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Physicians for
Human Rights

Youth of Color in the Justice System *Racial Disparity in Health and Justice*

In many states, youth of color make up *80%* of incarcerated children, although they only represent about *30%* of the general population. Even though there is little difference in the rates or types of offenses, youth of color more likely to be arrested, prosecuted and incarcerated than white youth. In response to this, the *Juvenile Justice and Delinquency Prevention Act of 2002* mandates that states receiving federal funding demonstrate efforts to reduce disparity. Yet disproportionate contact with African American and Latino youth continues at rates greater than in the adult system. This disparity has a deleterious effect on the health and development of these children. The situation calls for a strong response from health professionals to advocate for equal treatment and culturally-competent services.

Unequal Treatment in Juvenile Justice

Youth of color receive differential treatment at every level of the system—with disparities increasing at each level.

Detention

In 2003, Latino youth were detained at *twice* the rate, and African Americans at *four* times the rate, of white youth. *Youth of color represented 61% of all adolescents in detention.*

Adjudication

African-American youth are six times more likely to be sentenced and incarcerated than white youth—nine times more likely if charged with a violent offense.

Incarceration

One study of incarcerated adolescents revealed that *77% were African-American, 15% were Hispanics and only 7% were white.*

Transfer to the Adult System

Latinos are six times as likely, and African Americans 12 times as likely, as white children to be transferred to adult criminal court. One study found that out of 393 transfers, *87% were African American, 13% were Latino, and less than 1% was white.*

The average length of incarceration was 193 days for whites, 254 days for African Americans, and 305 days for Latinos.

Racial Disparity and Health

Culture, race and poverty affect one's likelihood of seeking and receiving mental health services, even before entering detention. Language barriers may also limit a family's access to services. Often, mental health conditions are not formally identified, if at all, until evaluations in detention.

However, biased evaluation tools and negative stereotypes tend to characterize youth of color as conduct-disordered and delinquent rather than as emotionally disturbed. White youth, on the other hand, tend to be viewed as having treatable mental illnesses.

Although African-Americans are *more* likely than white youth to have a diagnosable mental health disorder, they are more often referred to the juvenile justice system rather than to mental health treatment.

Differential Treatment for Drug Offenses

Despite similar rates of drug use across race, African American youth are three times more likely to be arrested and *48 times* more likely to be incarcerated for drug offenses than whites.

Substance abuse *treatment*, however, is more accessible to white youth than to African Americans. African Americans represent 33% of all juvenile drug arrests but only 17% of those admitted to state-funded drug treatment programs.

75% of all 18-year old African American males in Washington, D.C., can expect to be arrested and jailed at least once before they reach age 35.

Youth of Color in the Juvenile Justice System

Factors Contributing to Racial Disparity

Poverty

Inadequate housing, high rates of violence, poor education and unemployment plague impoverished communities and contribute to delinquency. Children in poverty are:

- 26 times more likely to drop out of school
- 160 times more likely to become a teen parent
- 18 times more likely to be killed by gunfire
- 60 times more likely to suffer reportable abuse
- 46 times more likely to be placed in foster care

46% of African American children and 40% of Latino children live in poverty.

Legal Representation

Youth of color often lack access to quality legal services and may even be encouraged to waive their right to counsel altogether (as many as 90% in some jurisdictions.) Court-appointed lawyers often struggle to provide adequate counsel given extremely high caseloads, low attorney compensation and limited training in juvenile proceedings.

Attributional Stereotypes

Police are more likely to arrest youth of color than white youth, even for similar crimes. Such bias continues in the courts—one study shows that court workers are more likely to believe a white child's crimes are a product of his or her external environment (e.g., a broken home), while an African-American child's delinquency is caused by negative intentions and personal failings.

Health Professionals, YOU Can Make a Difference!

Health professionals can speak with authority on the physical, mental and emotional health of children and can advocate for developmentally-appropriate services that meet youths' needs. **Take action** to support the health and human rights of youth in the justice system:

- Sign up to receive action alerts from PHR
- Arrange Grand Rounds on health issues of incarcerated youth
- Call legislators to support scientific and humane reform
- Write letters to the Editor and Op-Eds that highlight these issues
- Contact your local juvenile court or advocacy group to volunteer
- Monitor local detention facilities to learn first-hand about conditions
- Join PHR and support the Health and Justice for Youth Campaign

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Everyone has the right, without distinction as to race, color, or national or ethnic origin, to equality before the law...

International Convention on the Elimination of All Forms of Racial Discrimination Art. 7.1

Culturally Competent Programs Work!

One way to combat disproportionality is to promote culturally competent services that acknowledge and respect the unique qualities, experiences, skills, class and background of these children. Such programs are effective because they teach life skills within the context of a child's family and community influences.

Health professionals can contribute to the expansion of culturally competent services through practice, education and advocacy. Direct service providers should utilize culturally competent screening and assessment tools and be aware of potentially biased diagnoses based on attributional stereotypes or faulty assessments.

Health professionals can also educate others in the profession and community about the extent of race disparity. Data collection and analysis of demographic information among youth in the justice system is key; many states claim not to have a problem yet have no data to support those claims.

Finally, health professionals can advocate for policies that address social inequities, such as racism and poverty, affecting the health, safety and development of youth of color in the United States.

Health & Justice for Youth Fact Sheets

- Health & Human Rights
- Youth in the Adult Criminal System
- Adolescent Brain Development
- Mental Health Needs of Youth
- Youth of Color in the Justice System
- Girls in the Justice System

The logo for Physicians for Human Rights (PHR) features the letters "PHR" in a bold, orange, sans-serif font. The letters are positioned on a light green rectangular background that is partially overlapping another light green rectangle below it.The text "Physicians for Human Rights" is written in a black, sans-serif font. It is centered within a light green rectangular box that is part of the organization's branding.

Youth of Color in the Justice System

This fact sheet was developed using the following sources:

American Psychiatric Association Committee on Nomenclature and Statistics (1997). *Diagnostic and Statistical Manual of Mental Disorders, Revised Third Edition*. Washington, DC.

Belenko S, Peugh J. (2005). "Estimating drug treatment needs among state prison inmates." *Drug and Alcohol Dependence*; 77(3): 269-81.

Bridges G.S., Steen S. "Racial disparities in official assessments of juvenile offenders: Attributional stereotypes as mediating mechanisms." *American Sociological Review* 1998;63: 554-570.

Bureau of Justice Statistics. *Sourcebook Criminal Justice Statistics, 2002*. 30th Ed. (Pub NCJ 203301) Washington DC: BJS, 2004.

Byrne, J., Pattavina, A., and Taxman, F (2005). "Racial Disparity and the Legitimacy of the Criminal Justice System: Exploring Consequences for Deterrence." *Journal of Health Care for the Poor and Underserved*, 16: 57-77.

A Call for Justice: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings. American Bar Association Juvenile Justice Center, Youth Law Center, and Juvenile Law Center. Available online: <http://www.abanet.org/crimjust/juvjus/cfj.html>

The Children Left Behind: An Assessment of Access to Counsel and Quality of Representation in Delinquency Proceedings in Louisiana. June 2001. American Bar Association Juvenile Justice Center and Juvenile Justice Project of Louisiana. Available online: <http://www.abanet.org/crimjust/juvjus/larptintro.pdf>.

Campbell, A.D. (1998). "Kansas v. Hendricks: absent a clear meaning of punishment, states are permitted to violate double jeopardy clause." *Loyola University of Chicago Law Journal*, 30:87-131.

Daniel, D. (2003). "Minority Overrepresentation in the Criminal and Juvenile Justice Systems," *The Compiler*, Illinois Criminal Justice Information Authority, Summer 2003.

Davis D.L., Bean G.I., Schumacher J.E., et al. (1991). "Prevalence of emotional disorders in a juvenile justice institutional population." *American Journal of Forensic Psychology*, 9(1): 5-17.

DeComo R.E. (1998). "Estimating the prevalence of juvenile custody by race and gender." *Crime and Delinquency*, 44: 489-506.

Dishion, T.J, McCord, J., Poulin, F. (1999). "When interventions harm. Peer groups and problem behavior." *American Journal of Psychology*, September 1999; 54(9): 755-764.

Sources, Continued

Herz, D.C. (2001). "Understanding the use of mental health placements by the juvenile justice system." *Journal of Emotional and Behavioral Disorders*, 9(3): 172-181.

Isaacs, M.R. (1992). "Assessing the mental health needs of children and adolescents of color in the juvenile justice system: overcoming institutionalized perceptions and barriers." In: Coccozza JJ. Ed. *Responding to the Mental Health Needs of Youth in the Juvenile Justice System*. Seattle: National Coalition for the Mentally Ill in the Criminal Justice System, 141-163.

Jenuwine, M., Lyons, J., Romansky, J., Rawal, P. (July/ September 2004). "Racial Differences in the Mental Health Needs and Service Utilization of Youth in the Juvenile Justice System." *The Journal of Behavioral Health Services & Research*. 243

Kakar, S. (2006). "Understanding the causes of disproportionate minority contact: Results of focus group discussion." *Journal of Criminal Justice*, 34: 369-381.

Mcguire, D. (Winter 2002). "Cumulative Disadvantage as an Explanation for Observed Disproportionality within the Juvenile Justice System: An Empirical Test." *Juvenile and Family Court Journal*, 12.

Males, M., Macallair, D. (2000). "The Color of Justice: An Analysis of Juvenile Adult Court Transfers in California." Available at: <http://www.buildingblocksforyouth.org/colorofjustice/>

Office of National Drug Control Policy (2005). "Treatment." Available at: <http://www.whitehousedrugpolicy.gov/treat/index.html>

Offord, D.R., Boyle, M.H., Racine, Y.A., et al. (1991). "Outcome, prognosis, and risk in a longitudinal follow-up study." *Journal of the American Academy of Child & Adolescent Psychiatry*, 35 (6): 515-530.

Rainville, G., Smith, S. (2003). *Survey of 40 Countries, 1998: Juvenile Felony Defendants in Criminal Courts*, Bureau of Justice Statistics, U.S. Department of Justice, 3.

Sickmund, M. (2004). *Juveniles in Corrections*. (Pub. NCJ 202885) Washington, DC: DOJ, Office of Juvenile Justice and Delinquency Prevention.

Snyder, H., Sickmund, M. (1999). "Juvenile Offenders and Victims: 1999 National Report." Office of Juvenile Justice and Delinquency Prevention, 115