

Asking Deeper Questions about Racial and Ethnic Disparities: What Data Should You Examine and What Questions Should You Be Asking

This is a brief guide intended to be used after a jurisdiction has identified a decision stage at which they have the highest degree of disparity. It should not be used for an overall examination of the entirety of the juvenile justice system. It is intended to provide a guide, not be a comprehensive listing of all possible explanations for disparities.

Decision to Arrest

Want to look at arrests that lead to both municipal and district court involvement, by race and ethnicity.

Pertinent Materials to Review:

What are the sources of referrals? What are the patterns for each source:

- Local Law Enforcement agencies (by specific jurisdiction)
- Other agencies such as child welfare
- Institutions such as shopping centers, major stores, park police, etc
- Parents / families
- Probation offices (technical violations, new offenses)
- Police/sheriff department's policy(ies) on juvenile arrests
- **School(s) Policy on referrals to law enforcement** (when does a discipline problem become a criminal matter)
 - Disengagement with school
 - Truancy
 - Drop outs
 - Graduation rates
 - Suspensions
 - Expulsions
 - Criminalizing School Infractions

Data on Decision to arrest or issue a citation

- Severity of offense, by race and ethnicity
- Prior/secure confinements/arrests, by race and ethnicity

- How many youth by race and ethnicity are on probation at the time of arrest or citation

Alternatives to Arrest: Are there alternatives that are used by officers: (If so, what are the usage patterns, are there geographic issues, do these programs have screening criteria?)

- Shelters (homeless, detox, etc)
- Referral or Assessment centers
- Referrals to organizations like Boys and Girls Clubs, after school programs,
- 'Diversion' programs like a shoplifting school, traffic schools, 'theft talk' etc
- Community-Based Services
- Access to Mental Health Services
- Access to Substance Abuse Treatment
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Geographic hotspots for arrests

- Zip codes of offenders' homes
- Zip codes where offenses took place
- Question: Are there zip codes where most arrests are taking place? Are the offenders coming from predominately a few areas? What opportunities exist for youth in those areas? What prevention/intervention programs are accessible to youth in those areas? Is there access to mental health and substance abuse services in these areas?

Difference in arrest by offense type and ethnicity

Time of day of arrests

- Determine time of day for most juvenile arrests by ethnicity
- Question: Are there differences by ethnicity in the time of day and/or day of week that arrests are occurring?

Number of arrests on warrants/type of warrants

- Type of warrant youth are being arrested for, by race and ethnicity: Failure to Appear, Failure to Comply, Municipal or District warrants.
- Question: Are there differences in the types of warrants youth are arrested for by race and ethnicity?

Any other factors that lead to an automatic arrest?

Possible explanations for DMC:

- Is there selective enforcement?
- Indirect effects of socio-economic factors (income, wealth in area, family structure, school systems)
- Public policies that affect arrest (attention to zones around schools, drug free zones, etc)
- Institutional practices
- School push-out policies
- Calls for service (who calls police, what types of things are handled as non-law enforcement issues, what are the geographic patterns of calls)

Other areas to look at:

- Subjective Decision Making (how do officers make judgements about routine stops, who to question, etc)
- Differential Offending (who belongs to gangs, which groups have higher involvement in crime, different types of crime and greater recidivism)
- Differential Administrative Policies and Practices
- How Many Youth Have Had Child Welfare involvement (do youth of color have more CW involvement?)
- How Many Youth of Color Have Access to Health Care Including Mental Health and Substance Use Treatment

Decision to Detain

Pertinent Materials to Review:

Chief Justice's Order that provides rules related to use of detention in that jurisdiction

Questions/Data to Review:

- Is there a difference by ethnicity of youth screened for detention?
- What is the number and percent of youth screened to each level by ethnicity?
- Are the reasons for detention different by ethnicity? Look specifically at warrants such as Failure to Appear and Failure to Comply.
- Do the levels of risk on the CJRA for youth detained differ by ethnicity? Which elements in the CJRA account for the differences in risk?
- What are the reasons that low risk youth were detained? Does this differ by ethnicity?
- Are there issues with availability of alternatives, availability of parents, or other items that might differ by ethnicity or geography?

- Was there agreement between the recommended placement level under the JDSAG and the actual placement? If not, how does this differ by ethnicity?
- Are there differences in leave reasons for youth based on ethnicity?
- For the negative terminations are there differences by ethnicity?

Other factors:

- Length of stay – does it differ by race / ethnicity – look at both the average and the ranges (minimum, maximum)
- Seriousness of offense
- Misdemeanor or felony
- Offender age and gender
- Differences between districts

Decision to Refer Youth to Diversion

- Who is served by diversion, by ethnicity?
- Do youth need to admit guilt in order to receive diversion?
- Is there a difference by ethnicity in youth served by pre-adjudication versus post-adjudication diversion programs?
- Diversion services can be broken out by type: Supervision, Treatment, Accountability, Restorative Justice, and Competency services. Does the type of service delivered differ by ethnicity?
- Are programs/services being utilized equally effective for all ethnicities? What are the program completion rates by ethnicity? What are the outcomes for youth by ethnicity (recidivism, academic improvement, employment, family stability, etc...)?
- What youth and program factors are associated with (reduced) recidivism? Is there a difference by ethnicity in the proportions of youth who receive a diagnostic assessment for mental health or substance use needs?
- Colorado's standard criterion for recidivism is a filing or filings for a new offense either while the juvenile was in the program or up to one year after they exited the program. Are there differences in recidivism rates by ethnicity?
- Is there a difference by ethnicity on the referral source for youth to diversion (police, courts, or probation)?
- Is there a difference in average program duration by ethnicity?

Decision to File

- What information is available to District Attorneys to make their filing decision?
- What formal criteria are used to make decisions on who gets offered diversion? What is the range and use of discretion in using that criteria?
- Is informal criteria/information used to make decisions on diversion?
- Questions/Data to Review: What is the percent by ethnicity of cases presented by law enforcement to the District Attorney's office?
- What percent by ethnicity of the cases brought by law enforcement get filed on?
- What are the completion rates for diversion by ethnicity?
- What are the negative termination rates by ethnicity?
- Are there differences by ethnicity in termination reasons?

Decision to Adjudicate Youth as Delinquent

- Percent of youth by ethnicity adjudicated delinquent in municipal court?
- Percent of youth by ethnicity adjudicated delinquent in district court?
- What information is available to judges when making their decision to adjudicate?
- What does the severity of offenses compared to adjudication by race and ethnicity look like?
- Are youth represented by counsel? Does this differ by ethnicity?

Decision in Sentencing

- Percent of youth by ethnicity placed on probation?
- Percent of youth by ethnicity given a deferred adjudication?
- Percent of youth by ethnicity placed in Child Welfare?
- Percent of youth by ethnicity, committed on a technical violation of probation?
- Percent of youth by ethnicity, committed for a new offense while on probation?
- What is the average amount of restitution ordered by ethnicity?
- What is the average amount of community service ordered by ethnicity?
- Is consideration of sentencing alternatives required for youth who will be placed in a custody setting?
- Are alternatives offered by youth advocates?
- Is the rationale for rejecting non-secure placement recorded?

Decisions in Commitment

- What is the average length of stay by ethnicity and offense?

- What is the result of parole violations for new charges by ethnicity? Do the number and percent of those cited for parole violations differ by ethnicity?
- What is the result of parole violations for technical violations by ethnicity?
- What is the average length of stay by ethnicity and risk scores?
- What is the percent of youth placed in a community setting by ethnicity?

Decisions in Probation

- How many terminations are there by race and ethnicity?
- What do the termination reasons by race and ethnicity look like?
- Look at conditions of probation, do they differ by race or ethnicity?