and disposed but probation officer believed the adjustment was not successful; 4) unsupportive family; 5) repeat offender; 6) non-appearance; 7) adjustment failed or refused; 8) denies guilt; 9) victim insists; and 10) detention needed. The highest reason number observed for all cases in each ring was used to describe the reason the ring was disposed.

a) *Explained Disparity in Forwarding PINS Because of Non-appearance*

Explained disparity in forwarding PINS because of non-appearance is presented in Table 14.<sup>24</sup> A logit regression model was used to control for differences in **demographic characteristics** (gender and age), type of **case** (ungovernable child, runaway, diversion case, number of cases in ring), **prior record characteristics** (any prior neglect cases in family court, prior number of probation rings, prior JD adjudications, prior JD cases in family court, and prior PINS cases in family court), **behavioral problems** (runaway, truancy, curfew violations, sexual behavior, drug or alcohol problems, school behavior, stealing), **family problems** (family dysfunction, family violence) and **family income**. Almost all of these variables were not significantly related to appearance problems.

The table shows that 29 percent of whites and 47 percent of minorities were forwarded to family court because of non-appearance. Had minorities failed to appear as often as whites with identical values on statistically significant control values (child had runaway behavioral problems, and child was processed for running away from home) then 36 (not 47) percent would have been forwarded because of non-appearance. The disparity ratio shows that minorities were 1.29 times as likely to be forwarded to family court because of non-appearance than were statistically simulated whites.

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<sup>24</sup> The Stage I model showed that minorities and juveniles processed for running away from home were forwarded to family court because of non-appearance more often than other juveniles. The Stage II model showed that juveniles with runaway problems were forwarded to family court for failing to appear more often than other juveniles. The Stage III model showed that family income was not significantly related to non-appearance. Consequently, the Stage II model was chosen as the best description of these data. It can be expressed as logit (forwarded because of failure to appear) =  $-2.73 + .84 * \text{minority status} + 3.33 * \text{runaway case} + .95 * \text{runaway problems}$ .

**Table 14: Explained Disparity in Forwarding PINS to Family Court Because of Non-Appearances, Monroe County**

Minority Status	Percent Forwarded to Family Court	Total Number of Cases	Number Forwarded
Observed Data			
Whites	29%	273	80
Minorities	47%	329	154
If Minorities Were Processed As Whites with Identical Values on Runaway Case and Runaway Problems Variables			
Minorities	36%	329	119
Disparity			
Sig Level	<.01		
Difference	11%		35
Ratio	1.29		

*b) Disparity in Forwarding PINS Who Appeared for Intake Interviews*

The next analysis asked whether white and minority PINS who appeared for intake interviews were forwarded to family court at the same rate. The same set of control variables used to model non-appearance was used here. Disparity is presented in Table 15.<sup>25</sup>

<sup>25</sup> Forwarding cases to family court was significantly related to the number of prior probation rings, the number of prior JD cases in family court, and being processed for running away from home. The nine problems, family income, and minority status were not significantly related to this decision. The Stage I equation can be expressed as:  $\text{logit}(\text{forwarded to family court for other than non-appearance}) = -.99 + .95 \cdot \log(\text{prior probation rings} + 1) + 1.09 \cdot \text{runaway case} - 1.41 \cdot \text{any prior JD cases in family court} + .33 \cdot \text{minority}$ .

**Table 15: Disparity in Forwarding PINS Who Appeared for Intake Interviews to Family Court, Monroe County**

Minority Status	Percent Forwarded to Family Court	Total Number of Cases	Number Forwarded
Observed Data			
Whites	35%	193	68
Minorities	44%	175	77
If Minorities Were Processed As Whites Having the Same Values on 3 Control Variables			
Minorities	37%	175	64
Disparity			
Sig Level	0.14		
Difference	7%		13
Ratio	1.20		

The table shows that 35 percent of whites and 44 percent of minorities were forwarded to family court. Had minorities been processed as whites having the same values on statistically significant control variables (number of prior probation cases, runaway case, number of prior JD cases in family court), then 37 (not 44) percent would have been forwarded to family court.

Even though the difference between 44 and 37 percent may seem large, it was not significant at the .05 or even at the .10 level of significance.<sup>26</sup> In other words, the relationship was too weak to conclude that minority status affected forwarding these cases to family court.

*c) Combining Disparities for PINS*

The disparity estimates in Table 14 and Table 15 for forwarding PINS to family court are combined in Table 16. Overall, 54 percent of whites and 70 percent of minorities were forwarded to family court. Had minorities been processed as statistically simulated whites, then 56 (not 70) percent would have been forwarded. This represents a

<sup>26</sup> It is common practice in social science research to require effects to be significant at the .05 level before concluding that variables are related to each other. Sometimes the .10 level is used with small samples, and sometimes the .01 level is used with large samples.

disparity difference of 15 percent and a disparity ratio of 1.26, most of which is due to differences in failure-to-appear rates.<sup>27</sup>

**Table 16: Disparity in Forwarding All PINS to Family Court, Monroe County**

Minority Status	Percent Forwarded to Family Court	Total Number of Cases	Number Forwarded
Observed Data			
Whites	54%	273	148
Minorities	70%	329	231
If Minorities Were Processed As Whites Aggregating Results from Two Disparity Analyses			
Minorities	56%	329	183
Disparity Sig Level	NA		
Difference	15%		48
Ratio	1.26		

NA: Not applicable. Significance displayed in other tables.

## 2. Processing JDs in Probation

Disparities for processing JDs were estimated for three outcomes: 1) forwarded because of non-appearance; 2) forwarded because of detention needs; and 3) forwarded because of other reasons. Disparity in forwarding cases because of non-appearance is clearly not attributable to actions of probation officers. It is unclear whether disparity in forwarding cases because of detention needs is attributable to discretionary actions of probation officers. Both of these analysis are described as "explained" disparities.

<sup>27</sup> Thirty-five out of 48 cases forwarded because of disparities were attributable to differences in failure-to-appear rates.

a) *Explained Disparity in Forwarding JDs  
Because of Non-appearance*

Explained disparity in forwarding JDs because of non-appearance is presented in Table 17.<sup>28</sup> A logit regression model was used to control for differences in **demographic characteristics** (gender and age), **case characteristics** (charge-class seriousness of top charge, weapons charge, diversion case, number of cases in ring), **prior record characteristics** (any prior neglect cases in family court, prior number of probation rings, any prior JD adjudications, any prior JD cases in family court, any prior PINS cases in family court, any prior PINS adjudications in family court), **behavioral problems** (runaway, truancy, curfew violations, sexual behavior, drug or alcohol problems, school behavior, stealing), **family problems** (family dysfunction, family violence), **family income**, and **prior case processing decisions** (in detention at probation intake).

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<sup>28</sup> The Stage I model showed that being forwarded because of failing to appear was related to minority status, being held in detention following arrest, having a prior PINS case in family court, and having been processed at least once for a neglect case in family court. The Stage II model showed that problem variables were not significantly related to non-appearance, and the Stage III model showed that income was not significantly related to non-appearance. Consequently, the Stage I model was chosen as the best description of disparity. The Stage I model can be expressed as:  $\text{logit}(\text{forwarded because of failure to appear}) = -3.32 - 1.26 * \text{in detention following arrest} + 1.04 * \text{minority status} + .96 * \text{at least one neglect case in family court} + .82 * \text{at least one prior PINS case in family court}$ . The number of prior PINS cases in family court and the number of prior JD cases in family court were dichotomized in all JD analyses because of a multicollinearity problem with minority status and having two or more of these cases in family court.

**Table 17: Explained Disparity in Forwarding JDs to Presentment Because of Non-appearance, Monroe County**

Minority Status	Percent Forwarded to Presentment	Total Number of Cases	Number Forwarded
Observed Data			
Whites	4%	541	19
Minorities	9%	699	65
If Minorities Were Processed As Whites Having Identical Values on 3 Control Variables			
Minorities	4%	699	25
Disparity			
Sig Level	<.01		
Difference	6%		40
Ratio	2.60		

The table shows that 4 percent of white and 9 percent of minority JDs were forwarded because they failed to appear. Had minorities failed to appear as often as whites having identical values on statistically significant control variables (in detention at probation intake, any prior neglect cases in family court, any prior PINS cases in family court), then 4 (not 9) percent would have been forwarded because of non-appearance. The disparity difference equals 6 percent and the ratio equals 2.60.<sup>29</sup>

<sup>29</sup> The disparity difference does not equal 5 percent because of rounding.

b) *Explained Disparity in Forwarding JDs  
Because of Detention Needs*

Some juveniles were forwarded to presentment because of detention needs. These needs were assessed by probation officers. The analysis of forwarding JDs because of detention needs excluded juveniles who were forwarded because they failed to appear. The control variables used to model non-appearance were used here. Disparity in forwarding JDs because of detention needs is presented in Table 18.<sup>30</sup>

**Table 18: Explained Disparity in Forwarding JDs to Presentment Because of Detention Needs, Monroe County**

Minority Status	Percent Forwarded to Presentment	Total Number of cases	Number Forwarded
Observed Data			
Whites	10%	522	51
Minorities	17%	634	110
If Minorities Were Processed As Whites Having Identical Values on 4 Control Variables			
Minorities	19%	634	119
Disparity			
Sig Level	0.49		
Difference	-1%		-9
Ratio	0.93		

The table shows that 10 percent of white and 17 percent of minority JDs who appeared at intake interviews were forwarded because of detention needs. Had minorities been

<sup>30</sup> All models showed that minority status was not significantly related to being forwarded because of detention needs. Stage I showed that juveniles diverted from family court were seldom forwarded for detention needs, juveniles in detention were almost always forwarded, boys were forwarded more often than girls, and being forwarded was affected by the number of prior probation rings. Stage II showed that juveniles with truancy problems were forwarded more often than other juveniles. Stage III showed that income was unrelated to being forwarded. The model can be expressed as:  $\text{logit}(\text{forwarded detention needed}) = -4.79 - 5.77 \cdot \text{diverted case} + 3.98 \cdot \text{in detention} + .88 \cdot \log(\text{prior probation rings} + 1) + .81 \cdot \text{male} - .20 \cdot \text{minority}$ .

processed as whites having identical values on the statistically significant control variables (diverted case, in detention, number of prior probation rings, and gender), then 19 (not 17) percent would have been forwarded. This disparity shows that minority JDs were **under**, not over, represented at presentment because of detention needs. However, this disparity was not statistically significant. In general, minorities were forwarded to the presentment agency more often than whites because they were held in detention following arrest more often than whites and had more extensive prior records than whites.

c) *Disparity in Forwarding JDs at the Discretion of Probation Intake*

This last disparity analysis excluded cases that were forwarded because of non-appearance, detention needs, denial of guilt, or victim insistence. Disparities for this group of juveniles presumably arose from discretionary decisions made by probation officers. The control variables used to model non-appearances and detention needs were used to estimate this disparity, which is displayed in Table 19.<sup>31</sup>

The table shows that 23 percent of whites and 43 percent of minorities were forwarded to presentment. Had minority JDs been processed as whites having identical values on statistically significant control variables (truancy, diversion case, number of prior probation rings, in detention), then 33 (not 43) percent would have been forwarded to presentment. The disparity was statistically significant. The disparity ratio shows that these minorities were 1.30 times as likely as statistically simulated whites to be forwarded to the presentment agency.

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<sup>31</sup> The Stage I model showed that diverted cases were forwarded less often than other cases, juveniles with more prior probation rings were forwarded more often than juveniles with fewer prior rings, juveniles in detention were forwarded more often than juveniles released following arrest, and minorities were forwarded more often than whites. Stage II showed that juveniles with truancy problems were forwarded to presentment more often than juveniles without truancy problems, and Stage III showed that income was not related to the presentment decision. The Stage II model can be expressed as:  $\text{logit}(\text{forwarded for other reasons}) = -2.24 + 1.04 * \text{truancy} - .62 * \text{diversion case} + 1.69 * \text{log}(\text{prior probation rings} + 1) + .66 * \text{in detention following arrest} + .61 * \text{minority}$ .

**Table 19: Disparity in Forwarding JDs to Presentment for Cases in Which Probation Officers Had Discretion, Monroe County**

Minority Status	Percent Forwarded to Presentment	Total Number of Cases	Number Forwarded
Observed Data			
Whites	23%	406	92
Minorities	43%	422	183
If Minorities Were Processed As Whites Having Identical Values on 4 Control Variables			
Minorities	33%	422	141
Disparity			
Sig Level	<.01		
Difference	10%		42
Ratio	1.30		

*d) Combining Disparities for JDs*

Disparities in Table 17, Table 18, and Table 19 are combined in Table 20. This table shows that 63 percent of minorities and 39 percent of whites were forwarded to the presentment agency. Had minorities been processed as Whites, then 52 (not 63) percent would have been forwarded to the presentment agency.<sup>32</sup> This represents a disparity difference of 10 percent and a disparity ratio of 1.20.

<sup>32</sup> Disparity was calculated regardless of statistical significance by aggregating disparities across all models that link probation intake to family court. Restricting the aggregation to models that contained significant minority effects would decrease the percentage of minorities forwarded to family court if they were processed as whites from 52 to 51 percent.

The 73 disparities in forwarding cases to presentment were calculated by summing disparities in Table 17, Table 18, and Table 19 (40 -9 +42 = 73). Subtracting 73 from 439 equals 366, the number of cases that would be forwarded if minorities were processed as whites.

The observed number of juveniles forwarded to presentment, 439, does not equal the summation of the observed number forwarded based upon these tables (65+110+183 = 358), because 81 minorities were forwarded for reasons not presented in these tables. Most of these juveniles were forwarded because the victim insisted or the juvenile denied guilt.

**Table 20: Disparity in Forwarding All JDs to the Presentment Agency, Monroe County**

Minority Status	Percent Forwarded to Presentment	Total Number of Cases	Number Forwarded
<b>Observed Data</b>			
Whites	39%	541	213
Minorities	63%	699	439
<b>If Minorities Were Processed As Whites Aggregating Results from Three Disparity Analyses</b>			
Minorities	52%	699	366
Disparity Sig Level	NA		
Difference Ratio	10%		73
	1.20		

NA: Not applicable. Significance displayed in other tables.

### C. Family Court to Placement

Disparities were estimated for detention, adjudication, and placement decisions in family court. The same set of control variables used to estimate disparities in forwarding probation cases to family court were used to estimate disparities in processing cases in family court. Averages are presented in Appendix A for readers who would like to compare how values on these variables differed in probation and family court settings. The analysis for PINS is presented first, followed by the analysis for JDs.

#### 1. Processing PINS in Family Court

##### a) Disparity in Detaining PINS

Family court records were matched with DFY records to learn which juveniles were detained while their cases were processed in family court. Table 53 in Appendix A shows that 62 percent of the PINS were held in detention for at least one day.

Disparity in detaining PINS is presented in Table 21.<sup>33</sup> A logit regression model was used to control for differences in **demographic characteristics** (gender, age), **type of case** (ungovernable child, runaway, diversion case, number of cases in ring), **prior record characteristics** (any prior neglect cases in family court, prior number of probation rings, prior JD adjudications, prior JD cases in family court, prior PINS cases in family court), **behavioral problems** (runaway, truancy, curfew violations, sexual behavior, drug or alcohol problems, school behavior, stealing), **family problems** (family dysfunction, family violence) and **family income**.

**Table 21: Disparity in Detaining PINS in Family Court, Monroe County**

Minority Status	Percent Detained	Total Number of Cases	Number Detained
Observed Data			
Whites	59%	116	69
Minorities	64%	196	125
If Minorities Were Processed As Whites Having Identical Values on Runaway and Age Variables			
Minorities	63%	196	123
Disparity			
Sig Level	.86		
Difference	1%		2
Ratio	1.02		

The table shows that 59 percent of whites and 64 percent of minorities were detained for at least one day while their cases were processed in family court. Had minorities been processed as whites having identical values on statistically significant control variables (runaway status and age), then 63 (not 64) percent, would have been detained. This

<sup>33</sup> Logit regression models showed that minority status was unrelated to detention. Stage I showed that sixteen year olds were detained less often than others. Stage II showed that juveniles with runaway problems were detained more often than those without such problems. Stage III showed that income was unrelated to detention. The Stage II model can be expressed as:  $\text{logit}(\text{detained}) = -.34 + 1.11 * \text{runaway problems} - 1.23 * \text{aged 16} + .04 * \text{minority}$ .

disparity was not statistically significant. The model showed that juveniles with runaway problems were held more often than other juveniles.

A regression analysis (not reported here) was undertaken to learn if the minorities were detained for longer periods than whites. This analysis showed that the number of days detained was unrelated to minority status.

*b) Disparity in Adjudicating PINS*

Juveniles must be adjudicated before the court can place them outside their homes. The same set of 21 control variables used to model detention was used here. Disparity in adjudicating PINS is presented in Table 22.<sup>34</sup>

**Table 22: Disparity in Adjudicating PINS in Family Court, Monroe County**

Minority Status	Percent Adjudicated	Total Number of Cases	Number Adjudicated
Observed Data			
Whites	53%	121	64
Minorities	47%	200	94
If Minorities Were Processed As Whites Having Identical Values on the Prior Neglect Cases in Family Court Variable			
Minorities	51%	200	102
Disparity			
Sig Level	0.46		
Difference	-4%		-8
Ratio	0.92		

<sup>34</sup> The logit regression models showed that minority status did not affect adjudication. The Stage I model showed that adjudication was inversely related to the number of neglect cases in family court. The Stage II model showed that behavioral and family problems were not related to adjudication. The Stage III model showed that income was also unrelated to adjudication. In general, no variables were closely related to adjudication for PINS. The Stage I model can be expressed as:  $\text{logit}(\text{adjudicated}) = .06 - .76 * \text{neglect cases in family court}$ .

The table shows that 53 percent of whites and 47 percent of minorities were adjudicated PINS. Had minorities been processed as whites having identical values on the only statistically significant control variable (prior neglect cases in family court), then 51 (not 47) percent would have been adjudicated. This disparity favoring minorities was not statistically significant. The model shows that adjudication had only a weak and negative relationship to the number of prior neglect cases in family court. The other 20 control variables were unrelated to adjudication.

*c) Disparity in Placing Adjudicated PINS*

Adjudicated PINS may be released with warning, conditionally discharged, referred for probation supervision, or placed outside of their homes. These possibilities are presented in Table 23 for PINS and JDs. The table shows that for both PINS and JDs, whites were placed more often than minorities, and minorities were released with a warning or conditionally discharged more often than whites. Whites and minorities received probation equally often.

**Table 23: Types of Placement Decisions for Adjudicated PINS and JDs by Minority Status, Monroe County**

Sentence	PINS		JDs	
	Minorities	Whites	Minorities	Whites
Released with Warning or Conditionally Discharged	10%	3%	7%	2%
Probation Supervision	41%	40%	49%	46%
DSS Placement	49%	56%	13%	26%
DFY Placement	0%	0%	30%	25%
DSS or DFY Placement	49%	56%	44%	52%
Total Cases	91	62	172	91

To compensate for the small number of cases (the analysis was based upon adjudicated cases), the .10 level of significance was chosen to define significant variables in placement decisions. Using the .10 instead of the .05 level decreased the chances of falsely concluding that important variables were unrelated to the outcome. However, it also increased the chances of falsely concluding that unimportant variables were related to the outcome.

Disparity in the placement decision based upon the same set of 21 control variables used in the detention and adjudication analyses is presented in Table 24.<sup>35</sup> The table shows that 58 percent of whites and 50 percent of minorities were sentenced to placement. Had minorities been sentenced as whites having identical values on statistically significant control variables (age, number of prior PINS cases in family court, drug or alcohol problems, and sexual behavior problems), then 65 (not 50) percent of the minorities would have been placed. This difference was significant at the .05 level. It shows that minorities were placed **less often** than statistically simulated whites.

**Table 24: Disparity in Placing Adjudicated PINS, Monroe County**

Minority Status	Percent Placed	Total Number of Cases	Number Placed
Observed Data			
Whites	58%	64	37
Minorities	50%	94	47
If Minorities Were Processed As Whites Having Identical Values on 4 Control Variables			
Minorities	65%	94	61
Disparity			
Sig Level	0.05		
Difference	-15%		-14
Ratio	0.77		

<sup>35</sup> The Stage I model showed that placement was inversely related to the age of the child, and was positively related to the number of prior PINS cases in family court. The Stage II model showed that juveniles with sexual behavior problems were placed more often than juveniles without these problems, but that juveniles with drug or alcohol problems were placed less often than juveniles without these problems. The Stage III model showed that income was not related to placement. The logit regression model can be expressed as:  $\text{logit}(\text{placement}) = 6.10 - .40 \cdot \text{age} + .56 \cdot \text{number of prior PINS cases in family court} - .98 \cdot \text{drug or alcohol problems} + .80 \cdot \text{sexual behavioral problems} - .71 \cdot \text{minority}$ . An alternative model, not reported here, showed that a different set of variables is obtained when detention status is included as an independent variable. However, this model also shows that minorities were placed less often than comparably situated whites.

## 2. Processing JDs in Family Court

Disparities for JDs were estimated in detention, adjudication, and placement decisions. Disparities in placing JDs into Division for Youth instead of Department of Social Services facilities were also estimated.

### a) Disparity in Detaining JDs

Disparity in detaining JDs in family court is presented in Table 25.<sup>36</sup> A logit regression model was used to control for differences in **demographic characteristics** (gender and age), **case characteristics** (charge-class seriousness of top charge, weapons charge, diversion case, number of cases in ring, in detention at probation intake), **prior record characteristics** (any prior neglect cases in family court, prior number of probation rings, any prior JD adjudications, any prior JD cases in family court, any prior PINS cases in family court, any prior PINS adjudications in family court), **behavioral problems** (runaway, truancy, curfew violations, sexual behavior, drug or alcohol problems, school behavior, stealing), **family problems** (family dysfunction, family violence), and **family income**.

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<sup>36</sup> Logit regression models showed that minority status was unrelated to detention. Stage I showed that sixteen year olds were detained less often than other juveniles, and that juveniles with more cases in the ring, juveniles with prior JD rings in family court, and juveniles with prior PINS cases in family court were detained more often than other juveniles. Stage II showed that juveniles with runaway problems were detained more often than juveniles without such problems, and that juveniles with family violence problems were detained less often than juveniles without these problems. The Stage III model showed that income was unrelated to detention. The Stage II model can be expressed as:  $\text{logit}(\text{detained}) = -1.89 - 2.35 * \text{aged } 16 + 1.15 * \text{number of cases in ring} + .99 * \text{prior JD cases in family court} + 1.41 * \text{prior PINS cases in family court} - .96 * \text{family violence} + 1.28 * \text{runaway} + .12 * \text{minority}$ .

**Table 25: Disparity in Detaining JDs While Their Cases Were Processed in Family Court, Monroe County**

Minority Status	Percent Detained	Total Number of Cases	Number Detained
Observed Data			
Whites	55%	126	69
Minorities	54%	276	149
If Minorities Were Processed As Whites Having Identical Values on 6 Control Variables			
Minorities	52%	276	143
Disparity			
Sig Level	0.67		
Difference	2%		6
Ratio	1.05		

The table shows that 55 percent of whites and 54 percent of minorities were detained at least one day while their cases were processed in family court. Had minorities been processed as whites having identical values on statistically significant control variables (aged 16, number of cases in the ring, prior JD cases in family court, prior PINS cases in family court, family violence, runaway), then 52 (not 54) percent would have been detained.<sup>37</sup> This disparity was not statistically significant. In other words, whites and minorities were detained at very similar rates.

A regression analysis (not shown here) was undertaken to learn whether minorities were detained for longer periods than whites. The independent variables included an indicator that they were exactly 16 years old, minority status, number of cases in the ring, prior JD rings in family court, prior PINS rings in family court, runaway problems, and family violence problems. This analysis showed that the number of days detained was significantly related to all variables except minority status. Clearly, minorities were not held for longer periods than whites.

<sup>37</sup> The stage II model was based upon 107 whites and 240 minorities because of missing data on behavioral and family problem variables.

b) *Disparity in Adjudicating JDs*

Disparity in the adjudication decision, based upon the same set of 23 control variables used in the detention analysis, is presented in Table 26.<sup>38</sup> The table shows that 60 percent of whites and 56 percent of minorities were adjudicated. Had minorities been processed as whites having identical values on statistically significant control variables (number of cases in the ring, charge-class seriousness, prior JD cases in family court), then 63 (not 56) percent would have been adjudicated. This disparity, which favors minorities, was not statistically significant.

**Table 26: Disparity in Adjudicating JDs in Family Court, Monroe County**

Minority Status	Percent Adjudicated	Total Number of Cases	Number Adjudicated
Observed Data			
Whites	60%	126	75
Minorities	56%	276	154
If Minorities Were Processed As Whites Having Identical Values on 3 Control Variables			
Minorities	63%	276	174
Disparity			
Sig Level	.13		
Difference	-7%		-20
Ratio	.89		

<sup>38</sup> The logit regression models showed that minority status did not affect adjudication decisions. The Stage I model showed that adjudication was affected by the number of cases in the ring, the charge-class seriousness of the custody offense, and the number of prior JD cases in family court. Stage II showed that adjudication was not affected by behavioral and family problems. Stage III showed that adjudication was not affected by family income. The Stage I model can be expressed as:  $\text{logit}(\text{adjudication}) = -3.93 + 2.46 * \text{number of cases in the ring} + .42 * \text{charge-class seriousness} + .45 * \text{number of prior JD cases in family court} - .39 * \text{minority}$ .

c) *Disparity in Placing Adjudicated Juveniles*

Disparity in placing adjudicated juveniles with DFY or DSS, based upon the same set of 23 control variables used in the detention and adjudication analyses, is presented in Table 27.<sup>39</sup> The table shows that 49 percent of whites and 44 percent of minorities were placed. Had minorities been processed as whites having identical values on statistically significant control variables (number of cases in the ring, number of prior JD findings, number of prior PINS findings), then 53 (not 44) percent would have been placed. This difference, which favors minorities, was not statistically significant.

**Table 27: Disparity in Placing JDs following Adjudication, Monroe County**

Minority Status	Percent Placed	Total Number of Cases	Number Placed
Observed Data			
Whites	49%	75	37
Minorities	44%	154	68
If Minorities Were Processed As Whites Having Identical Values on 3 Control Variables			
Minorities	53%	154	81
Disparity Sig Level	0.19		
Difference	-8%		-13
Ratio	0.84		

<sup>39</sup> The logit regression model can be expressed as  $\text{logit}(\text{placed}) = 1.23 + .52 * \text{number of cases in ring} + 1.50 * \text{number of prior JD findings} + 1.23 * \text{number of prior PINS findings} - .41 * \text{minority}$ . The analysis was run a second time using detention status as an independent variable. While this analysis contained a different list of significant variables, it resulted in similar disparity estimates.

d) *Disparity in Placing Adjudicated  
Juveniles into DFY Rather Than Other  
Facilities*

Placement with DFY can be more restrictive than placement with DSS. DFY operates both secure and non-secure residential facilities. It also places juveniles into facilities run by other agencies. DSS primarily places youth in non-secure residential facilities run by other agencies. It does not operate secure facilities. The last analysis asked whether minorities were placed more often than whites into DFY facilities among placed juveniles.

Disparity in placing juveniles into DFY rather than DSS facilities, based upon the same set of 23 control variables used in the detention, adjudication, and placement analyses, is presented in Table 28.<sup>40</sup> The table shows that 62 percent of the placed whites and 76 percent of the placed minorities were placed in a DFY facility. Had minorities been placed into DFY facilities as often as whites having identical values on statistically significant control variables (number of prior JD findings, charge-class seriousness) then 67 (not 76) percent would have been placed into DFY facilities. This difference was not significant at the .10 level of significance.

In summary, there were negligible disparities in processing PINS or JDs in family court. Whites and minorities were detained equally often. They were adjudicated equally often, and for JDs, they were placed equally often. However, among PINS, whites were placed slightly more often than minorities.

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<sup>40</sup> The model can be expressed as:  $\text{logit}(\text{DFY rather than DSS}) = -2.27 + .88 * \text{number of prior JD findings} + .86 * \text{charge-class seriousness} + .65 * \text{minority}$ .

**Table 28: Disparity in Sentencing Placed JDs with DFY Rather than with DSS, Monroe County**

Minority Status	Percent Placed into DFY Given Placed	Total Number of Placed Cases	Number Placed into DFY
Observed Data			
Whites	62%	37	23
Minorities	76%	68	52
If Minorities Were Processed As Whites Having Identical Values on Number of Prior JD Findings and Charge-Class Seriousness Variables			
Minorities	67%	68	45
Disparity Sig Level	.20		
Difference Ratio	10%		14

**D. Discussion**

The disproportional representation of minorities in Rochester is primarily attributable to differences in how often whites and minorities were taken into custody for committing criminal offenses. Blacks were taken into custody for misdemeanor or felony crimes 2.58 times as often as whites; Hispanics 1.40 times as often. Once taken into custody, minorities and whites were arrested and detained at similar rates.

Finding no significant disparity in the decision to arrest juveniles taken into custody, or in the decision to detain arrested juveniles, suggests that the Rochester police performed these duties without regard to race or ethnicity. The differences in taking youth into custody may reflect factors outside the purview of the justice system, including differences in criminal behavior, attitudes of parents and complainants, school policies and procedures, the availability of certain diversion programs, and the availability of certain early intervention programs for high risk youth. It is also possible that arrest rates may be affected differentially by law enforcement practices that could not be examined in the current research, such as concentration of police resources in minority neighborhoods, differences among jurisdictions in policing methods, or

differences in the handling of informal contacts between police and youth.

No substantial disparities were uncovered at the county level. Relatively small disparities were uncovered in forwarding juveniles from probation intake to family court. Disparities in prosecuting PINS were primarily attributable to differences in appearance rates. Minorities failed to appear for intake interviews more often than whites. Disparities in processing JDs were equally attributable to 1) differences in non-appearance rates, and to 2) unknown factors that resulted in minority JDs being forwarded to presentment more often than expected among JDs who could have been provided adjustment services.

Disparities following arrest might be reduced by implementing programs to improve minority attendance at probation intake interviews. However, this may be difficult to accomplish. Both JD and PINS analyses showed that family income was unrelated to appearance rates. This suggests that programs designed to improve attendance by removing economic obstacles, like providing cab fare to attend interviews or holding interviews after normal working hours, may not, by themselves, be enough to reduce the level of non-appearance by minorities.

A probation officer in Monroe County suggested that the high failure-to-appear rates for PINS were largely attributable to truancy cases brought by schools. She believes that many juveniles and their parents deal with truancy charges by failing to attend probation interviews. According to this officer, these juveniles are forwarded to family court to force them and their parents to deal with truancy problems. She suggests that disparities in forwarding minority PINS to family court could be reduced by encouraging schools to initiate truancy charges before juveniles skip a large number of classes.

There were few disparities in family court, and most decisions favored minorities. White PINS were placed slightly more often than minority PINS.

In general, the logit equations, whose parameters are presented in footnotes, show that processing decisions were most strongly related to charge seriousness, prior record, runaway problems for PINS, and detention following arrest for JDs. Decisions were largely unaffected by family problems, family income, behavioral problems, and gender.<sup>41</sup>

**E. Findings from Interviews, the Focus Group, and the Workshop**

Personal interviews and a focus group were conducted to identify local practices and policies that contribute to the disproportionate presence and disparate processing of minority youth in Monroe County's juvenile system, and to secure recommendations for corrective actions. Juvenile justice practitioners -- including school officials, police officers, probation officers, presentment agency attorneys, family court judges, and detention agency staff -- were interviewed. Practitioners hypothesized about sources of juvenile crime, causes of disparate decisions, and how the juvenile justice system should operate.

A workshop group discussion was conducted in September, 1995 based upon preliminary findings from the disparity, interview, and focus group research. Participants from Monroe County discussed the importance of expanding access to diversion programs, improving communication between schools and juvenile justice agencies, instilling in juveniles a sense of responsibility for their actions, intervening as early as possible with troubled juveniles and their families, and reducing structural barriers to the provision of services.

The full discussion of interview, focus group, and workshop findings is presented in Appendix B. The following selected highlights reflect the range of concerns expressed by participants in interviews, the focus group, and the workshop. Further details can be found in Harig et al (1995).

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<sup>41</sup> JD boys were forwarded to presentment more often than JD girls because of detention needs.

- More emphasis needs to be placed on front-end decisions. In particular, how should juveniles be handled before arrest? What can be done to prevent delinquency?
- Diversion programs should be equally accessible to juveniles in urban and suburban communities. Some of the Monroe County Sheriff's zone offices employ civilian youth counselors. The Rochester Police Department, which patrols urban areas with high juvenile arrest rates, does not provide counseling services.
- Communication and collaboration between schools and juvenile justice agencies must be improved. The quality of information on juveniles varies considerably across urban and suburban schools. Urban schools provide probation officers only with official records, but suburban school counselors provide thorough briefings permitting more effective service planning.
- Juveniles must be held accountable for their delinquent behavior. The ability of probation and family court to appropriately sanction juveniles is undermined by laws which require juvenile records be sealed when cases are favorably terminated. Juveniles end up getting too many breaks because the system is unable to accurately monitor repeated involvement in delinquent activity.
- More effort must be made to involve families in treatment and counseling programs at all stages of processing. Parental involvement is critical because parenting skills are often lacking in families whose children exhibit delinquent behavior.

- The policy for processing detained juveniles at probation intake should be revised to permit the conduct of service assessments and, in turn, diversion of more juveniles from detention. Monroe County Probation Department policy requires assessments to be completed within a three-day period for detained juveniles. This is inadequate time to conduct intake assessments and coordinate community-based services for juveniles. Consequently, many juveniles are denied adjustment services.

### III. Disparities in Erie County

Disparities were examined in processing JDs from arrest through disposition. Disparities were estimated for police decisions to forward cases directly to family court rather than probation intake; for police and family court decisions to detain juveniles; for probation intake decisions to forward JD cases to the presentment agency; for presentment agency decisions to file petitions; and for family court decisions to detain juveniles during court processing, enter JD or PINS findings, and order placement dispositions. Disparities were not estimated for processing JOs, because only 23 black and eight white juveniles were arrested for JO offenses in Erie County during 1993.

This disparity research was supplemented with interviews and a focus group session. A one day workshop on disparity in case processing decisions was also conducted for Erie County juvenile justice practitioners. A detailed discussion of interview, focus group, and workshop findings is presented in Appendix C.

Data in Erie County were collected manually.<sup>42</sup> The probation department and the family court had computerized log books that maintained minimal case processing information. From late May through early August of 1995, ten full-time field researchers manually recorded case processing information for the almost 1,700 cases that were referred by the police to probation intake or family court during 1993. Juvenile arrest data were also collected manually from the Buffalo Police Department for arrests that occurred during 1994.

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<sup>42</sup> The sampling procedure used in Erie County differed from the procedure used in Monroe County. In Erie County, cases diverted from family court back to probation intake were not included in the study. This selection procedure focused the study upon the initial decision to forward cases to family court. In Monroe County, cases diverted from family court back to probation intake were included in the analysis. This selection procedure focused the study upon initial as well as subsequent decisions to forward cases to family court. The type of case (police referral or diversion from family court) was controlled in the Monroe County study.

### **A. Detention Following Arrest**

Juveniles arrested for JD offenses can be given appearance tickets requiring them and their parents to appear at probation intake interviews, can be sent directly to family court for detention hearings, or can be placed into a detention facility until family court is open. Some detention decisions are specified by law and some are within the discretion of the arresting officer.<sup>43</sup>

Detention in Erie County differed from detention in Monroe County. In Erie County, juveniles detained following arrest or sent to family court for detention hearings almost always bypassed probation intake. They were not interviewed by probation officers and consequently were not offered adjustment services.

Disparities in detention following arrest were estimated in two ways. The first analysis asked whether police departments across Erie County detained or sent arrested minorities to family court for detention hearings as often as arrested whites. The analysis is labeled "probation bypass", because these juveniles were not interviewed by probation intake. The second analysis asked whether minorities arrested in Buffalo were actually detained more often than whites. This analysis was based upon Buffalo Police Department arrest data and State Division for Youth (DFY) detention data. It captured the police decision to detain juveniles following arrest and the family court decision to detain juveniles following detention hearings.

#### **1. Disparity in Bypassing Probation, Erie County**

During the study period in Erie County, juveniles detained following arrest, and juveniles sent directly to family court for detention hearings, were not processed by probation intake. Family court rarely diverted petitioned cases to probation intake for adjustment services.

Probation intake and family court data were combined to identify juveniles who bypassed probation intake. These juveniles were detained immediately following arrest or were forwarded to family court for detention hearings following arrest.

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<sup>43</sup> The conditions are specified on page 7.

**Control Variables**

The control variables are presented in Table 29.<sup>44</sup> Minorities were more likely to be male; to be arrested for offenses with a more serious charge-class, for drug offenses and for weapons offenses; to have more prior JD cases, prior JD or PINS findings, and other active JD or PINS cases; and to be arrested in the City of Buffalo. There were no significant differences in age at intake, the number of cases in a ring, or the number of prior PINS cases.

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<sup>44</sup> Two of the control variables, "drug offense" and "Buffalo arrest location," were strongly correlated with minority status and each other. Almost all drug arrests were made in Buffalo and almost all of the juveniles arrested for these offenses were minorities. Minorities accounted for 79 percent of the arrests made in Buffalo, but only 21 percent of the arrests made in the suburbs. Tests were undertaken to learn whether the effect of minority status was the same for drug and for non-drug crimes, and whether it was the same within and outside of Buffalo. These tests showed that the effect of minority status was the same for drug and non-drug charges, and was the same within and outside of Buffalo.

**Table 29: Control Variables Used in the Probation Bypass Analysis by Minority Status, Erie County**

Control Variables	Average or Percentage		Significantly Higher for :
	Minorities	Whites	
Age at Intake	14.3	14.4	
Male	84%	78%	Minorities
Charge-Class Seriousness	2.88	2.56	Minorities
Drug Charge	11%	< 1%	Minorities
Weapons Charge	12%	7%	Minorities
Number of Intake Cases in Ring	1.03	1.02	
Other Active Case *	20%	15%	Minorities
Number of Prior PINS Cases	.22	.26	
Number of Prior JD Cases	.86	.48	Minorities
Prior PINS or JD Finding (1+)	9%	5%	Minorities
Buffalo Arrest Location	79%	21%	Minorities
Cases: Number	713	796	
Percent	47%	53%	

\* While the instant case was active at probation intake, the juvenile had other JD or PINS cases pending at probation intake, the presentment agency, or family court, or the juvenile was previously adjudicated a JD or PINS and was still under probation supervision or in placement.

Disparity in the police decision to bypass probation intake is presented in Table 30. A logit regression model was used to control for differences in **demographic characteristics** (age at intake, gender), **offense characteristics** (charge-class seriousness, drug offense, weapons offense), **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in ring, other active JD or PINS cases, prior JD or PINS findings), and **arrest location** (Buffalo vs. elsewhere in county).

**Table 30: Disparity in Bypassing Probation, Erie County**

Minority Status	Percent Attempted	Total Number of Cases	Number Bypassed
Observed Data			
Whites	5%	796	39
Minorities	12%	713	89
If Minorities Were Forwarded for Detention Hearings as Often as Whites Having Identical Values on 4 Control Variables			
Minorities	10%	713	70
Disparity			
Sig Level	.23		
Difference	3%		19
Ratio	1.27		

The table shows that 12 percent of minorities and 5 percent of whites bypassed probation intake. Had minorities bypassed probation intake as often as whites having identical values on statistically significant control variables (charge-class seriousness, number of prior PINS cases, number of prior JD cases, and arrest location), then 10 (not 12) percent would have bypassed probation intake.<sup>45</sup> This disparity was not statistically significant.

## 2. *Disparity in Detaining JDs Following Arrest, Buffalo*

The Buffalo Police Department was selected for special attention in this study because 1990 census data showed that 85 percent of the minority population in Erie County resided in Buffalo. Police arrest data were matched with detention data maintained by DFY to identify juveniles detained following arrest. These data were used to examine arrest rates and measure disparity in the detention decision.

Cases were abstracted from the Buffalo Police Department's ledger for 1994. Almost all of the entries (914 out of 928) involved arrests. Thirteen children were diverted without further involvement in the juvenile justice

<sup>45</sup> The logit regression model can be expressed as:  $\text{logit}(\text{bypassed probation intake}) = -4.99 + .30 \cdot \text{minority} + .42 \cdot \text{charge-class seriousness} + .66 \cdot \text{number of prior PINS custodies} + .12 \cdot \text{number of prior JD arrests} + 1.22 \cdot \text{Buffalo arrest location}$ .

system, and one child was processed for a warrant. These 14 cases were dropped from analysis because they were unrepresentative of how the police processed or recorded cases.

The ledger contained the child's name, date of birth, race (white, black or other), top charge and disposition, but ethnicity and prior arrests were not recorded. Sixty-six percent of the arrested juveniles were black, 23 percent were white, 1 percent were Native American, and 9 percent were listed as "other." A number of the juveniles identified as "other" had Spanish surnames. This suggests that at least some of the juveniles in the "other" category were Hispanic.

a) *Arrest Rates*

Arrest rates and disproportionalities by race (black vs. nonblack) are presented in Table 31. The table shows blacks were arrested for felony and misdemeanor offenses considerably more often than whites. Ratios of black to nonblack rates show that blacks were arrested 3.66 times as often as nonblacks for felony offenses, and 2.19 times as often for misdemeanor offenses. This is similar to the pattern observed in Rochester.

**Table 31: Arrest Rates and Disproportionalities by Race and Offense Seriousness, Buffalo**

Offense	Nonblack	Black	Total
<b>Arrest Rate per 1,000</b>			
Felonies	9	32	19
Misdemeanors	13	29	20
Total	22	61	38
<b>Arrest Rate Relative to Nonblacks</b>			
Felonies	1.00	3.66	
Misdemeanors	1.00	2.19	
Total	1.00	2.78	
<b>Population Characteristics</b>			
Number Aged 10-15	13,715	9,767	23,482
Percent of Population	58%	42%	100%
Percent of Felony Arrests	28%	72%	100%
Percent of Misdemeanor Arrests	39%	61%	100%
Percent of All Arrests	33%	67%	100%
<b>Arrest Disproportionalities</b>			
Felonies	0.48	1.74	
Misdemeanors	0.67	1.47	
Total	0.57	1.60	

*b) Disparity in Detaining JDs*

Juveniles were considered detained if DFY records showed they were detained on the day of or the day following arrest. Overall, 12 percent of the juveniles on the police ledger were detained.

The control variables used to estimate disparity in the detention decision are listed in Table 32. Whites were arrested for less serious charges than blacks and "other" racial groups. Whites were arrested for assault and burglary charges more often than blacks and "others," while blacks and "others" were arrested for drug and theft charges more often than whites. Prior record data were not available for this analysis.

**Table 32: Control Variables Used to Estimate Disparities in Detention Following Arrest, Buffalo**

Control Variable	Average or Percentage			Significant Difference*
	White	Other	Black	
<b>Demographic Variables</b>				
Age	13.8	13.8	13.9	No
Male	84%	89%	85%	No
<b>Description of Charge</b>				
Charge-Class Ser'ness	2.77	3.09	3.08	Yes
Violation Offense	1%	2%	1%	No
Misdemeanor Offense	62%	52%	47%	Yes
Felony Offense	37%	46%	52%	Yes
Weapon Offense	0%	4%	5%	Yes
<b>Article Describing the Top Charge</b>				
Assault	20%	12%	13%	Yes
Felony Burglary	18%	6%	7%	Yes
Misdemeanor Burglary	8%	1%	1%	Yes
Larceny	11%	4%	10%	No
Theft	14%	25%	25%	Yes
Criminal Mischief	15%	13%	11%	No
Controlled Substance	1%	20%	14%	Yes
Cases: Number	213	93	607	
Percent	23%	10%	66%	

\*Difference between whites vs. blacks and others.

Disparity in the police or family court decision to detain arrested juveniles is presented in Table 33. A logit regression model was used to control for differences in **demographic characteristics** (age at arrest, gender) and **offense characteristics** (charge-class seriousness, offense types: violation, misdemeanor, felony, weapon, assault, felony burglary, misdemeanor burglary, larceny, theft, criminal mischief, controlled substance). The initial logit equation contained a coefficient for blacks and a separate coefficient for "others." The equation was simplified by estimating a single variable for blacks because the disparity coefficient for "others" was indistinguishable from that for whites. This is equivalent to comparing how often blacks were detained compared to nonblacks (whites, Native Americans and other nonblacks). The analyses of Buffalo PD data were the only analyses where the black vs. nonblack dichotomy was used rather than the white vs. minority dichotomy.

**Table 33: Disparity in Detaining Arrested JDs, Buffalo**

Minority Status	Percent Detained	Total Number of Cases	Number Detained
Observed Data			
Nonblack	9%	307	29
Black	13%	607	81
If Minorities Were Detained as Often as Whites Having Identical Values on Charge-Class Seriousness			
Black	10%	607	61
Disparity			
Sig Level	.16		
Difference	3%		20
Ratio	1.33		

This table shows that 13 percent of blacks and 9 percent of nonblacks arrested by the Buffalo PD were detained. Had blacks been detained as often as nonblacks having identical values on the only statistically significant control variable (charge-class seriousness), then 10 (not 13) percent would have been detained.<sup>46</sup> This disparity was not significant.

#### **B. Probation Intake to the Presentment Agency**

Probation officers had no discretion in forwarding some cases to the presentment agency. New York State law directed probation officers to forward cases when either complainants or juveniles failed to appear for intake interviews<sup>47</sup> and when either complainants, juveniles or their families insisted that cases be forwarded to the presentment agency for petitioning in family court.<sup>48</sup> In the Erie County Probation Department, internal policy also required probation officers to forward cases when juveniles maintained their innocence of alleged delinquent acts.

<sup>46</sup> The logit equation can be expressed as:  $\text{logit}(\text{detention}) = -3.01 + .33*\text{black} + .34*\text{charge-class seriousness}$ .

<sup>47</sup> See New York State Family Court Act 307.2.

<sup>48</sup> See New York State Family Court Act 308.1(8).

Among juveniles forwarded to the presentment agency, Table 34 shows that minorities were forwarded more often than whites because of legal or policy reasons (31 percent vs. 22 percent). Minorities were forwarded more often than whites because they maintained innocence (16 percent vs. 8 percent) or failed to appear at intake (10 percent vs. 4 percent) more often than whites. Referral due to complainant insistence was higher for whites than minorities (7 percent vs. 3 percent). Hardly any cases were forwarded because the child or the child's family insisted or because the complainant failed to appear at probation intake.

**Table 34: Percent of JDs Forwarded to the Presentment Agency by Reason and Minority Status, Erie County**

Discretion and Reason for Referral	Average or Percentage		Significantly Higher for :
	Minority	White	
Discretion Present	69%	78%	White
Discretion Absent	31%	22%	Minority
Forwarded Because of Legal or Policy Reasons:			
Complainant Insists	3%	7%	White
Juvenile/Family Insists	1%	2%	
Complainant Non- Appearance	2%	< 1%	
Juvenile Non-Appearance	10%	4%	Minority
Juvenile Maintained Innocence	16%	8%	Minority
Number of Referred Cases	354	280	

Disparity can be attributed to probation officers only when they can affect decisions. Disparities in forwarding JDs to the presentment agency were estimated for two decisions wherein probation officers had no decision-making discretion -- forwarded because of juvenile non-appearance and forwarded because of other legal/policy reasons -- and for one decision wherein they had decision-making discretion -- forwarded for other, unspecified reasons.

The disparity analyses were based on JD cases opened at probation intake in 1993.<sup>49</sup> Approximately 35 percent of the 1993 probation intake case files were missing. This occurred because sealed records were destroyed when juveniles turned 16 years of age. These cases with missing data were retained in the analysis by collecting limited data -- top arrest offense, case outcome and juvenile demographics -- maintained in the Department's computerized JD intake ledger.

Ethnicity was rarely recorded in probation files. Based on surnames, Hispanics accounted for 6 percent of the cases analyzed. Because using surnames to identify ethnicity is unreliable, and because even with reliable data there may not have been enough Hispanics to analyze separately anyway, a single minority category was created. Minorities included Hispanics and juveniles of non-white races.

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<sup>49</sup> In 1993, law enforcement agencies in Erie County referred 1,673 JD arrests to probation intake or family court based on probation intake and family court data. Using a ring as the unit of analysis reduced the number of JD cases to 1,633. The number of rings was reduced to 1,509 for the analysis of the police decision to refer JD cases directly to family court because of missing data for race (72 cases), charge-class seriousness (42 cases), location of arrest (6 cases) and age (4 cases). Rings for the probation intake analyses were further reduced to 1,351 cases because some cases bypassed probation intake and 30 cases lacked outcome data.

Race data were not routinely recorded in probation intake or family court files. Race data were routinely recorded by the Buffalo Police Department. When race could not be determined from probation and family court files, requests for race, ethnicity, gender, and date of birth for juveniles arrested outside of Buffalo were submitted to police departments across Erie County. When race/ethnicity was missing from police records, police departments were told to determine a juvenile's racial identity by asking the arresting officer. This approach inadvertently introduced bias into the data set. Race data were known least often in cases involving minor offenses committed by juveniles who had no subsequent contact with the arresting agency. Thus, most of the cases where race data were missing involved arrests made by suburban police departments for minor offenses. Overall, race/ethnicity data were missing for 4 percent of the 1,673 cases.

**1. Explained Disparity in Forwarding JDs Because of Non-Appearance**

Explained disparity in non-appearance at probation intake is shown in Table 35. A logit regression model was used to control for differences in **demographic characteristics** (age at intake, gender), **offense characteristics** (charge-class seriousness, drug offense, weapons offense), **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in a ring, other active JD or PINS cases, prior JD or PINS findings) and **arrest location** (Buffalo vs. elsewhere in county).

**Table 35: Explained Disparity in Forwarding JDs to Family Court Because of Non-Appearance at Probation Intake, Erie County**

Minority Status	Percent Forwarded	Total Number of Cases	Number Forwarded
Observed Data			
Whites	2%	742	12
Minorities	6%	608	35
If Minorities Were Forwarded as Often as Whites Having Identical Values on 2 Control Variables			
Minorities	2%	608	11
Disparity			
Sig Level	<.01		
Difference	4%		24
Ratio	3.13		

This table shows that 2 percent of whites and 6 percent of minorities were forwarded for not appearing at probation intake interviews. Had minorities failed to appear as often as whites having identical values on statistically significant control variables (weapons offense, other active JD or PINS cases), then 2 (not 6) percent would have been forwarded.<sup>50</sup> This explained disparity was statistically significant.

<sup>50</sup> The logit regression model can be expressed as:  $\text{logit}(\text{forwarded because of JD non-appearance}) = -4.52 + 1.21 * \text{minority} + .98 * \text{weapon offense} + 1.18 * \text{other active case}$ .

**2. Explained Disparity in Forwarding JDs Because of Legal or Policy Reasons**

The next analysis was limited to juveniles who appeared for probation hearings. Explained disparity in forwarding cases because of legal or policy reasons is presented in Table 36.<sup>51</sup> A logit regression model was used to control for differences in **demographic characteristics** (age at intake, gender), **offense characteristics** (charge-class seriousness, drug offense, weapons offense), **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in a ring, other active JD or PINS cases, prior JD or PINS findings), and **arrest location** (Buffalo vs. elsewhere in county).

**Table 36: Explained Disparity in Forwarding JDs to Family Court Because of Legal or Policy Reasons, Erie County**

Minority Status	Percent Referred	Total Number of Cases	Number Forwarded
Observed Data			
Whites	7%	730	50
Minorities	13%	573	76
If Minorities Were Forwarded as Often as Whites Having Identical Values on Charge-Class Seriousness.			
Minorities	7%	573	43
Disparity Sig Level	<.01		
Difference	6%		33
Ratio	1.78		

<sup>51</sup> These cases were forwarded because a complainant failed to appear at the intake interview; the complainant, child or the child's family insisted that the case be forwarded to the presentment agency; or a child maintained his or her innocence.

The table shows that 7 percent of whites and 13 percent of minorities were forwarded by probation intake to the presentment agency for such reasons. Had minorities been forwarded as often as whites having identical values on the only statistically significant control variable (charge-class seriousness), then 7 (not 13) percent would have been forwarded.<sup>52</sup> This explained disparity was statistically significant.

### 3. *Disparity in Forwarding JDs at the Discretion of Probation Intake*

Disparity in forwarding cases where probation intake had decision-making discretion is presented in Table 37.<sup>53</sup> A logit regression model was used to control for differences in **demographic characteristics** (age at intake, gender), **offense characteristics** (charge-class seriousness, drug offense, weapons offense), **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in a ring, other active JD or PINS cases, prior JD or PINS findings), and **arrest location** (Buffalo vs. elsewhere in county).

The table shows that 32 percent of whites and 49 percent of minorities were forwarded to the presentment agency. Had minorities been processed as whites having identical values on statistically significant control variables (gender, charge-class seriousness, other active PINS or JD cases, the number of prior PINS cases, the number of prior JD cases, and arrest location), then 44 (not 49) percent would have been forwarded. This disparity was not statistically significant.

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<sup>52</sup> The logit regression model can be expressed as:  $\text{logit}(\text{forwarded because of other legal or policy reasons}) = -3.36 + .65*\text{minority} + .30*\text{charge-class seriousness}$ .

<sup>53</sup> The logit regression model can be expressed as:  $\text{logit}(\text{forwarded at discretion of probation intake}) = -3.18 + .27*\text{minority} + .88*\text{male} + .40*\text{charge-class seriousness} + 1.46*\text{drug} + .49*\text{arrested in Buffalo} + 1.49*\text{other active PINS or JD case} + .53*\text{number of prior PINS cases} + .47*\text{number of prior JD cases}$ .

**Table 37: Disparity in Forwarding JDs to the Presentment Agency Where Discretion Was Possible, Erie County**

Minority Status	Percent Forwarded	Total Number of Cases	Number Forwarded
Observed Data			
Whites	32%	680	219
Minorities	49%	497	243
If Minorities Were Forwarded as Often as Whites Having Identical Values on 6 Control Variables			
Minorities	44%	497	219
Disparity			
Sig Level	.10		
Difference	5%		24
Ratio	1.09		

#### 4. Combining Disparities

Disparities in Table 35, Table 36, and Table 37 are combined in Table 38. This table shows that 38 percent of the whites and 58 percent of the minorities were forwarded to the presentment agency by probation intake or directly to family court by the police. Had minorities been processed as whites, then 45 (not 58) percent would have been forwarded. The disparity ratio shows that minorities were 1.30 times more likely to be forwarded than whites having the same values on significant control variables. Almost all of this disparity was due to differences in non-appearance rates, and in having to forward JDs to family court for legal and policy reasons.

**Table 38: Disparity in Forwarding All JDs to the Presentment Agency From Probation Intake, Erie County**

Minority Status	Percent Forwarded to Family Court	Total Number of Cases	Number Forwarded
Observed Data			
Whites	38%	742	281
Minorities	58%	608	354
If Minorities Were Processed As Whites Aggregating Results from Three Disparity Analyses			
Minorities	45%	608	273
Disparity Sig Level	NA		
Difference	13%		81
Ratio	1.30		

NA: Not applicable. Significance displayed in other tables.

### C. Presentment Agency to Family Court

The presentment agency, which is managed by the County Attorney's Office, screened all JDs referred by the police directly to family court and all JDs referred by probation intake.<sup>54</sup> The presentment agency disparity analysis asked if petitions were filed in family court at a similar rate for white and minority JDs.

### Control Variables

The control variables used to examine disparities in the presentment agency and family court processing decisions are presented in Table 39.<sup>55</sup> Minorities were more likely than whites to be arrested for more serious charge-class offenses and drug offenses, to have more prior JD cases, and to be referred directly to family court by the police. Whites had more prior PINS cases than minorities. There were no significant differences in other control variables.

<sup>54</sup> Using a family court ring case as the unit of analysis reduced the number of JD cases at presentment agency screening to 689 cases.

<sup>55</sup> See footnote 44.

**Table 39: Control Variables Used to Estimate Disparities in Forwarding Cases to Family Court by Minority Status, Erie County**

Control Variables	Average or Percentage		Significantly Higher for :
	Minorities	Whites	
Age at Intake	14.4	14.5	
Age at Disposition *	14.6	14.7	
Male	88%	87%	
Arrest Charge-Class Seriousness	3.14	2.86	Minorities
Drug Arrest Charge	16%	1%	Minorities
Weapons Arrest Charge	17%	12%	
Referred Directly to Family Court by the Police **	21%	11%	Minorities
Number of Cases in Family Court Ring	1.18	1.16	
Other Active Case ***	35%	41%	
Number of Prior PINS Family Court Cases	.19	.40	Whites
Number of Prior JD Family Court Cases	.83	.60	Minorities
Prior PINS or JD Finding	15%	11%	
Cases: Number	398	291	
Percent	58%	42%	

\*Used only in "JD versus PINS" and "placement" analyses.

\*\*Used only in "petition filing" and "detention during court processing" analyses.

\*\*\*While the instant case was in family court, the juvenile had other JD or PINS cases pending at the presentment agency or family court, or the juvenile was previously adjudicated a JD or PINS and was still under probation supervision or in placement.

### 1. Disparity in Filing Petitions

Disparity in the presentment agency decision to file a family court petition is presented in Table 40. A logit regression model was used to control for differences in **demographic characteristics** (age at intake, gender), **offense characteristics** (arrest charge-class seriousness, drug arrest offense, weapons arrest offense), **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in family court ring, other active JD or PINS cases, and prior PINS or JD findings), and

source of case (referred directly to family court by the police vs. probation intake).

**Table 40: Disparity in Filing Petitions in Family Court, Erie County**

Minority Status	Percent Petitioned	Total Number of Cases	Number Petitioned
Observed Data			
Whites	88%	291	255
Minorities	91%	398	364
If Minorities Were Petitioned as Often as Whites Having Identical Values on 3 Control Variables			
Minorities	90%	395	354
Disparity			
Sig Level	.40		
Difference	2%		10
Ratio	1.02		

The table shows that petitions were filed for 88 percent of whites and 91 percent of minorities. Had minorities been processed as whites having identical values on statistically significant control variables (drug offense, the number of family court cases in a ring, and other active PINS or JD cases) then 90 (not 91) percent would have been filed.<sup>56</sup> This disparity was not statistically significant.

#### D. Family Court to Placement

Petitions were filed in family court for 619 of the cases screened by the presentment agency. Disparities were estimated to determine if: (1) minorities and whites were detained during family court processing at equal rates; (2) minorities and whites were adjudicated equally often; and (3) if adjudicated minorities and adjudicated whites were placed equally often.

<sup>56</sup> The logit regression model can be expressed as:  $\text{logit}(\text{petition filed}) = -1.12 + .22 * \text{minority} + 6.96 * \text{drug offense} + .93 * \text{number of family court ring cases} - .52 * \text{other active PINS or JD cases}$ .

**1. Disparity in Detaining JDs While Their Cases  
Were Processed in Family Court**

Disparity in detaining JDs during family court processing is presented in Table 41. A logit regression model was used to control for differences in **demographic characteristics** (age at intake, gender), **offense characteristics** (arrest charge-class seriousness, drug arrest offense, weapons arrest offense), **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in family court ring, other active JD or PINS cases, and prior PINS or JD findings), and **source of case** (forwarded directly to the family court by the police vs. probation intake).

**Table 41: Disparity in Detaining JDs During Family Court Processing, Erie County**

Minority Status	Percent Detained	Total Number of Cases	Number Detained
Observed Data			
Whites	28%	255	71
Minorities	35%	364	126
If Minorities Were Detained as Often as Whites Having Identical Values on 5 Control Variables			
Minorities	29%	364	106
Disparity			
Sig Level	.08		
Difference	5%		20
Ratio	1.19		

The table shows that 28 percent of whites and 35 percent of minorities were detained. Had minorities been processed as whites having identical values on statistically significant control variables (arrest charge-class seriousness, the number of cases in a family court ring, forwarded directly to family court by police, other active PINS or JD cases, and number of prior PINS cases), then 29

(not 35) percent would have been detained.<sup>57</sup> This disparity was not statistically significant.

A regression analysis (not presented here) was conducted to determine whether minorities were detained for longer periods than whites. Using the same set of control variables showed that the number of days detained was not significantly related to minority status.

## 2. Disparity in Entering a Finding

Disparity in entering JD or PINS findings at disposition is presented in Table 42. A logit regression model was used to control for differences in **demographic characteristics** (age at intake, gender), **offense characteristics** (arrest charge-class seriousness, drug arrest offense, weapons arrest offense), and **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in family court ring, other active JD or PINS cases, and prior PINS or JD findings).

Table 42: Disparity in Entering a JD or PINS Finding, Erie County

Minority Status	Percent with a Finding	Total Number of Cases	Number of Findings
Observed Data			
Whites	35%	255	90
Minorities	36%	364	132
If Minorities Were Adjudicated as Often as Whites Having Identical Values on 3 Control Variables			
Minorities	36%	364	130
Disparity			
Sig Level	.87		
Difference	1%		2
Ratio	1.02		

<sup>57</sup> The logit regression model can be expressed as:  $\text{logit}(\text{detained}) = -4.02 + .41 * \text{minority} + .16 * \text{charge-class seriousness} + .97 * \text{number of family court ring cases} + 2.51 * \text{direct referral to the presentment agency by police} + 1.00 * \text{other active PINS or JD cases} + 1.23 * \text{number of prior PINS cases}$ .

The table shows that JD or PINS findings were entered for 35 percent of whites and 36 percent of minorities.<sup>58</sup> Had minorities been processed as whites having identical values on statistically significant control variables (arrest charge-class seriousness, the number of cases in the family court ring, and the number of prior PINS cases), this percentage would have changed less than 1 percent.<sup>59</sup> This disparity was not statistically significant.

### 3. *Disparity in Entering a PINS Rather than a JD Finding*

Disparity in entering a PINS rather than a JD finding at the disposition hearing is presented in Table 43. A logit regression model was used to control for differences in **demographic characteristics** (age at disposition, gender), **offense characteristics** (arrest charge-class seriousness, drug arrest offense, weapons arrest offense); and **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in family court ring, other active JD or PINS cases, and prior PINS or JD findings).

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<sup>58</sup> This analysis included 40 cases that were dismissed in satisfaction of findings entered on other cases. These cases were coded as having had a JD or PINS finding entered to make the outcome reflect the most serious disposition.

<sup>59</sup> The logit regression model can be expressed as:  $\text{logit}(\text{JD or PINS finding entered}) = -2.99 + .03 * \text{minority} + .29 * \text{charge-class seriousness} + 1.14 * \text{number of cases in family court ring} + .45 * \text{number of prior PINS custodies}$ .

**Table 43: Disparity in Being Adjudicated a JD Rather than a PINS, Erie County**

Minority Status	Percent with JD Findings	Total Number of Cases	Number with JD Findings
Observed Data			
Whites	72%	72	52
Minorities	76%	107	81
If Minorities Were Adjudicated a JD as Often as Whites Having Identical Values on 3 Control Variables			
Minorities	71%	107	76
Disparity			
Sig Level	.44		
Difference	5%		5
Ratio	1.06		

The table shows that in the 179 cases where findings were entered, JD findings were entered for 72 percent of whites and 76 percent of minorities.<sup>60</sup> Had minorities been processed as whites with identical values on significant control variables (age at disposition, arrest charge-class seriousness, and the number of prior PINS cases), then 71 (not 76) percent would have been adjudicated JDs.<sup>61</sup> This disparity was not statistically significant.

<sup>60</sup> The 40 cases dismissed in satisfaction of findings entered on other cases, which were included in the "detention during court processing" and "JD or PINS finding" analyses, were excluded from this subset of cases.

<sup>61</sup> The logit regression model can be expressed as:  $\text{logit}(\text{JD finding given adjudicated}) = -2.99 + 0.41 * \text{minority} + .29 * \text{age at disposition} + 0.69 * \text{charge-class seriousness} + 1.06 * \text{other active PINS or JD case}$ .

#### 4. Disparity in Placing Adjudicated Juveniles

Disparity in placing adjudicated juveniles is presented in Table 44.<sup>62</sup> A logit regression model was used to control for differences in **demographic characteristics** (age at disposition, gender), **offense characteristics** (arrest charge-class seriousness, drug arrest offense, weapons arrest offense), and **prior record characteristics** (number of prior JD cases, number of prior PINS cases, number of cases in family court ring, other active JD or PINS cases, and prior PINS or JD findings).

**Table 44: Disparity in Placing Adjudicated Juveniles, Erie County**

Minority Status	Percent Placed	Total Number of Cases	Number Placed
Observed Data			
Whites	22%	72	16
Minorities	22%	107	24
If Minorities Were Placed as Often as Whites Having Identical Values on 4 Control Variables			
Minorities	21%	107	22
Disparity			
Sig Level	.78		
Difference	2%		2
Ratio	1.08		

The table shows that 22 percent of adjudicated whites and 22 percent of adjudicated minorities were placed. Had minorities been placed as whites with identical values on significant control variables (being male, a weapon arrest offense, the number of prior PINS cases, and prior PINS or JD findings), then 21 (not 22) percent would have been placed.<sup>63</sup> This disparity was not statistically significant.

<sup>62</sup> Among the 66 juveniles who were placed, 20 were placed with DFY, 38 with DSS, 4 with relatives, 2 with Mental Health, and 2 in some other way.

<sup>63</sup> The logit regression model can be expressed as:  $\text{logit}(\text{placement}) = -1.04 + .12 * \text{minority} - 1.05 * \text{male} + .75 * \text{weapons offense} + .49 * \text{number of prior PINS cases} + 1.33 * \text{prior PINS or JD finding}$ .

### **E. Discussion**

Minorities were generally processed in the same manner as whites following arrest in Erie County. There were no statistically significant disparities in how JDs were processed from arrest to placement in discretionary decisions made by Erie County juvenile justice practitioners. Minorities were forwarded to the presentment agency more often than whites because they either failed to appear or maintained their innocence more often than whites. The probation department should consider new policies or programs for dealing with juveniles who fail to appear, and some effort should be undertaken to learn why minorities maintained their innocence more often than whites.

With respect to the policy of forwarding all cases to family court who maintain their innocence, corrective action is not straightforward. At the heart of this policy are questions regarding whether it is more appropriate for probation intake or the presentment agency to determine whether there is sufficient evidence to establish guilt, and whether cases warrant prosecution in family court. These questions are answered differently across the state. Policy makers need to understand that their policies in these matters could inadvertently affect how far minorities penetrate the juvenile justice system. The probation department, the presentment agency, and family court should examine whether the policy of forwarding all juveniles who maintain their innocence to the presentment agency should be modified in light of this finding.

#### **F. Findings From Interviews, the Focus Group, and the Workshop**

Personal interviews and a focus group were conducted to identify local practices and policies that contribute to the disproportionate presence and disparate processing of minority youth in the Erie County juvenile justice system, and to secure recommendations for corrective actions. Approximately 60 juvenile justice practitioners -- including school officials, police officers, probation officers, presentment agency attorneys, family court judges, and detention agency staff -- were interviewed. Practitioners discussed juvenile delinquency processing problems in general terms and discussed how these problems contribute to disparity.

The workshop discussion conducted in September 1995 was guided by preliminary findings from the disparity study, interviews, and focus group research. Participants discussed the need for more effective planning; better relationships among schools, human service agencies and the juvenile justice system; more minority staffing; improving parenting skills; and the importance of making diversion and alternative programs available county-wide. Interview, focus group, and workshop discussions are presented in Appendix C. The following are selected highlights reflecting the range of concerns expressed by participants in interviews, a focus group, and a workshop. Further details can be found in Harig et al (1995).

- Erie County might benefit from a strategic juvenile justice planning committee. Communication and collaboration among schools, juvenile justice agencies and human service agencies should be improved. Experienced teachers can identify children from elementary school onward who have problems that may grow more severe without intervention. Schools would like to share such assessments, but are frustrated by the absence of guidelines and procedures for doing so.

- The under-representation of minorities among Erie County's professional work force requires attention. There are no black male staff in juvenile probation, and few people of color in the Erie County family court system. Furthermore, the lack of bilingual staff sometimes makes it difficult to obtain adequate information from or about a child or to match a child with needed services.
- The need for effective parenting programs was stressed repeatedly. It was suggested that these programs should be compulsory for parents and guardians of children involved in the juvenile justice system. The family court system is sometimes a last resort for families dealing with their children's misbehavior. This occurs where there are insufficient parenting skills and financial or community resources to solve problems.
- Diversion programs must be equally accessible to juveniles in both urban and suburban communities. Some participants believed that the greater availability of diversion programs in suburban areas, coupled with the greater affluence of suburban families and their ability to access services for their children and compensate victims, leads to minority over-representation in the juvenile justice system.

#### IV. Disparities in New York City

Criminal justice practitioners in New York City began addressing minority over-representation in the juvenile justice system several years before the disparity research sponsored by OJJDP was undertaken in Erie and Monroe counties. In November, 1992, New York City received a nine-month planning grant from the Annie E. Casey Foundation to develop strategies for reforming its juvenile detention system as part of its Juvenile Detention Alternatives Initiative (JDAI). The grant was used to develop a three-year plan to reduce reliance on secure detention for youth (15 years old and younger) charged with criminal offenses. In December 1993, the Casey Foundation awarded New York City a \$2.25 million dollar grant to implement the initiative.

As part of the JDAI, the New York City Criminal Justice Agency (CJA) released a report entitled, "Minority Over-Representation Among Juveniles in New York City's Adult and Juvenile Court Systems During Fiscal Year 1992," in February, 1996. This report was completed for the Office of the Criminal Justice Coordinator of the City of New York. The report was written by Akiva Liberman with Laura Winterfield and Jerome McElroy.

The research was designed to discover whether juveniles from different racial or ethnic groups were processed in a consistent manner, and to discover whether black youth were processed in the same manner as Hispanic youth. The analyses were based upon arrests of white, Hispanic, and black juveniles under age 16 that took place in New York City during the fiscal year 1992 (July 1, 1991 through June 30, 1992). Arrests were followed for nine months after the end of the fiscal year. Arrests, not rings, were used as the unit of analysis. Disparities were estimated separately for JD and JO arrests.

Dr. Liberman developed an appendix so that disparities measured in New York City could be reported in a similar manner to disparities measured in Erie and Monroe counties. The reader is invited to contact the Criminal Justice Agency for a copy of the complete report.

### A. Arrest Rates

Arrest rates for JO and JD offenses, based upon the CJA data set, are presented in Table 45. The JD rates were calculated from the number of cases opened at probation intake. The JO rates were calculated from the number of cases referred to the district attorney for arraignment.<sup>64</sup> Neither JD nor JO rates account for police diversions that may have occurred preceding arrest.

Table 45 shows that whites had the lowest arrest rates and blacks had the highest. For JO and JD offenses combined, the black rate was nine times higher than the white rate; the Hispanic rate was five times higher.

Whites represented 32 percent of the juvenile population, and accounted for 3 percent of the JO arrests and 7 percent of the JD arrests. Blacks represented 34 percent of the juvenile population, and accounted for 67 percent of the JO arrests and 60 percent of the JD arrests. Hispanics represented 34 percent of the juvenile population, and accounted for 29 percent of the JO arrests and 33 percent of the JD arrests. Disproportionality indices were close to zero for whites, close to one for Hispanics, and close to two for blacks.

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<sup>64</sup> The population statistics were derived from the 1990 census. The percentage of Hispanics by racial group was calculated for persons of all ages and applied to persons aged 10 to 15 by racial group. Some adjustments were undertaken.

The rates for JOs are low, because not all juveniles aged 10 to 15 can be prosecuted as JOs. Juveniles aged 10 to 12 cannot be prosecuted as JOs. Juveniles aged 13 arrested for second degree murder can be prosecuted as JOs. Juveniles aged 14 or 15 arrested for any crime listed in section 10.10(18) of the Penal Law can be prosecuted as JOs. JO rates for juveniles aged 13 through 15 can be approximated by doubling the JO rates presented in Table 45.

**Table 45: Arrest Rates and Disproportionalities for JO and JD Arrests, New York City**

Offense	Whites	Blacks	Hispanics	Minorities	Total
Number of Arrests					
JO	53	1,048	458	1,506	1,559
JD	677	5,940	3,303	9,243	9,920
Total	730	6,988	3,761	10,749	11,479
Arrest Rates Per 1,000					
JO*	0.32	6.11	2.65	4.37	3.07
JD	4.14	34.60	19.11	26.83	19.52
Total	4.46	40.71	21.77	31.21	22.59
Ratio of Arrest Rates Compared to Whites					
JO	1.00	18.86	8.19	13.51	
JD	1.00	8.37	4.62	6.49	
Total	1.00	9.13	4.88	7.00	
Population Characteristics					
Number Aged 10-15	163,712	171,654	172,800	344,454	508,166
Percent of Population	32%	34%	34%	68%	100%
Percent of JO Arrests	3%	67%	29%	97%	100%
Percent of JD Arrests	7%	60%	33%	93%	100%
Percent of JO and JD Arrests	6%	61%	33%	94%	100%
Disproportionality					
JO	0.11	1.99	0.86	1.43	1.00
JD	0.21	1.77	0.98	1.37	1.00
Total	0.20	1.80	0.96	1.38	1.00

\* Multiply the JO rate by two to approximate the rate for juveniles aged 13 to 15.

Disparities were estimated for five decisions following arrest. The decisions are presented by racial and ethnic categories in Table 46. Different decision points were used for JDs and JOs to reflect the different processing options available.

**Table 46: Outcomes at Five Decision Points Following Arrest by Race and Ethnicity, New York City**

Decision	Black		Hispanic		White	
	Percent*	Total Cases	Percent*	Total Cases	Percent*	Total Cases
<b>Juvenile Offenders</b>						
Filed in Criminal Court	87%	1,048	90%	458	92%	53
Detained following Arraignment in Criminal Court	48%	899	49%	409	33%	49
Filed in Superior Court	49%	904	46%	410	31%	49
Convicted in Superior Court	89%	380	89%	165	77%	13
Incarcerated	52%	295	43%	126	30%	10
<b>Juvenile Delinquents</b>						
Referred to Presentment from Probation Intake	95%	5,750	93%	3,039	91%	657
Petition Filed with Family Court	61%	5,484	61%	2,821	59%	600
Detained Following Initial Appearance in Family Court	21%	3,306	21%	1,671	10%	352
Guilt Established	68%	3,224	71%	1,628	70%	335
Placed with DFY	44%	1,714	39%	897	19%	189

\*Percentages are based on the total number of cases subject to each decision. These totals are presented in the table.

#### **B. Disparities in Processing JOs: Blacks vs. Hispanics**

Liberman estimated disparities in how blacks were processed relative to how Hispanics were processed. For JDs and for JOs, across all decisions, Liberman found no significant disparities in how Hispanics were processed relative to how blacks were processed. A similar conclusion, based upon a slightly different method, was reached in Monroe County.

Liberman's demonstration that blacks and Hispanics were processed in the same manner is not presented here. Instead, the reporting of his research concentrates on differences in how whites and minorities were processed.

### C. Differences in Processing JOs: Minorities vs. Whites

New York City was the only site in this report that processed enough JOs to compare how whites and minorities were processed.<sup>65</sup> However, some comparisons were difficult to interpret because whites accounted for only 3 percent of JO arrests. A total of 53 whites, 458 Hispanics, and 1,048 blacks were arrested for JO offenses in 1992. A total of 10 whites, 126 Hispanics, and 295 blacks were sentenced in superior court based upon a JO arrest.

Liberman did not have enough white cases to estimate disparities using controls for legitimate factors. Instead, he compared observed percentages at five key decision points. The percentage of whites and the percentage of minorities receiving the more severe of two outcomes at these five decision points and the statistical significance of the difference between these percentages are presented in Table 47.

**Table 47: Percentages of JO Defendants Receiving the More Severe of Two Outcomes at Five Decision Points by Minority Status, New York City**

Decision	Minority		White		Sig. Level*
Case Filed in Criminal Court	88%	1,506	92%	53	0.08
Detained following Arraignment in Criminal Court	48%	1,308	33%	49	<.01
Case Filed in Superior Court	48%	1,314	31%	49	<.01
Convicted in Superior Court	89%	545	77%	13	.17*
Sentenced to Incarceration Sentence	49%	421	30%	10	.19*

\* Significance levels were based upon Pearson's chi-square test for the first three decisions and Fisher's one-tail exact test for the last two decisions.

<sup>65</sup> Fewer than 40 juveniles were charged with JO offenses in either Erie or Monroe County in 1993.

The first decision point shows that minorities and whites were equally likely to be arraigned in criminal (adult) court following arrest. About 90 percent of defendants were arraigned in criminal court.

The second decision point shows that minorities were detained following arraignment more often than whites. About half of minorities and one-third of whites were detained following arraignment in criminal court.

The third decision point shows that minorities were processed in superior court more often than whites. About half of minorities and one-third of whites were processed in superior court. These defendants were either indicted for JO offenses, or agreed to be prosecuted by superior court informations. Defendants who were not processed in superior court had their cases dismissed or removed to family court.

Differences in how whites and minorities were processed in superior court were difficult to interpret, because only 15 whites were prosecuted for JO offenses. In superior court, minorities were convicted more often than whites (89 vs. 77 percent), and among convicted defendants, minorities were sentenced to incarceration more often than whites (49 vs. 30 percent). Differences between these percentages were not significant. However, this is not surprising given the small number of white cases. These differences cannot be interpreted as disparities in the sense used elsewhere in this report, because it was not possible to control for the influence of legitimate factors.

#### **D. Processing JDs**

Liberman had enough cases to estimate disparities in processing white vs. minority JDs in family court. His control variables are defined in Table 48.

**Table 48: Control Variables Used to Estimate Disparities for JD Cases, New York City**

Type of Variable	Description
Demographic	Gender
	Age
Arrest Description	Borough
	Charge Seriousness: Class A felony=10, Class B felony=9, etc. Measured at arrest, petition, and fact finding
	Weapon Use: gun=5, alleged gun=4, blunt or cutting instrument=3, bomb=2, physical force=1, none=0
	Drug Felony: yes or no
	Number of associates: 0,1,2,3+
	Victim: yes or no
	Victim's gender
	Victim's age
Criminal History: Probation Data	Prior Most Serious Charge: serious felony=4, drug felony=3, other felony=2, misdemeanor=1, none=0
	Prior Most Serious Outcome: placement=5, probation=4, finding=3, petition=2, probation record=1, none=0
	Number of prior probation cases
Criminal History: Corporation Counsel	Prior Most Serious Charge: (coded above)
	Prior Number of Family Court Petitions
	Prior Warrants: yes or no.
Other Processing Variables	Transferred from Adult Court: yes or no
	Remanded at Arraignment: yes or no

**1. Disparity in Forwarding JDs From Probation Intake to Presentment**

Disparity in forwarding JD cases from probation intake to the presentment agency (the Corporation Counsel) is presented in Table 49. A logit regression model was used to control for **demographic characteristics** (age at arrest, gender), **arrest characteristics** (arrest borough, charge-class seriousness, severity of weapon used, whether the top charge was a drug charge, the number of associates, whether the victim was known, the victim's age and gender), **prior record characteristics maintained by probation** (prior most severe charge, prior most serious outcome, number of prior cases), and **processing characteristics** (whether the case was transferred down from adult court). Almost all of the cases that entered probation intake --94 percent of minorities and 91 percent of whites-- were forwarded to the Corporation Counsel. Had minorities been forwarded to the Corporation Counsel as often as whites having identical values on nine statistically significant control variables (age at arrest, arrest borough, charge-class seriousness at arrest, whether the charge was a drug charge, the severity of the weapon used, the number of associates, whether there was a victim, the sex of the victim, and the most severe outcome in a previous case), then 92 (not 94) percent would have been forwarded. This disparity was significant at the .05 but not at the .01 level of significance.

**Table 49: Disparity in Forwarding JDs to the Presentment Agency, New York City**

Minority Status	Percent Forwarded to Presentment	Total Number of Cases	Number Forwarded
<b>Observed Data</b>			
Whites	91%	657	600
Minorities	94%	8,789	8,305
<b>If Minorities Were Processed As Whites Having Identical Values On 9 Significant Control Variables</b>			
Minorities	92%	8,789	8,109
Disparity Sig Level	<.05		
Difference	2%		196
Ratio	1.02		

This disparity had almost no impact on how often minorities were forwarded to the presentment agency. Minorities were 1.02 times as likely to be forwarded to presentment as statistically simulated whites, constructed to be comparable to minorities with respect to significant control variables. A disparity this small would not have been classified as statistically significant in Monroe or Erie counties, where analyses were based upon fewer cases. In the context of far greater disparities found at some other decision points, the effect of this statistically significant (but small) disparity on disproportionate minority confinement is negligible.

The percentages in Table 49 are much higher than comparable percentages in Monroe and Erie counties. In Monroe County, 55 percent of the JDs processed for Class E felonies, 63 percent processed for Class D felonies, 52 percent processed for Class C felonies, and 70 percent processed for Class B felonies were forwarded to presentment. In Erie County, the percentages forwarded to presentment by class of arrest charge equaled 65, 67, 67, and 92 percent, respectively.

## **2. *Disparity in Forwarding JDs From Presentment to Family Court***

Liberman found no significant differences in the percentage of cases forwarded from the presentment agency to family court. Petitions were filed in 61 percent of the black cases, 61 percent of the Hispanic cases, and 59 percent of the white cases. In other words, about 40 percent of the cases forwarded to the presentment agency were declined.

Liberman did not estimate disparities when there were no significant differences in the percentage of whites and minorities processed in a particular manner at each decision point. Hence, he did not estimate disparity for this decision.

**3. Disparity in Detaining JDs at Arraignment in Family Court**

Disparity in detaining juveniles following their initial appearance in family court (first court appearance after their petition is filed) is presented in Table 50. A logit regression model was used to control for differences in **demographic characteristics** (age at arrest, gender), **arrest characteristics** (arrest borough, charge-class seriousness, severity of weapon used, whether the top charge was a drug charge, the number of associates, whether the victim was known, the victim's age and gender), **prior record characteristics maintained by probation** (prior most severe charge, prior most serious outcome, number of prior cases), **prior record characteristics maintained by the Corporation Counsel** (prior most severe charge, prior most serious outcome, number of prior cases, whether there were any prior warrants), and **processing characteristics** (whether the case was transferred down from adult court).

**Table 50: Disparity in Detaining Juveniles Following Their Initial Appearance in Family Court, New York City**

Minority Status	Percent Detained	Total Number of Cases	Number Detained
Observed Data			
Whites	10%	352	34
Minorities	21%	4,977	1,053
If Minorities Were Processed As Whites Having Identical Values On 9 Significant Control Variables			
Minorities	15%	4,977	746
Disparity Sig Level	<.01		
Difference Ratio	6%		310
	1.41		

The table shows that 10 percent of whites and 21 percent of minorities were detained. Had minorities been detained as often as whites having identical values on statistically significant control variables (arrest borough, charge-class seriousness at petition, severity of weapon used, the number of associates, whether there was a victim, the age of the victim, the most serious prior charge, the most severe

outcome in a previous case, and the number of prior cases), then 15 (not 21) percent would have been detained. The disparity ratio shows that minorities were 1.41 times as likely to be detained as statistically simulated whites. Disparities represented a total of 310 detentions.

#### 4. *Disparity in Fact-Finding in Family Court*

Liberman found no disparity in fact-finding decisions in family court. Guilt was established in 70 percent of the white, 71 percent of the Hispanic, and 68 percent of the black cases.

#### 5. *Disparity in Placing JDs with DFY*

Disparity in placing JDs whose guilt was established with the Division for Youth is presented in Table 51.<sup>66</sup> A logit regression model was used to control for **demographic characteristics** (age at arrest, gender), **arrest characteristics** (arrest borough, charge-class seriousness, severity of weapon used, whether the top charge was a drug charge, the number of associates, whether the victim was known, the victim's age and gender), **prior record characteristics maintained by probation** (prior most severe charge, prior most serious outcome, number of prior cases), **prior record characteristics maintained by the Corporation Counsel** (prior most severe charge, prior most serious outcome, number of prior cases, whether there were any prior warrants), and **processing characteristics** (whether the case was transferred down from adult court, whether the juvenile had been remanded at arraignment).

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<sup>66</sup> New York City placed almost all its JDs with the Division for Youth. In 1992, fewer than two percent of its placements were with the Department of Social Services.

**Table 51: Disparity in Placing JDs Whose Guilt Was Established in Family Court with DFY, New York City**

Minority Status	Percent Placed with DFY	Total Number of Cases	Number to DFY
Observed Data			
Whites	19%	189	36
Minorities	42%	2,611	1,096
If Minorities Were Processed As Whites Having Identical Values On 9 Significant Control Variables			
Minorities	28%	2,611	738
Disparity			
Sig Level	<.01		
Difference	14%		358
Ratio	1.49		

The table shows that 19 percent of whites and 42 percent of minorities were placed. Had minorities been placed as often as whites having identical values on nine statistically significant control variables (remand at arraignment, age at arrest, arrest borough, charge-class seriousness of the arrest, charge-class seriousness of the finding, age of any victim, most severe outcome in a previous case in probation, number of prior probation cases, and whether the defendant had a warrant history) then 28 (not 42) percent would have been placed. The disparity ratio shows that minorities were 1.49 times as likely to be placed as statistically simulated whites.

#### **E. Discussion**

Minorities were processed in adult and juvenile justice systems considerably more often than whites primarily because they were arrested more often. Arrest rates for JO offenses were nineteen times higher for blacks than for whites and nine times higher for Hispanics. Arrest rates for JD offenses were eight times higher for blacks than for whites and five times higher for Hispanics.

It is unknown whether differences in arrest rates by race and ethnicity can be attributed to disparities in arrest practices following contact. Research needs to be undertaken to understand the police-juvenile contact decision. In particular, how often do police informally divert juveniles? Should or could the comparatively high diversion of juveniles taken into custody for felony offenses that was achieved by the Rochester Police Department be undertaken in New York City?

There were no significant differences between how blacks were processed and how Hispanics were processed. When disparities occurred, they occurred equally often to blacks and Hispanics. This important finding would not have been reached had the Criminal Justice Agency followed OJJDP's advice, namely to not estimate disparities for minority groups with disproportionality ratios less than one. The Phase I reports required by OJJDP showed ratios greater than one for blacks but less than one for Hispanics.

Blacks and Hispanics were held in secure detention following their initial appearance in family court 1.4 times as often as statistically simulated whites constructed to be comparable to minorities with respect to significant control variables (arrest borough, charge-class seriousness at petition, severity of weapon used, the number of associates, whether there was a victim, the age of the victim, the most serious prior charge, the most severe outcome in a previous case, and the number of prior cases). Data were not available for estimating disparities in detention decisions following arrest for JD offenses.

Minorities were held in detention more often than whites following arraignment in criminal court for JO offenses. Disparity in this decision could not be estimated, because there were not enough whites to control for differences in variables that legitimately affect detention.

There were no disparities in forwarding JDs from the presentment agency to family court, or in adjudicating JDs in family court. However, among adjudicated juveniles, minorities were placed with DFY 1.49 times as often as statistically simulated whites constructed to be comparable to minorities with respect to significant control variables (remanded at arraignment, age at arrest, arrest borough,

charge-class seriousness of the arrest, charge-class seriousness of the finding, age of any victim, most severe outcome in a previous case in probation, number of prior probation cases, and whether the defendant had a warrant history).

Minorities arraigned on JO offenses in criminal court were processed in criminal court more often than whites. There were not enough whites to estimate disparities in any processing decision in superior court.

Several programs are currently being supported by JDAI to decrease the use of detention preceding placement. The New York City Criminal Justice Agency is working with the Department of Juvenile Justice (DJJ) to decrease reliance on secure detention. They are developing a new classification/screening instrument to administer to juveniles admitted to the Spofford Juvenile (detention) Center. DJJ has the authority to release police admissions to parents or guardians while they await their probation intake interview, and to transfer some juveniles to non-secure detention.

DJJ is also developing a JDAI sponsored program, named PACER. The Population Administrator and Case Expediter will be a DJJ staff person dedicated to reducing inappropriate reliance on secure detention. PACER's main objective will be to facilitate the timely removal of juveniles from secure detention to the least restrictive alternative that is appropriate for them.

As part of JDAI's plan to reduce reliance on detention for youth before they reach family court, the Department of Probation is planning to provide an Expanded Alternative to Detention (EATD) program for a portion of the juvenile delinquency population that would otherwise be remanded to the Department of Juvenile Justice for detention. EATD will build on, and enhance, a service that probation has provided for the past 24 years.

Youth paroled to EATD will attend a special program five days per week for 12 hours per day, and the centers will be open from 8 in the morning to 8 in the evening. The youth and parent or guardian will participate in an assessment service planning process. Home visits will be required.

Substance abuse specialists will provide assessments and referrals. The program will provide a full range of individual, family, and group services, as well as academic and recreation activities. An education specialist will assist in the respondent's entry into an appropriate school placement, should the respondent remain in the community.

The JDAI Committee was reconstituted in March, 1996, to review the disparity research in New York City and develop policies to reduce disproportional representation of minorities. The JDAI Committee plans to review each of the critical decision points in the system in an effort to suggest change. They hope to develop data on pre-arrest decisions. One possibility that has been discussed is targeting one particular area and engaging the police and community in a problem solving process that may reveal typical situations and the methods used by the police to deal with them.

The JDAI Committee is currently preparing a new mission statement. They are developing ways to discuss cross-cultural issues within the juvenile justice system and are reviewing their earlier work, which included a self-administered cross-cultural competency questionnaire developed with technical assistance from the Casey Foundation.<sup>67</sup>

#### **F. Findings From the Workshop**

Interviews and focus groups were not conducted in New York City. The workshop group discussions in September, 1995 followed preliminary findings from the disparity research in Monroe County, Erie County, and New York City. The participants discussed limitations of the research, police practices, early community intervention, community-based alternatives, effective coordination of programs and services, and racial and ethnic diversity in staffing.

The full discussion of workshop findings is presented in Appendix D. The following selected highlights reflect the range of concerns expressed by participants in the workshop session:

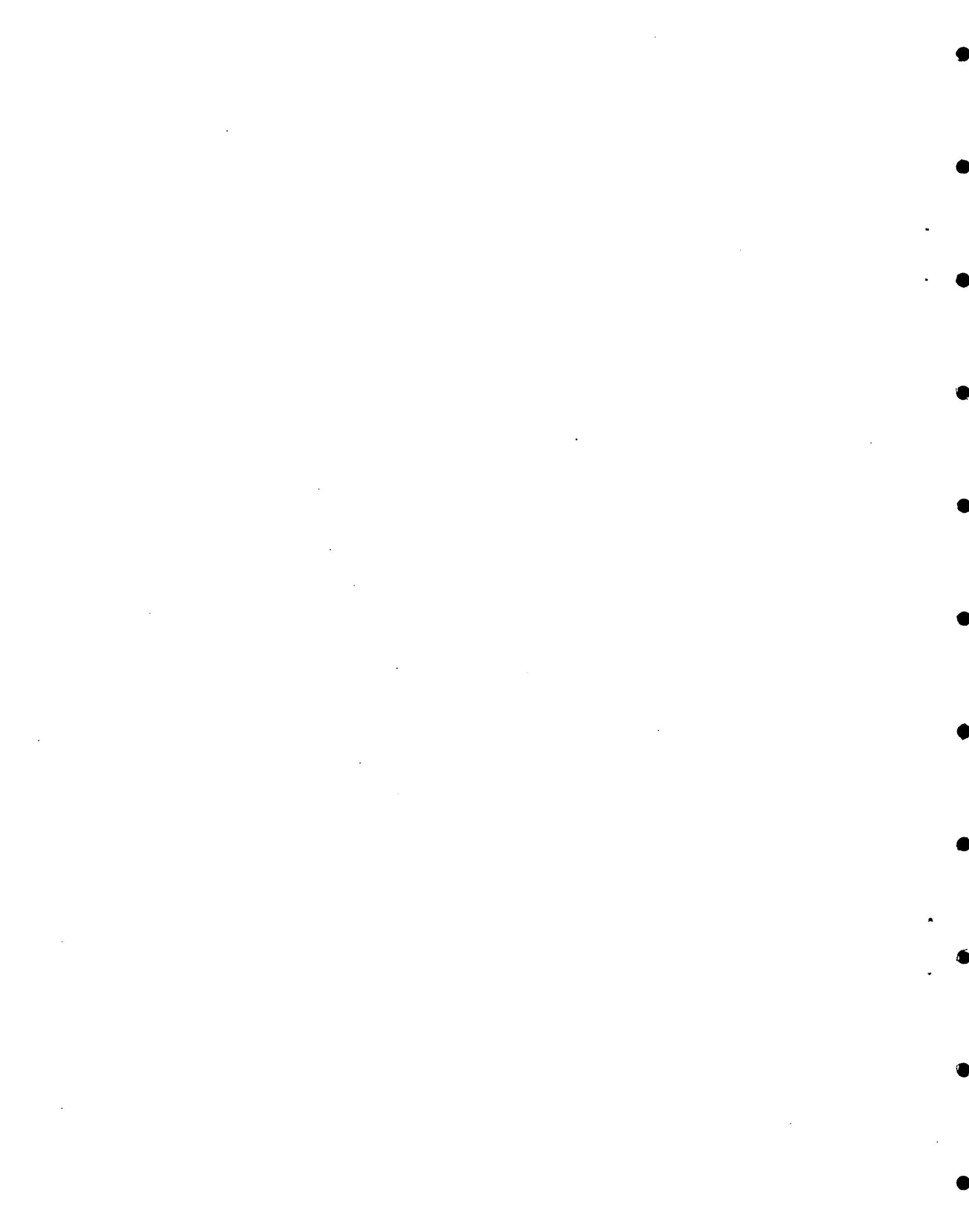
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<sup>67</sup> Comments on the JDAI committee were provided by Pat Brennan, Office of the Criminal Justice Coordinator, City of New York, Office of the Mayor.

- Participants cautioned against premature conclusions about the existence of disparity because many factors that influence decision making were not examined in the disparity research. For example, the effect of a warrant history, pending cases, and prior record on family court detention and placement decisions was not examined, even though the court is required to consider these factors. Warrant history and prior record were added as control variables following the workshop.
- More must be learned about police decisions and policing of young people in the community. The police know the youngsters in the neighborhoods they patrol, and take informal action on many more cases than are recorded in reports. However, too little is known about the processes they use to make these decisions and the circumstances under which they make them.
- Precinct- or community-based intervention services should be promoted to prevent youths from becoming arrested. Aligning such services with the precincts conforms with the City's Over-Representation of Youth of Color Subcommittee support for community-based alternatives that will be useful to the community and acceptable to the New York Police Department in avoiding arrest of youth for minor offenses.
- Community-based services should target youngsters who are amenable to behavior change by providing alternatives to detention and placement. Probation needs to take a major role in coordinating these services. Electronic monitoring and intensive supervision should be made available for juveniles otherwise headed for placement.
- Intervention initiatives must be collaborative. Agencies should review the services they provide and integrate them with the services offered by other agencies. Some services should be offered in schools to serve children more effectively and counter the effects of reduced funding.

- Decision makers need training in cultural sensitivity. This does not mean that decision makers are racists. Decision makers need to know more about the people about whom they make decisions and learning more will aid them in making those decisions.
- Increase the racial and ethnic diversity of professional staff in juvenile and criminal justice agencies. Increasing diversity will promote more informed policies and better communication with the communities being served.

Workshop participants reminded each other that the overall disproportionate minority confinement initiative was not primarily a research effort, but a problem-solving effort.



## V. References

- Albonetti, C.A., R.M. Hauser, J. Hagan, and I.H. Nagel. 1989. "Criminal Justice Decision Making as a Stratification Process: The Role of Race and Stratification Resources in Pretrial Release." *Journal of Quantitative Criminology* 5: 57-82.
- Coalition for Juvenile Justice. 1993. *Pursuing the Promise: Equal Justice for All Juveniles - 1993 Annual Report*. Washington.
- Farrell, R.A. and V.L. Swigert. 1978. "Prior Offense Record as a self-fulfilling Prophecy." *Law and Society* 12: 437-453.
- Greenstein, S.C. 1991. "Concurrency Rings and Processing Statistics-A New Unit of Count." A paper presented at the Nov. 1991 annual meeting of the American Society of Criminology. The paper is available from the Office of Justice Systems Analysis, Division of Criminal Justice Services, Stuyvesant Plaza, Albany, New York 12203.
- Hagan, J. and K. Bumiller. 1983. "Making Sense of Sentencing: A Review and Critique of Sentencing Research." Chapter 1 in *Research on Sentencing: The Search for Reform*, edited by A. Blumstein, J. Cohen, S. Martin, and M. Tonry, National Academy Press, Wn, DC.
- Harig, T.J., S. Amarel, M. Montfort. 1995. "Disproportionate Minority Confinement: Preliminary Analyses of Findings in Erie and Monroe Counties." New York State Commission of Correction, Albany, New York.
- Levin, J. and W. Levin. 1982. *The Functions of Discrimination and Prejudice*. Harper and Row, New York.
- Lieberman, A., L. Winterfield and J. McElroy. 1996. "Minority Over-Representation Among Juveniles in New York City's Adult and Juvenile Court Systems During Fiscal Year 1992." New York City Criminal Justice Agency, New York, New York.

- Nelson, J.F. 1994. "A Dollar or a Day: Sentencing Misdemeanants in New York State." *Journal of Research in Crime and Delinquency*, 31, No.2, 183-201.
- Schaefer, R.T. 1984. *Racial and Ethnic Groups*. Little Brown and Company, Boston.
- U.S. Department of Justice - Office of Juvenile Justice and Delinquency Prevention. 1990. *Disproportionate Minority Confinement Technical Assistance Manual*. Washington.
- NYS. 1994. "Update on New York State's Progress Regarding Disproportionate Minority Confinement." Office of Funding and Program Assistance, Division of Criminal Justice Services, Xeroxed. Albany, New York.

## VI. Appendix

### A. Control Variables for PINS and JD Disparity Analyses in Family Court, Monroe County

The control variables used to estimate disparities for PINS and JDs in family court decisions in Monroe County are presented here. The same set of control variables were used to estimate disparities in forwarding probation cases to family court. Averages and percentages by race are presented for readers who would like to compare how values on these variables differed in probation and family court settings. The variables measured at probation were presented earlier in Table 11 and Table 12.

#### Stage I Control Variables

The three statistical models used to estimate disparities in probation decisions were used to estimate disparities in family court decisions. The Stage I variables are presented in Table 52. Several new variables were used. Prior record included counts of prior JD rings in family court, counts of prior JD findings, counts of prior PINS rings in family court, and counts of prior PINS findings. The number of neglect cases in family court was taken from the probation data set. It was obtained by matching names in probation and family court data bases.

The table shows that minorities had more extensive prior records than whites. Among JDs, minorities were charged with more serious offenses than whites. Among PINS, minorities were slightly younger than whites.<sup>68</sup>

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<sup>68</sup> The reopened case variable identifies cases that were reopened in court following an earlier court disposition. This variable was not used in logit regression models because too few cases were reopened.

**Table 52: Demographic, Offense Seriousness, and Prior Record Variables Used in Stage I Models by Minority Status and Type of Case, Family Court, Monroe County.**

Control Variables	PINS Cases			JD Cases		
	Average or Percentage		Sign'ly Higher for:	Average or Percentage		Sign'ly Higher for:
	Minorities	Whites		Minorities	Whites	
Age	14.0	14.3	Whites	14.2	14.3	
Male	34%	34%		85%	78%	
Reopened Case	1%	0%		1%	2%	
Number of Cases in Ring	1.01	1.01		1.37	1.38	
Charge Seriousness	NA	NA	NA	4.62	4.28	Minorities*
Weapon Charge	NA	NA	NA	10%	6%	
Neglect Cases in Family Court	.18	.09		.19	.10	
Prior JD Rings in Family Court	.04	.01	Minorities*	.47	.29	Minorities
Prior JD Adjudications	.01	.00		.30	.18	Minorities
Prior PINS Rings in Family Court	.24	.11	Minorities	.13	.11	
Prior PINS Adjudications	.01	.03		.06	.09	
Number of Cases	196	116		295	142	

NA: Not Applicable  
 \* Significant at the .10 but not at the .05 level.

A coefficient was used in Stage I models to test whether juveniles aged 16 were treated differently than younger juveniles. These juveniles were aged 15 when they committed the alleged act or acts that resulted in their processing. The coefficient was needed because juveniles aged 16 were treated differently than younger juveniles at several processing stages. The non-linear relationship of age to processing decisions is illustrated in Table 53. This table shows that juveniles aged 16 when their cases began in family court were held in detention much less often than younger juveniles.

**Table 53: Percent Detained at Least One Day by Age, Family Court, Monroe County**

Age at start of ring	Percent Held in a Detention Facility			
	PINS		JDs	
10		(0)	67%	(3)
11	67%	(6)	50%	(8)
12	77%	(22)	63%	(27)
13	63%	(46)	48%	(58)
14	69%	(117)	63%	(140)
15	54%	(123)	63%	(172)
16	33%	(12)	17%	(35)
Overall	62%	(326)	57%	(443)

**Stage II Control Variables**

The Stage II model controlled for variables that were significantly related to the decision investigated in the Stage I model, and for nine behavioral and family problem variables. These variables, which were obtained by matching probation and family court records, are presented in Table 54. As was true in Table 11, problems were available for almost all PINS but not for all JDs.

Table 54 shows that whites had problems listed more often than minorities for all problems in which there were significant differences based upon race. Among both PINS and JDs, whites had drug or alcohol and stealing problems listed more often than minorities. Among JDs, whites had runaway, curfew, and sexual behavior problems listed more often than minorities.

**Table 54: Nine Behavioral and Family Problems Listed in Probation Records by Type of Case and Minority Status, Family Court, Monroe County**

Problem Identified at Sometime in Juvenile's Record	PINS Cases			JD Cases		
	Percentage		Significantly Higher for:	Percentage		Significantly Higher for:
	Minorities	Whites		Minorities	Whites	
Runaway	84%	78%		34%	52%	Whites
Truancy	67%	63%		51%	57%	
Curfew	38%	44%		41%	52%	Whites
Sexual Behavior	16%	15%		13%	21%	Whites
Drugs or Alcohol	15%	30%	Whites	20%	35%	Whites
Family Violence	22%	30%		53%	52%	
School Behavior	27%	24%		64%	69%	
Stealing	10%	19%	Whites	56%	66%	Whites*
Family Dysfunction	22%	20%		73%	65%	
Number of Cases	196	115		254	122	
Percent Reporting	100%	99%		86%	86%	

\*Significant at the .10 but not at the .05 level.

### Stage III Control Variables

The Stage III model controlled for differences in variables that were significantly related to the decision investigated in the Stage II model, and for family income. The distribution of family income among family court cases in Table 55 is quite similar to the distribution of family income among probation cases presented earlier in Table 12. This similarity demonstrates that income had little to do with forwarding cases to family court.

**Table 55: Family Income by Type of Case and Minority Status Measured at Probation Intake, Family Court, Monroe County**

Family Income	PINS Cases		JD Cases	
	Percentage		Percentage	
	Minorities	Whites	Minorities	Whites
< \$10,000	64%	37%	64%	39%
to \$20,000	14%	18%	21%	20%
to \$30,000	10%	24%	8%	12%
Above \$30,000	12%	21%	7%	28%
Number of Cases	160	105	213	109
Percent Reporting	82%	91%	72%	77%

B.

**B. Interviews, the Focus Group, and the Workshop on Disparities in Monroe County**

**1. Interviews and Focus Group Discussions**

Practitioners identified a number of policies, practices and procedures in the Monroe County juvenile justice system that should be addressed. Their discussions are summarized below.

Schools

- Schools defined their mission as teaching -- not problem intervention. City juveniles often accrue 20 to 40 days of truancy before a PINS complaint is filed. Conversely, suburban schools have more resources which allow them to react quickly to truancy problems and engage in long-term, therapeutic counseling.
- Suspended students are often poorly supervised and should be tutored at the probation department for more effective programming. This concept, which has been discussed for several years, has not been implemented. It raises policy questions about the role of juvenile justice in this area.
- The quality of information available on juveniles varies considerably between urban and suburban schools. During investigations, probation officers generally receive only formal record data from urban schools. Suburban schools, on the other hand, provide thorough briefings from counselors. This lack of information from city schools can impede the design of effective service plans for juveniles attending these schools.
- Rochester police collaborate with schools on a diversion program for targeted black males expected to be behavior problems during the school year. This could contribute to disproportionality to the extent that this target group receives selected and/or enriched observation compared to others.

- Teachers in Rochester schools are predominantly white females (73 percent of teachers are female and 81 percent of teachers are white). Some practitioners noted that behavioral problems observed in black male students may be partially attributable to the lack of adult black males to serve as role models and authority figures.

#### Police Departments

- Diversion service capabilities differ between suburban and city police departments. For example, the three zone offices of the Monroe County Sheriff's Department each have a juvenile officer (investigator-grade) partnered with a civilian youth counselor. While the Rochester Police Department juvenile officers reported access to counseling resources, they did not have direct staff support for this activity.
- Rochester police are believed to be more tolerant of low seriousness behaviors, giving highest priority to more serious crimes. Suburban police have more time to work with youth and, therefore, are more likely to respond to less serious behaviors.

#### Monroe County Probation Department

- Detention-bound juveniles could be diverted with the addition of more *intensive supervision* capabilities, as well as a *juvenile day reporting* service capability.

#### Monroe County Family Court

- Practitioners stated that there is a long standing agreement originating from the State Division for Youth (DFY) that PINS placements should be referred to the Department of Social Services (DSS) and juvenile delinquent placements should be referred to DFY.

- Overall, 76 percent of DFY placements from Monroe County are black youth.
- Monroe County has exceeded its PINS/JD foster care reimbursement cap for 1994 by approximately \$2.5 million because of recent increases in foster care placements. Although considerable local resources have been dedicated to preventive services in order to lower these placements, continued attention to this issue may be necessary to impact DMC.
- Private attorneys offer an advantage to juveniles and are often able to avoid an out-of-home placement for their clients by arranging alternative treatment services prior to disposition.

#### Detention

- Detention is sometimes used with the expectation that the substance abuse service needs of youth will be evaluated while in detention. Some practitioners believe this is an inappropriate use of detention because adequate community-based resources exist to perform this function.

## 2. *Workshop Discussions*

### a) *Participants*

The Disproportionate Minority Confinement Workshop sponsored by the Division of Criminal Justice Services (DCJS) included a block of program time for participants to discuss the statistical and qualitative research results, identify factors that might be contributing to DMC, and suggest potential strategies for reducing DMC in Monroe County. Many of the local representatives at the workshop had also participated in the earlier interviews and focus group. This section is a summary of their perceptions and suggestions upon hearing the research results for the first time, in language as close as possible to their own. While it would be inaccurate to conclude that everyone in the room subscribed to everything that was said, the summary reflects the range of ideas and proposals offered in the discussion. Participants in the Monroe County session included:

- Executive Director of St. Anne's Institute and State Juvenile Justice Advisory Group Chair
- Acting Director of the Office of Justice Systems Analysis of the NYS Division of Criminal Justice Services
- Alternatives to Incarceration Grants Manager for the Monroe County Department of Public Safety
- Juvenile Justice Representative from the Office of Funding and Program Assistance of the NYS Division of Criminal Justice Services
- Director from the Monroe County Juvenile's Center
- Rochester Police Department's Chief of Police
- Rochester City Schools Director of Tutoring Services Program
- Director of Law Guardian Program with the Legal Aid Society of Rochester, New York, Inc.
- Two Assistant Probation Administrators from the Office of Probation-Community Corrections
- Director for the New York State Division for Youth
- Associate Probation Program Analyst for the NYS Division of Probation and Correctional Alternatives

- Correctional Facility Specialist for the NYS Commission of Correction
- Chief of the Bureau of Research and Evaluation for the NYS Division of Criminal Justice Services
- Chief of the Bureau of Program and Policy Analysis for the NYS Division of Criminal Justice Services

The session opened with initial impressions, which resounded with the participants' interest in having attended the workshop and their willingness to contribute to the discussion.

b) *Identification of Factors Contributing to DMC*

In addition to describing their own overall goals and frustrations relative to the juvenile justice system, participants identified a wide range of interrelated problems that contribute, directly or indirectly, to the disproportionate confinement of minority youth.

**County resources.** From a statewide standpoint, the unevenness of county resources is a problem. Some counties have resources to address this issue, and other counties do not have the same kinds of resources. The smaller counties may not have the problems on the scale of the larger counties but they also lack the range of resources to meet the needs.

**Mental health.** Youngsters coming into probation intake today are, in the participants' words, "much sicker" in terms of mental health than in former times. This affects decision-making about their placement and about their return to the community. Resources are insufficient to deal with the mental health issues that many juveniles present.

Participants viewed local mental health services as generally more difficult to obtain for their clients. Insurance is one factor: most families involved with the juvenile justice system do not have insurance. For people who do have insurance, most coverage pays for only limited mental health services. Schools can work to some extent

with youngsters whose families have mental illness problems, but this has limited effect: the young person still has to cope with going home. Probation officers see many parents who have severe mental health needs. While probation can usually make successful referrals of clients for mental health evaluations, obtaining treatment has been a problem for years. The availability of inpatient treatment, decreasing through the general move to de-institutionalize mental patients, is virtually nil for family members whose mental health needs probation thinks are so profound as to require a treatment setting.

**Parental involvement.** There is not enough of an effort made, even in the detention sector, to involve families with their juveniles, and involve families in treatment programs. Even when an effort is made, involving the family in a juvenile's treatment is often very difficult to do. Parenting skills are frequently lacking in families whose juveniles are involved in the juvenile justice system.

**Survival.** Street life is a problem in urban areas. Youngsters feel uncertain about their own survival. The City of Rochester has ten classrooms full of suspended students, plus youngsters who receive home instruction or are in jails or detention centers. The suspended students in the ten classrooms receive programs such as conflict resolution and weapons diversion as well as academic instruction. These are the assaultive kids, the weapons carriers, the long-term suspended kids. Many of them express concerns about being alive tomorrow.

Drugs are included in this part of the problem. Probation has had difficulty in identifying drug and alcohol issues with kids and families, at the front-end of the process.

**Racism and erosion of institutions.** The DMC problem should be viewed in a context that recognizes the continued presence of racism and economic disadvantage in American life. To add to the problem, in recent decades this country has witnessed the erosion of the authority of its institutions -- such as the family, the church, and the school -- that in former times contributed to social control. Today's society relies much more on law enforcement to exert the authority, but in too many cases

presents the responding officer with youngsters whose personal and community institutions are failing them.

**Early family court intervention.** Cases that start off as neglect and abuse cases, and cases where juvenile victims eventually become juvenile delinquents or PINS, often involve the same people a few years apart. Everyone recognizes intellectually that this is true, and that research supports this connection. But family court services to a family do not recognize the high potential risk that juveniles who were subjects of abuse and neglect petitions may eventually become delinquents. Instead, the legal perspective makes a break: the neglect case is over when the juvenile is returned home. But the rest of the system sees that youngster three to five years later when he shows up in the system again. Thus, though the link between young victims and their later behavior as offenders is acknowledged, the juvenile justice system fails to act to prevent the evolution of juvenile abuse victims into PINS and juvenile delinquents.

**System sanctions.** Is the family court system of progressive discipline good or bad? If a young person has his hand spanked, and the next time has both his hands spanked, and so forth, does it not encourage a behavior of doing whatever he wants because it takes the system so long to treat him seriously? This incremental sanction system may be part of the problem.

Since youngsters perceive themselves as getting away with something, they think they are invincible. Asked what diversion means, a kid will say, "I got over." What matters is not whether *I was guilty* or *I was innocent*; what matters is *I got over*. This happens with increasing frequency, and, whether or not it is the message that juvenile justice wants to send, that is the message the kids receive.

The review of case records as part of the research process provided the opportunity to follow the same juvenile through the juvenile justice system. The researchers gained the impression that a number of the juveniles could use more accountability for their actions. In some cases, the juvenile has been through the system 10 or 15 times, frequently with no apparent sanctions.

The juvenile who gets through family court discovers he can get by with a great deal of misbehavior. It is a problem that begins when the police divert and give a juvenile many breaks; when he gets to probation for the first time, probation does not know what the police did, and adjusts the case. When the juvenile gets to family court, the court may dismiss the case. The practice does not stop there, because the juvenile eventually sent to DFY custody spends 8 months instead of 18 months there, due to the shortage of beds, and he is back in the neighborhood having served less than half of his nominal sentence.

The problem, seen by reading the records, was that what one researcher called "the forgiveness system" seemed to go too far. There needs to be some simple way to make juveniles responsible for their misdeeds.

**Work force diversity.** It would be a major asset to our institutions if there were more ethnic diversity in the workplace in the decision-making process. Young people, especially African-American males in school, law enforcement, and corrections settings, tend to develop a mechanism of "getting over" if a person of a different ethnic group is counseling or interacting with them. An adult male of their own race reading the riot act and spelling out the consequences of continued negative behavior is more accepted.

Having black juveniles relating to black staff is a major concern in school districts. For example, when Rochester schools were forced to make a lot of cuts last year, almost all those cuts were minority people, due to the practice of last in, first out. One middle school had five guidance counselors; two had to be cut. Both were minorities, now all the remaining counselors are white, and the school is predominately minority.

Racism and creation of an environment of more ethnic diversity in the workplace should be discussed openly.

**Media influences.** The media creates an atmosphere of fear. Too many people in the white community are afraid when they see a black kid, and when there is trouble, the attitude may be, "let's lock this kid up".

A lot of the problems come from ignorance. If people retreat to enclaves consisting only of others like themselves, they will never get to interact with people who are different from them. This perpetuates ignorance, which in turn contributes to fear.

**Failure of other systems.** Their recognition of the changes in other systems brought about by fiscal mandates and social pressures -- education and mental health were the examples given -- led participants to conclude that the juvenile justice system remains as the system of last resort, the one system that can not turn a youngster away.

Many parents of kids who have trouble in school are using the special education system to get their juveniles placed, to get them off the street before they get into the criminal justice system. The parents put their juveniles into special education as a way of doing something for them. This requires proceeding through a process -- a juvenile cannot be transformed from being an "OK kid" to placement in a residential center overnight. Each juvenile has to go through request, referral, work up, and all the options in the schools from least restrictive to most restrictive (institutionalization). The parents are using this system to the point of overburdening it.

The mental health system has adopted goals involving the de-institutionalization of services to mentally ill people, to improve service and save money. These goals are being realized through community-based placement and treatment of mentally ill persons; but participants observed that financial pressures have limited treatment availability. Thus, when a young person is brought to the juvenile justice system for misbehavior or delinquency stemming from his mental illness, it is likely that he will be confined in a DFY facility when, the participants felt, he would be more appropriately served at a mental health facility.

c) *Strategies with the Potential to Reduce  
DMC*

The group identified areas for potential solutions by examining the above list of possible problems and relating suggestions to their spheres of influence wherever possible.

**Changes in policing.** The results of police contacts could look different in the future due to the impact of community policing. Community policing recognizes collaborations among police, community, and community institutions which encourage police officers to be problem-solvers instead of enforcers. Officers come to know and interact with their community. They build linkages with educational institutions, religious institutions, family institutions, and social service agencies. As a result, their range of responses to matters is much wider than simply resorting to enforcement powers. They can use referral, consultation, and problem-solving to prevent many kinds of juvenile justice problems.

Police officers will get to know the youngsters and parents who live in their beat, much as teachers know their students and parents. Community police officers who pick up juveniles from such community settings would know the children, their parents, their background, and their previous experiences with the law -- much the same as teachers. At that point, they can make decisions about ranges of actions they will take, including taking youngsters home, or protecting them from home, or other options worked out with the community. To some, community policing is like community parenting.

With this major change in strategy beginning to make a difference in policing in some communities of Rochester, the results of police contacts may look different in the foreseeable future.

**Keep kids out of the system though the use of categorical funding.** Recognizing that the amounts of state and federal money spent for the education of kids in the justice system are growing, divert some of the funds to school districts specifically for creating early interventions with families. If this earmarked funding were established for mental health, for example, a district could approach a family at risk early in the juvenile's school career and approach the family by offering assistance for the juvenile. That juvenile could thus be prevented from entering the system. If a lot of minority youngsters who live in the inner city in poverty do not get into the system, the problem is solved before it starts.

A recent study commissioned by the Monroe County Legislature examined county money spent keeping at-risk juveniles from being taken from their families and placed into foster care. The diverted and earmarked funds proposed above could support joint programs of the schools and social services department, if turf issues could be resolved.

**Front-load funding and collaboration.** The nearly \$65,000 it takes to support a juvenile delinquent per year at a DFY facility, and the \$75,000 per year it takes to support a juvenile offender there, argue clearly for pursuit of strategies to concentrate more of our financial and program resources to the front-end of the system. Larger proportions of kids are arriving at DFY with significant problems, in the forms of mental illness (27 percent) and substance abuse (56 percent). Collaborative strategies and partnerships with other systems are the only real option, because no agency will ever have enough of a budget to deal with these problems alone.

**Implement the Youth Leadership Academy model in schools.** One of the programs in DFY residential settings is called Youth Leadership Academy. It stresses four core areas: discipline, self-esteem, education, and self-worth. It would make a useful model for schools because it has been proven to be very effective and could be provided in schools at much lower cost than in a DFY facility.

**Intensify services for short-term detainees.** About 45 percent of the juveniles who come into detention are released within zero to three days. When these youngsters come in, the red flag needs to go up in the community, because half of them are going to be back in detention within a year, probably for doing something more serious. Therefore, services beginning at the detention contact should be intensified, to help address the behavior sooner and reduce the number of return trips through the system for those juveniles.

**Overcome structural barriers to providing services.** Because of the speed with which the case has to proceed if the juvenile is detained, as specified in the Family Court Act, probation does not have the chance to provide an early assessment of juveniles in detention. If assessment could be done, and other agencies could co-deliver services, probation could recommend release in more cases in which the juvenile could be supported in the community with supervision, mental health services, and substance abuse services. This will provide more services to juveniles who need them, keep more of them out of confinement, and help stop the revolving door that detention and family court have become for many of them.

**Research the characteristics of practitioners.** All of the variables included in the research were related to juveniles who are processed through the system. The research effort did not, however, devote comparable attention to the characteristics of decision-makers. In the police department, for example, there may be differences between decisions made by minority and white officers who respond to complaints about juveniles. Or, patterns of differences appearing among decisions made by practitioners in other parts of the system may be reflections of their length of service. Continuing with the police department example, the research thus far shows that minorities are more likely to be referred to probation intake than whites; participants wanted to know whether these decisions are being made by a subset of police officers assigned, or by all the officers. Further research may show that global remedies are not needed as much as targeted ones.

**Record parental responses to police contact, and why decisions were made.** A police department that records the data on contacts should also record the attempt to contact the parents. Were calls made to the parents? Did the case proceed because the parents were not home? If it did, the community and police might explore other alternatives. The answers might point to the creation of an overnight non-secure, safe facility for kids whose parents could not be reached. Or to a cab service for parents who do not have transportation to come to their juveniles in custody.

If the police decision to divert or to take in a juvenile is measured at the point of contact as to the "whys," it can be revisited to decide whether it was a good decision or a bad decision, and the answer can be used for the next decision.

**Launch demonstration projects.** A new grant funded by DFY will support Monroe County Probation Department efforts to reduce the numbers of juveniles placed in DFY facilities. This will be accomplished through the dedicated services of four professionals: a probation officer and a mental health counselor will conduct mental health assessments of juvenile delinquents in the county, while a substance abuse specialist and a certified alcoholism counselor will provide drug and alcohol evaluations, group therapy, and coordination of other treatment services. The project is the result of the collaboration -- in planning and in implementation -- of probation, youth bureau, social services, mental health, detention, school district, law guardian, judicial, presentment, and private-agency professionals.

DFY is about to launch some neighborhood learning centers, to try to negate penetration by at-risk kids into the juvenile justice system. This might include a place for an overnight stay that is not court related, when a police officer contacts a juvenile and cannot take him home. The centers will have opportunities to work with the families of those juveniles.

Within DFY's Albany office, a Family Advocacy Bureau has been created. DFY wants to let parents whose juveniles are in facilities know what is going on with each youngster's rehabilitative plan. Further, community outreach via this bureau will try to communicate with parents of juveniles whom teachers have identified as at risk. A lot of parents have had extreme failures in their lives and they do not know where to go to obtain assistance.

**Make systems user friendly.** The public calls agencies for help or information, and is sometimes treated rudely or uncaringly by public servants. This is inexcusable and can be changed immediately.

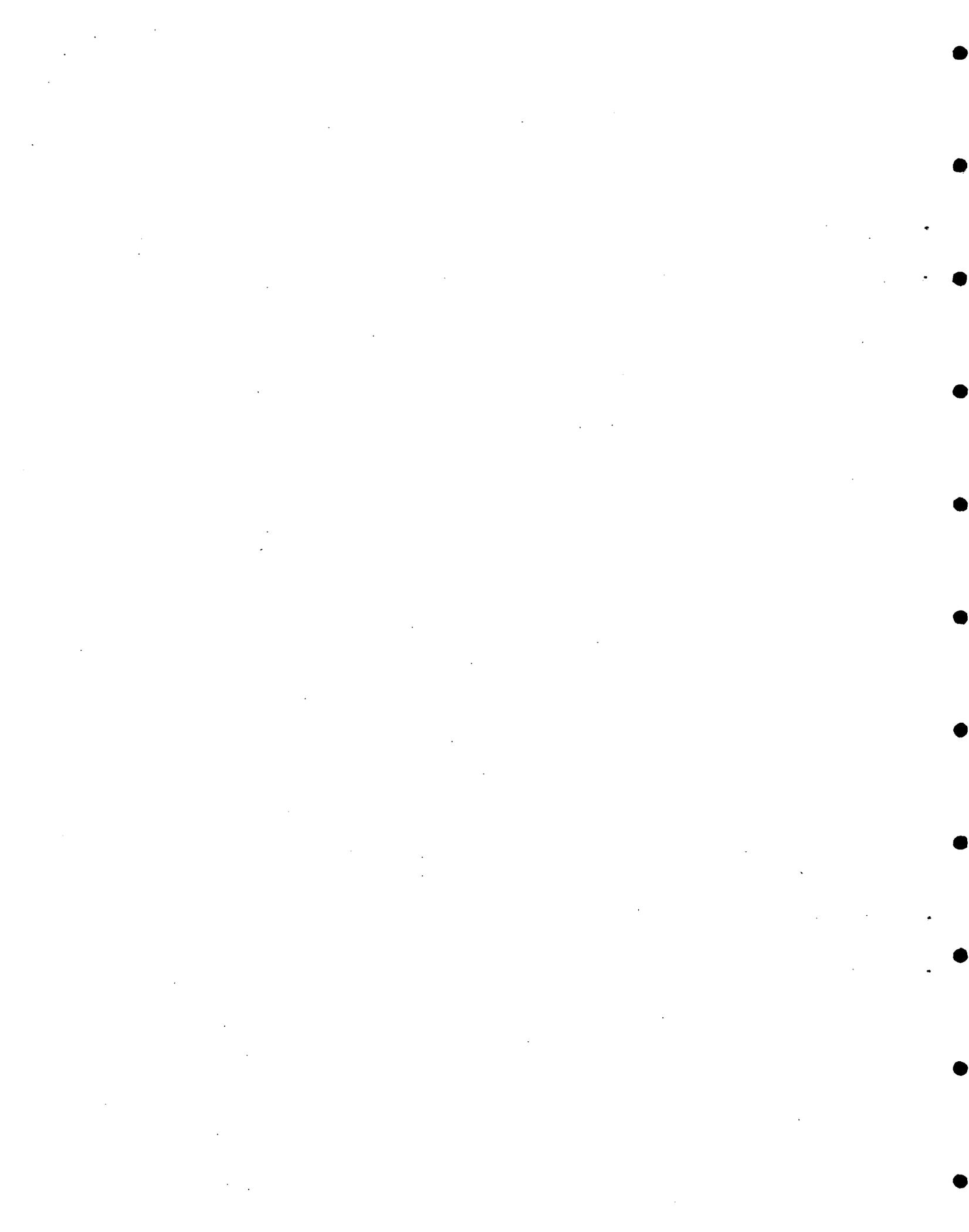
**Promote responsibility for actions.** The juvenile justice system inadvertently teaches juveniles that they are not responsible for minor crimes. Police divert juveniles contacted for minor crimes numerous times before they arrest them. Probation officers adjust cases regardless of how many times police diverted them. Adjustment services do not normally include sanctions. Family Court begins the process anew; it ignores police contacts and probation adjustments in its attempt to keep juveniles living at home.

The juvenile system needs to increase the juvenile's perception that he is responsible for his actions. This responsibility needs to be introduced much earlier in the process. Responsibilities for actions could be enhanced by making police contact data available to probation intake, by encouraging probation intake to impose community service sanctions, by developing legislation to make parents responsible for their juvenile's actions, and by developing legislation to make it possible to open sealed records for repeated violations.

A major barrier to meaningful community service for juveniles is the requirement that community agencies supervising such work carry liability insurance. Some effort should be made to arrange insurance coverage for this purpose.

The lack of a mechanism or ability to get parents to participate at the intake level is a major frustration. If there is going to be accountability for kids, there should be some accountability for parents as well. As long as the system does not have that, it has no teeth. There should be some way to insist that the parents be active participants. Families should be helped to take responsibility for the actions of a member, in this case a juvenile. It might make sense to provide the services that the parent needs as a way of getting him or her to participate, such as transportation or juvenile care. The irony of the situation is that if the parent does not participate, the juvenile is punished.

*Money should follow the family.* A model employed by the NYS Department of Social Services in NYC, the Home Builders, combines six agencies' funding for families and commits it up front. Problems are addressed in shorter periods of time by agencies acting in concert with each other rather than piecemeal. This may solve or prevent some of the problems the families are having and the frustrations that the helping agencies are having.



## C. Interviews, the Focus Group, and the Workshop on Disparities in Erie County

### 1. Interviews and Focus Group Discussions

Practitioners isolated a number policies, practices and procedures in the Erie County juvenile justice system that may contribute to explanations of disproportionality. These points, which are summarized below, are based on practitioners' perceptions and beliefs -- they are not grounded in empirical research.

#### Schools

- Schools may vary in their tolerances for dealing with the problematic behaviors of youth. For example, some city school principals insist upon arresting a juvenile for criminal trespass if the juvenile is not supposed to be on school grounds. This impedes police discretion and options for disposing cases.
- There are few intervention programs for juveniles, generally minorities, suspended from school. To continue the delivery of educational services, these juveniles are provided with in-home tutoring for several hours daily. This leaves juveniles unsupervised and with considerable idle time, increasing the likelihood of their involvement in illegal behavior.<sup>69</sup>
- Schools define their mission to be one of education, but not intervention. Thus, schools are too quick to refer problem students to courts rather than assisting them with counseling.

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<sup>69</sup> In the DMC Workshop session for Monroe County, a Rochester program, the Clinton Avenue Learning Center (CALC), was cited as one example of the type of program appropriate for suspended students.

Police Departments

- The Buffalo Police Department presently has no formal juvenile unit. It has a small school-based attendance support group (i.e., the AIM Unit) which works during school hours. Positive outcomes are more likely to arise when juvenile officers are involved with young offenders.
- Several suburban police departments have "youth courts" which operate as police diversion programs. The City of Buffalo presently has no such program, although it recently received juvenile justice grant funding to pilot a youth court. Without these police diversion programs, city juveniles are more likely to be arrested than suburban juveniles.
- Buffalo police reported that it was not uncommon to send a juvenile to detention simply because a parent could not arrange transportation to pick up the juvenile at the station house. The rationale was that "police are not baby-sitters" and cannot take patrol cars out of service for such transportation. This might be resolved by arranging transportation through community-based organizations.
- To overcome delays in access to the PINS Diversion Program, police officers reported overcharging juveniles as JDs to get them into the system more quickly so they can receive the services they need. The presentment agency is then encouraged to file a PINS petition to realign the case to the appropriate level.
- Buffalo police are believed to be more tolerant of low seriousness behaviors than suburban police. There is the potential, therefore, that official statistics may provide a distorted view of juvenile offending patterns.
- Buffalo has no central booking capability for juveniles. This could lead to variations in station house processing, especially since there is no juvenile unit structure in the Department.

Erie County Probation Department

- There are no black male probation officers for juveniles. This was considered by many to be a fundamental deficit in service delivery resources.

Erie County Family Court

- Suburban juveniles appear to be in much better financial situation than city juveniles to pay restitution to victims. Consequently, juveniles from the suburbs are less likely to penetrate the juvenile justice system than those from the city. This could contribute to disproportionate system presence of city youngsters.
- Family court must borrow a probation officer to interpret for Spanish-speaking persons.
- The dress and appearance of a juvenile in court may influence processing decisions to the extent that it could reflect respect for the court and be perceived as an indicator of cooperation and motivation on the juvenile's part.

Detention

- Detention is used as a kind of "therapeutic foster home" because such resources may not otherwise available in the county.

## 2. *Workshop Discussions*

### a) *Participants*

The Disproportionate Minority Confinement Workshop sponsored by DCJS included a block of program time for participants to discuss the statistical and qualitative research results, identify factors that might be contributing to DMC, and suggest potential strategies for reducing DMC in Erie County. Many of the local representatives at the workshop had also participated in the earlier interviews and focus group. This section presents a summary of their perceptions and suggestions upon hearing the research results for the first time, in language as close as possible to their own. While it would be inaccurate to conclude that everyone in the room subscribed to everything that was said, the summary reflects the range of ideas and proposals offered in the discussion. Participants in the Erie County session included:

- Executive Assistant to the Director of the NYS Division for Youth
- One of the DCJS researchers who conducted the quantitative assessment of disparity in case processing in Erie County
- One of the researchers from the NYS Commission of Correction who conducted the interviews and focus group sessions in Erie County
- Deputy Commissioner for Detention Facilities for the Erie County Youth Department
- Probation Program Administrator for the NYS Division of Probation and Correctional Alternatives
- Probation Administrator from Broome County, also a representative of the NYS Juvenile Justice Advisory Group
- Probation Supervisor for the Erie County Probation Department
- Police captain from the Buffalo Police Department
- Director of Security for the Buffalo City Schools
- Assistant Director of Field Operations for the

## NYS Commission of Correction

- Second Assistant County Attorney for the Family  
Division of the Erie County Attorney's Office

Erie County participants discussed the research results relative to their county. Disproportionate numbers of minority youth were brought to the juvenile justice system by Buffalo Police (race data for the surrounding jurisdictions has yet to be incorporated into the study). The only place in the processing system following entry where disparity appeared was at probation intake, and then only among females. Therefore, except for the females (whose number of cases was small), there was comparable treatment regardless of race.

b) *Identification of Factors Contributing to DMC*

The group then described their perceptions of the problems in juvenile justice as it operates in Erie County. They concentrated on needs for prevention which would reduce disproportionality at entry.

**Planning needs.** Participants revisited several aspects of planning several times during their discussion. Vision, coordination, and collaboration in various forms were described as absent for many parts of Erie County juvenile justice as they relate to each other.

The group agreed that there is a lack of vision of what juvenile justice is trying to accomplish, from the first behavioral difficulties to the more serious offenses. Some of the practitioners who took part in the formal research during the summer said at the time that the focus group discussions were the first meetings they had for the purpose of conferring about juvenile justice operations.

The lack of policy statements about how each of the parts of the system contributes to the goals of the whole, and what activities of the professional staffs are expected to further the process, help to encourage continued isolation in agency decision-making. Observers noted the lack of clear-cut policies which would link practitioners to the big picture.

Lack of knowledge of each other's responsibilities and procedures was mentioned. There is no consensus about what the juvenile justice system should look like in its outcomes, as well as in its procedures. Differing priorities of individual agencies can lead to contradictory processes.

**Obstacles to effective planning.** Some participants credited planning already done, and commented that implementation was thwarted by lack of funding or coordination. Others described provincial interests, or turf issues, among the agencies as contributing to the coordination problem. They indicated the prevalence of attitudes which defined a juvenile justice youngster at any point in the system as the problem of that agency, and not the others -- until the juvenile moves to become the problem of the next agency. Looking at both state and local budgets, they recognized that no one has enough money to match the size of youth services needs. The importance that the group attached to the need for effective links between juvenile justice and other public systems is underscored by the following edited quote from the session:

It almost sounds as if there is an unwritten policy that no one, including the school, has the capacity to deal with these kids. So the school tries to manage the behavioral problems, without support from the human service system, until the kid commits a crime, and then refers him to criminal justice for services.

**School relationships.** Some teachers feel intimidated by some aggressive youths, or do not want to deal with the behaviors they exhibit, such as personal confrontation, sporadic attendance, strong-arming of smaller kids, and substandard school work. So they manage by ignoring these youths or referring them to school discipline rather than risk addressing their actions. Some schools invite Erie County Youth Services to talk to selected audiences of young people whom teachers and principals have identified as exhibiting problem behaviors.

Experienced teachers can identify juveniles from elementary grades onward who show signs of having problems

which will probably grow more severe without intervention. Schools were described as interested in sharing such assessments appropriately. But frustration was expressed as to what to do with this information, who should be contacted about it, and how it should be acted upon.

Schools want to continue to handle their own discipline problems without invoking juvenile justice system responses unnecessarily. Using the probation department or family court for school discipline problems was perceived as ducking school responsibility and inappropriate "dumping" of youngsters. On the other hand, the schools do need the assistance of the juvenile justice system occasionally, and need good professional relationships to accomplish this.

**Minority staffing.** Some participants suggested that there are not enough minority teachers in the predominately minority-populated Buffalo Public Schools.<sup>70</sup>

There are no black male staff in juvenile probation, and few, if any, people of color in the Erie County family court system. The group felt that defendants or other people who are subject to the actions of authorities react more negatively when they see no one in the process who looks like them; they may dismiss their own misdeeds or the justice outcome they receive by explaining the judgment as biased. Since the preponderance of youths entering the system are minority, the under-representation of minority professional staff members -- particularly males -- in the work force of the county's entire justice system was identified as a problem of long standing.

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<sup>70</sup>Subsequent information was provided that the Buffalo School District has implemented hiring policies to achieve a 21 percent minority staff, reflective of the U.S. minority population. Current staff is 20 percent minority, and current enrollment is 60 percent minority.

There is a similar lack of *bilingual* staff among key juvenile justice agencies. Some juveniles entering the system -- or their parents or other relatives -- do not speak English. Without bilingual professionals, the ability to obtain adequate information from or about the juvenile, or to match him with needed services, even in the short term, is limited. This may result in the assignment of the juvenile to an environment which he perceives as much more hostile than do English-speaking youngsters. The effect of the services he receives may be the opposite of the intentions in providing them.

**Parenting.** Many parents of the young people entering the juvenile justice system do not take the time to deal with their children. Many children in the juvenile justice system come from poor families in impoverished neighborhoods. Lacking skills and financial or community resources to solve problems, a number of these families use the court system as the last resort for dealing with their juveniles. For juvenile justice or other public systems (school, social services) to deal with the problems of juveniles without dealing with the problems of the family is as meaningless as putting a Band-Aid on a broken leg.

**Community Agencies.** The lack of program depth of general purpose neighborhood service organizations, such as boys and girls clubs, excludes the kids who need the most help. It was generally felt that race of the juvenile was less of a factor in this situation than the program's capabilities for dealing with him.

Juvenile justice professionals have listings of community-based organizations which receive public funding for services to young people, but that does not mean services to all troubled juvenile justice youngsters. Most community-based programs currently available cater to the kids in their own geographical areas whom they can control. The juvenile justice population includes more troubled actors who are sent to a particular community center, where they do not relate to the "nicer" kids and need skilled attention which these neighborhood programs are not equipped to provide. Therefore, the youngsters referred by the juvenile justice system are excluded *de facto* from the services they need because they are not available in their

own areas of town and because the programs in their areas do not take them.

In addition, a lack of alternative or "in-between" services was identified by the group, services which would allow more juveniles to receive help instead of detention.

**Public priorities.** The city is disadvantaged in the competition between its needs and those of the suburbs for priority county attention. Through interviews and a focus group, researchers observed significant differences in interviewees' references to available programs and options. The greater resources of suburban areas, in a pattern reflected in many other parts of the country, translate to greater availability of program choices for juvenile justice intervention, more support for schools, and better access to needed services in those sections of the county.

c) *Strategies with the Potential to Reduce  
DMC*

Through a brainstorming process, the participants then identified the following possibilities for addressing some of these problems.

**Encourage successful families.** The need for constructive parenting, to help prevent problems and to get meaningful intervention, was stressed repeatedly. Participants suggested providing more parent effectiveness training through school contact and juvenile justice contact, and making participation in effective parenting programs compulsory for parents and guardians of juveniles involved in the criminal justice system.

They also proposed working with other agencies to approach parents with offers of assistance so that juveniles can go home rather than stay in detention or go into foster homes.

**Hire more minority and bilingual professionals.** Difficulties with the civil service system were discussed. Nonetheless, the group identified the need to work toward a balance of minority representation in positions of authority in the school and juvenile justice systems.

**Expand alternative programming.** In this area, specific programming was suggested as in need of expansion, either in type or capacity. These were recommendations for increased electronic monitoring and intensive case management as alternatives to placement; easily accessible respite services as alternatives to detention; and therapeutic foster homes. In addition, assistance in the design and delivery of community services specifically for the "tough" juvenile justice kids should be sought.

**Build linkages between systems.** Suggestions in this area embraced school, human services, and juvenile justice services. The group thought that police and school officials should be engaged in planning for youth services. Schools should also relate to the other pieces of the PINS service delivery system.

The group urged that the city or county put more human services into the school setting, or direct them to problem school kids. They felt that relationships between juvenile justice agencies and schools are underdeveloped. Schools can serve juvenile justice as early identifiers of juveniles with problems, because teachers see them consistently. Schools can serve as potential delivery points or links for human services and outreach services such as those of detention facilities. Schools can act in support of juvenile justice decisions such as those made by probation or the court, and should correspondingly expect support from juvenile justice when needed.

They also proposed supporting schools in planning with other systems to provide early interventions for families whose juveniles exhibit early problems.

**Obtain assistance for a comprehensive planning effort.** There were several suggestions to seek elements that would support or enhance a local planning process:

develop better data systems, perhaps through local assistance;

establish a permanent planning agency involving all agencies that deal with youth, and set time limits to achieve the goals set by the planning agency;

create a central state clearinghouse for funding streams; and

use a unified state planning effort instead of many fragmented efforts.

***Launch a comprehensive strategic planning effort.***

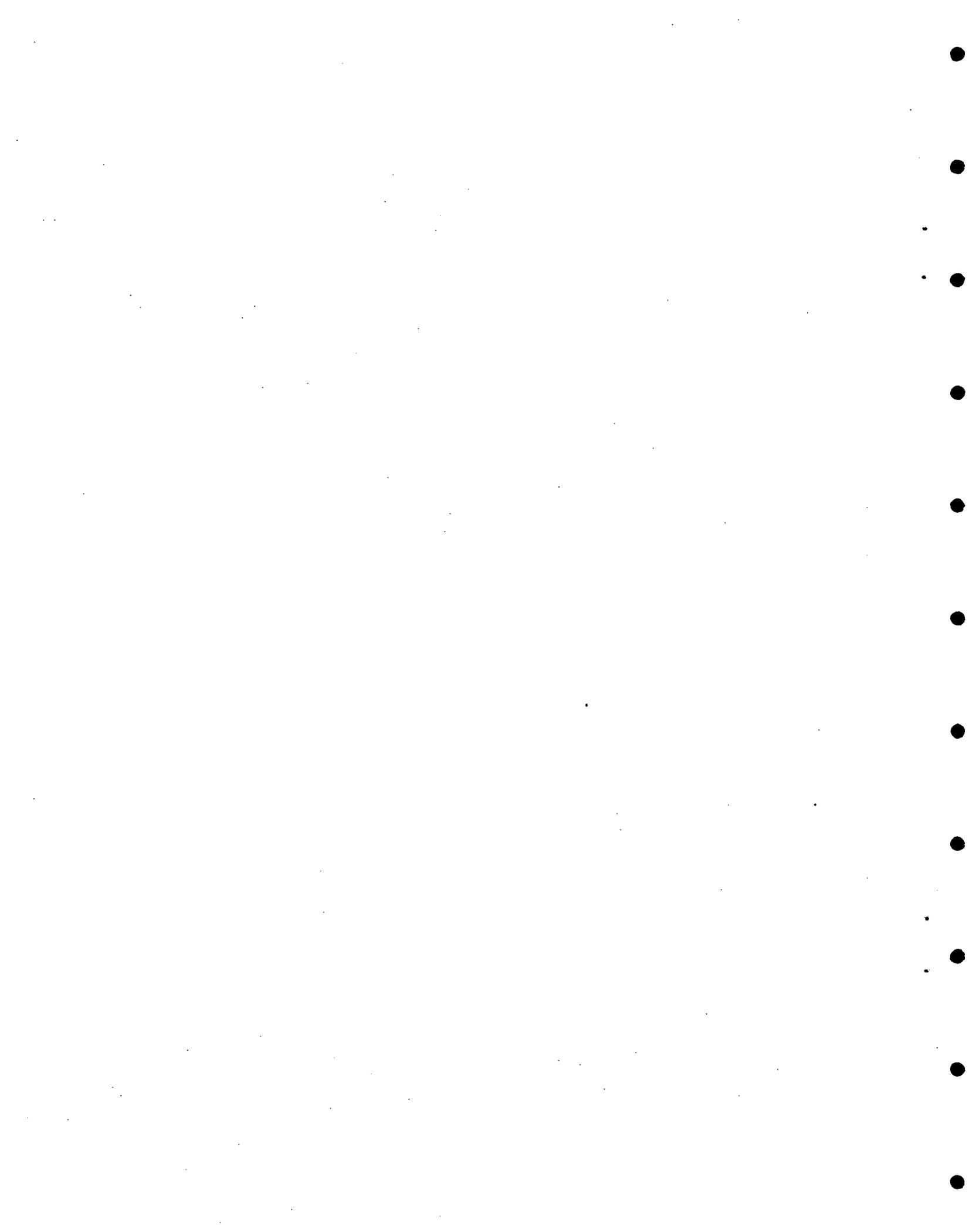
Taking the cue from the focus-group discussions, organize a working group to:

form a vision of what the Erie County juvenile justice system should look like;

list the values attached to this vision; and

describe the role each agency should play in contributing to this vision.

This is not a small job. However, professional resolve and shrinking operating funds spurred the participants to articulate their need to collaborate on setting and meeting goals -- "an entirely different kind of commitment" -- and coordinating the delivery of services (with each other and with related agencies). They suggested that competing priorities would have to be worked out among agencies in some areas. In addition, participants suggested that funding decisions be made at both state and local levels, based upon interagency cooperative planning. A more rational allocation of resources could be made if the locality were able to identify funding streams, and together attempt to fund programs which were deemed to be of greatest priority, based upon demonstrated cooperative planning. As a beginning point, they suggested that practitioners learn as much as they could about each other's work.



**D. The Workshop on Disparities in New York City****1. Workshop Discussions****a) Participants**

The Disproportionate Minority Confinement Workshop sponsored by DCJS included a group discussion session charged with identifying factors that might be contributing to DMC and suggesting strategies for reducing DMC in New York City. Rather than presenting a consensus, this summary reflects the range of ideas and suggestions which were offered in the discussion. Participants in the New York City session included:

- Family court judge from Kings County (Brooklyn)
- Chief of the NYC Corporation Counsel Family Court Division
- Executive Director of the NYC Criminal Justice Agency, Inc.
- Chairman of the NYS Commission of Correction
- Director of Planning for the NYS Division for Youth
- Deputy Director of Training for the NYC Legal Aid Society Juvenile Rights Division
- Bureau Chiefs from the Bronx County and Kings County District Attorneys' Offices
- CJA research analyst who conducted the quantitative analyses of post-arrest processing
- Director for Multi-Cultural Programs for the NYS Office of Mental Health
- Director of Program Planning and Management Analysis for the NYC Department of Juvenile Justice
- Executive Director of the Spofford Juvenile Detention Center
- Project Coordinator for the NYS Education Department Adult Learning Center
- PINS Coordinator from the NYC Criminal Justice Coordinator's Office
- Director of the New York State Division of

## Probation and Correctional Alternatives

- Deputy Commissioner for Legal Matters from the NYC Police Department
- Counsel for the NYS Division of Probation and Correctional Alternatives
- Juvenile Justice Specialist from the Office of Funding and Program Assistance of the NYS Division of Criminal Justice Services

b) *Identification of Factors Contributing to DMC*

The New York City group discussed the research and its implications for addressing disproportionate minority juvenile confinement. Defining the limitations in the research and establishing the extent of confidence in the results provided the framework for the group's preliminary suggestions for addressing the confinement issue.

**Limitations of research data.** First, the group cautioned against premature conclusions that disparity exists at various points in the juvenile justice system, because of missing data on factors which may affect DMC. Examples of needed data or unexamined data emerged throughout the discussion:

in family court, the impact of information required to be considered in detention or placement decisions (such as warrant history, pending cases, presence of parents in court, school record, home situation, and prior history)<sup>71</sup>;

the effect of a complainant's willingness to pursue a matter on the police officer's decision to arrest;

whether acts are being charged as felonies more than in previous years;

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<sup>71</sup> Warrant histories were added to the analysis following this workshop.

whether there is a disparity in the kinds of petitions filed by the presentment agency, or in the kinds of findings made at the hearing;

how involved in their children's lives the parents are, whether they speak English, how they view the justice system or the police, how they participate in the community, how knowledgeable are they are concerning the juvenile justice process, and whether they participate in their children's education;

the impact of child abuse on problematic behavior and ability to engage in interpersonal relations;

characteristics of the neighborhood the child comes from, and its resources;

the process by which other agencies (notably, the schools) decide to involve the police department;

the reasons why children whose cases statistically indicated placement were not placed.

***Uncatalogued police contact information.*** The research report recognized that disproportionality is greatest at the point of arrest. The group agreed that much more needs to be learned about police decisions and policing of young people in the community. Addressing the issue of disproportionality in juvenile justice becomes very difficult without looking at the entry stage.

The New York City Police Department uses juvenile contact cards known as YD cards. There were upwards of 30,000 in the data year of this study (1992), about three times the numbers of cards as arrests. Additional numbers of less formal contacts with young people go unrecorded. The police know the youngsters in the neighborhoods, and take informal action on many more cases than they are generally credited for; but too little is known about the processes they use to make these decisions and the circumstances under which they make them.

***Premature conclusions.*** Given the statutory requirements and other variables which were not available and not considered in the research, the group decided that they

could come to no definitive conclusions with respect to the disparities presented at the police contact point or the family court detention or placement decisions. Participants found the research insufficient both for revealing the extent to which race is operative in the decision-making processes generally, and for identifying what, specifically, they should do about it.

**Significant outcomes.** In the juvenile delinquency portion, however, the research did yield conclusions about where disparity is not evident. There are two decision points which show no differences in the percentages of whites versus minorities who received a particular outcome. These decision points are the petition filing in family court following referral to Corporation Counsel, and the finding of fact after petition filing in family court.

At the other three decision points, though, there were racial differences. These are the referral of the case from probation intake to Corporation Counsel for possible petition, the family court decision to remand the child to detention after filing of petition, and the family court decision to place a child with the State Division for Youth after fact finding. (The family court decisions contain statutory requirements for data which were not available for inclusion in this research, as noted above.) The next step in the research process -- the inclusion of other variables in the analysis -- might help explain or eliminate these differences. Since critical facts were not available to use as variables, these next steps of further analysis and explanation have not been possible. Therefore, of the five decision points examined thus far, these three should be the places to consider for further data gathering and study.

In the research dealing with juvenile offenders, there were racial differences in rates of detention upon arraignment in criminal court between whites and minorities. Such racial differences were also present in the decision to advance a case from criminal court to supreme court or, in the alternative, to remove it to family court or out of the system entirely. There were so few white defendants that it was not possible to use multivariate analysis to evaluate whether those outcome differences would remain significant after other aspects of the case were considered.

***Disproportionate Minority Confinement study purposes.***

Group members reminded each other that the overall disproportionate minority confinement initiative is not primarily a research project, it is ultimately a problem-solving effort. As they determined priorities for further research, the group recognized that whether the results showed disparity or not, they and their colleagues should be doing all they can to reduce any racial bias in the system and prevent disproportionate minority confinement. Therefore, the group suggested that the factors which contribute to minority youths entering the system should be looked at, and those they can successfully address be identified and acted upon, even on a pilot basis.

***c) Strategies with the Potential to Reduce DMC***

Participant suggestions reflected their concerns with the research. Of primary interest was the police department.

***Study police practices.*** Participants referenced the Rochester Police Chief's mention of the ways in which he anticipated that changes in policing would affect the treatment of juvenile and other offenses in communities. They liked the perspective that the focus groups lent to the upstate research. They embraced both of these thoughts in their suggestion to engage the police officers, adult citizens, and young people of specific neighborhoods in focused discussions. Data-gathering and focus groups should be conducted in the same precincts. There were further suggestions to compare precincts for economic composition and perceived priority problems as well as racial issues, and to look at precincts that have very successful community policing programs.

In addition, the commanders of these precincts should be interviewed to ascertain how policing attitudes and changes in policing policies relate to local law enforcement generally and to juveniles in particular. Public tolerance for minor offenses has changed, as have public perceptions of order and safety. Both have affected police policies over time, both positively and negatively. Police leadership is an important element in this equation.

***Organize early interventions in community policing precincts.*** The police-community focus group recommendation

led to encouragement for precinct- or community-based early intervention services to prevent youths from becoming arrested. The group agreed that they wanted to align such services with the precincts included in the further study and focus groups. This preliminary recommendation comports with the Over-Representation of Youth of Color Subcommittee support for community-based alternatives that will be useful to the community and acceptable to the NYPD.

**Survey family court decision-making.** A similar approach was recommended for family court. A survey of judges and focus-group discussions could explain how they use statutory factors in detention and placement decisions, and what other elements either help or hinder judges in these family court outcomes. Racial differences in outcomes remain even after other variables for which data were available were taken into account. Focus groups would yield a sense of the forces operating on decisions made at those points.

**Include a historical perspective in the report.** A historical perspective should be included in the future research effort. At previous periods in American history, were there certain racial or ethnic groups disproportionately represented in the incarcerated population? Did the government research or identify this as a problem, and take measures to address it? Or did this disproportionality eventually disappear by itself?

**Increase alternatives to detention.** The community-based alternatives idea was echoed by recommendations for increased alternatives to detention (to keep detention from being the only choice). For young people otherwise headed for placement, more provision for release under supervision, electronic monitoring, and intensive supervision programming were recommended. These should be targeted at youngsters for whom they would have desired effects on behavior at the same time that they avoid placement. Local probation can help avoid unnecessary detention and ultimate placement of minority youth through intake, investigation, and supervision services. There should be greater focus on probation's role and potential in addressing this issue through prevention and enforcement measures.

**Commit to the processes necessary for effective coordination.** A major theme of the discussion concerned

processes by which interventions could be achieved. That such initiatives must be collaborative was underscored repeatedly. The group recommended that agency leaders commit to the following, perhaps drawing from an overall resolution at the deputy mayor level that identifies DMC issues as the responsibility of participating agencies to address and resolve:

that needed data be collected for the targeted research and for interagency understanding of how each agency operates, and that such information be shared on a collegial basis;

that the JDAI committee should reinvigorate itself by expanding its membership and becoming visible to key leaders, using this DMC workshop to recruit people with the authority to represent their agency interests;

that each child's service needs be considered as a whole, with each part "owned" by the relevant agency as its obligation to the child;

that agencies review their missions in terms of the services they provide and the way they work together, and commit to integrating services, including co-locating them such as in schools, in order to serve children more effectively and counter the effects of reduced funding; and

that agency heads be closely informed about the research and about JDAI progress, and be kept involved in both efforts, to understand developments and make it easier to act.

**Assume that cultural sensitivity training is needed.** A presumption of the need for training in cultural sensitivity and competency was recommended. Agency staffs should become much better informed about various groups, cultural attitudes, and lifestyles, all of which have an impact on how members of these groups are viewed when decisions are made about them. The suggestion does not assume that people are racists; it does assume that decision-makers need to know more about the people about whom they make determinations, and learning more will only aid them in making those decisions.

**Increase racial and ethnic diversity of staff.**

Similarly, the addition of more people of color in criminal justice agencies was also suggested. Greater diversity on staff can lead to more informed policies and better connections with communities being served.

**Keep an open mind.** Policy-makers should resist the practice of jumping to conclusions in addressing disproportionate minority confinement, as well as other complex problems. They should suspend their beliefs about not only the youngsters caught up in the problems, but also about forces influencing their own and each other's operations. This is summarized by the following edited quotation:

It seems to me that what the researchers are telling us is that they were looking at numbers and -- while they don't have the explanation for it -- they found something [disproportionate minority outcomes]. Many of us as policy-makers want to run right in with the answers as to why it is that they found something or not.

For example, you could try to answer why a disproportionate number of minorities are involved in the probation department now. There could be a whole host of reasons. Like maybe it's because probation is one of the few places where services are being funded right now, so if you want to get a kid services, that's where you're going to make sure he goes, because community-based services don't exist any more.

As policy-makers we have an obligation not to make assumptions because we see this disproportionality, but to try and figure it out. We have an obligation to put aside some of our old institutional assumptions and be open to hearing different reasons about why things are the way they are, because times change and all kinds of variables change over time.