

# NATIONAL JUVENILE JUSTICE NETWORK

## 5 Key Facts to Know About Racial Disparities in the Youth Justice System

APRIL 2018

Most communities in the United States experience racial and ethnic inequities in their juvenile justice system – meaning that youth of color experience the justice system differently from white youth. Youth of color are more likely to be arrested, detained, and confined than white youth, and are more likely to be tried as adults.<sup>1</sup> These disparities have deep historical roots reaching back long before the founding of the juvenile justice system in this country.<sup>2</sup> This fact sheet highlights key facts to understand about the intersection of racial justice and the juvenile justice system.

### 1) Youth of Color Don't Engage in More Delinquent Acts than White Youth

Differing rates of delinquency among youth of different races and ethnicities do not explain the vast disparities in their involvement at various points in the juvenile justice system.<sup>3</sup> 2015 survey data compiled by the Centers for Disease Control and Prevention (CDC), shows that black, Hispanic, and white youth are engaged in illegal behaviors at similar rates.<sup>4</sup>

### 2) Disparities Can be Found Across the United States

In 2015, youth of color comprised a majority (69 percent) of the more than 47,000 youth incarcerated on any given day, and were significantly more likely to be incarcerated than white youth—black youth were 5 times as likely, Native American youth were 3.1 times as likely, and Latino youth were 1.6 times as likely to be incarcerated as white youth.<sup>5</sup> When the data is broken down by [decision point](#) in the juvenile justice system, it shows over-representation of youth of color throughout the process from arrest through court referral and placement out of home.<sup>6</sup>

### 3) **Racial and Ethnic Disparities Have Grown as Youth Incarceration Rates Have Fallen**

Nationally, the rate of youth incarceration has fallen from 355 per 100,000 youth in 1997 to 152 per 1000,000 in 2015. In total numbers, there was a high of 110,126 total youth locked up on any given day in 2000 and that number fell to 48,043 in 2015.<sup>7</sup>

However, racial disparities in confinement have been growing. African-American youth were approximately four times as likely as white youth to be incarcerated in 2001 and are five times as likely today. Disparities grew in 37 states and shrank in only 13.<sup>8</sup>

### 4) **Implicit Biases Play Role in Disparities**

Implicit bias involves the unconscious use of attitudes or stereotypes that affect our understanding, actions, or decisions.<sup>9</sup> The pervasiveness of negative stereotypes about youth of color in America has led many people to associate youth of color with crime and dangerousness,<sup>10</sup> and often implicit biases impact juvenile justice system decision makers. Biases of key decision makers, such as police officers, judges, and probation officers,<sup>11</sup> play a role in perpetuating disparities in the juvenile justice system.<sup>12</sup>

### 5) **Policies and Resource Distribution Drive Disparities**

There are numerous system and resource issues that lead to these racial and ethnic disparities. School disciplinary policies in which students are suspended, expelled, and arrested for minor disciplinary infractions, have been shown to disparately affect students of color and can start youth on a path of further delinquency.<sup>13</sup> The high distribution of law enforcement to the streets and schools in low income communities that are majority people of color leads to increased arrests for frequently non-criminal behavior, such as truancy, curfew violations and loitering.<sup>14</sup> Services are often lacking in communities of color, whether that be diversion programs, victims' services, positive youth programming or family support services.<sup>15</sup>

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<sup>1</sup> National Conference of State Legislatures, "Disproportionate Minority Contact," 2, at <http://bit.ly/1cUiE3w>, in *Juvenile Justice Guidebook for Legislators* (Denver, CO: Nov. 2011), <http://bit.ly/1mpipyK>; "The overwhelming majority of cases (83%) that were filed in adult courts involved youth of color." Neelum Arya and Ian Augarten, "Critical Condition: African-American Youth in the Justice System," *Race and Ethnicity 2* (Washington D.C.: Campaign for Youth Justice, Sept. 2008): 25, <http://bit.ly/2Gq51wP>.

<sup>2</sup> James Bell and Laura John Ridolfi, “Adoration of the Question: Reflections on the Failure to Reduce Racial & Ethnic Disparities in the Juvenile Justice System,” ed. Shadi Rahimi, vol. 1 (San Francisco, CA: W. Haywood Burns Institute, Dec. 2008): 2, <http://bit.ly/2Hw7vc2>.

<sup>3</sup> Juvenile Justice Information Exchange, “Racial-Ethnic Fairness: Key Issues,” accessed Aug. 17, 2017, <http://bit.ly/2w0NFBz>; citing The Annie E. Casey Foundation, “Detention Reform: An Effective Approach to Reduce Racial and Ethnic Disparities in Juvenile Justice” *Detention Reform Brief 3* (Baltimore, MD: The Annie E. Casey Foundation, 2009): 2, <http://bit.ly/2GpfRmJ>.

<sup>4</sup> Laura Kann, Tim McManus, William A. Harris, et. al., “Youth Risk Behavior Surveillance – United States, 2015” *MMWR Surveill Summ* 65, (Atlanta, GA: U.S. Dept. of Health and Human Services, Centers for Disease Control and Prevention), 2016, <http://bit.ly/2h0s2g3>.

<sup>5</sup> Data was compiled by The Burns Institute from data provided by the Office of Juvenile Justice and Delinquency Prevention from their one-day count data which shows how many youth are detained, committed, or otherwise sleeping somewhere other than their home by court order on any given day in a particular year. The W. Haywood Burns Institute, “Unbalanced Juvenile Justice,” accessed Aug. 17, 2017, <http://data.burnsinstitute.org/about>.

<sup>6</sup> C. Puzzanchera and S. Hockenberry, “National Disproportionate Minority Contact Databook” (Developed by the National Center for Juvenile Justice for the Office of Juvenile Justice and Delinquency Prevention, 2016), accessed Aug. 17, 2017, <http://bit.ly/2vm0cgz>.

<sup>7</sup> Joshua Rovner, “Still Increases in Racial Disparities in Juvenile Justice,” (The Sentencing Project, Oct. 20, 2017), <http://bit.ly/2pboutB>.

<sup>8</sup> Rovner, “Still Increases in Racial Disparities in Juvenile Justice.”

<sup>9</sup> National Juvenile Justice Network, “Implicit Bias: Why It Matters for Youth Justice” (Sept. 2017): 2, <http://bit.ly/2FHeOkE>; citing Cheryl Staats, Kelly Capatosto, Robin A. Wright, and Victoria W. Jackson, “State of the Science: Implicit Bias Review 2016” (Columbus, OH: The Ohio State University, Kirwan Institute for the Study of Race and Ethnicity, 2016): 14, <http://bit.ly/2aMHIRR>.

<sup>10</sup> Kristin N. Henning, “Criminalizing Normal Adolescent Behavior in Communities of Color: The Role of Prosecutors in Juvenile Justice Reform,” *Cornell Law Review* 98 (2013): 419, <http://bit.ly/1aOzLzG>.

<sup>11</sup> Mark Soler, “Reducing Racial and Ethnic Disparities in the Juvenile Justice System,” *Trends in State Courts* (National Center for State Courts, 2014): 28-9, <http://bit.ly/2liJpdG>.

<sup>12</sup> Studies by Goff and colleagues found that officers overestimated the age of black and Latino male youth suspects, though not of white youth, and overestimated black youths’ ages the most. Phillip Atiba Goff, Matthew Christian Jackson, Brooke Allison Lewis Di Leone, Carmen Marie Culotta, and Natalie Ann DiTomasso, “The Essence of Innocence: Consequences of Dehumanizing Black Children,” *Journal of Personality and Social Psychology* 106: 4 (2014): 533-35, <http://bit.ly/1CHmE6C>; Studies of juvenile justice system stakeholders found “evidence of bias in perceptions of culpability, risk of reoffending, and deserved punishment for adolescents when the decision maker explicitly knew the race of the offender.” Henning, 420; Research found that judges carry implicit biases about race that can affect their judgment. Soler, 29; citing Rachlinski et al., 2009.

<sup>13</sup> “A disproportionately large percentage of disciplined students are youth of color, students with disabilities, and youth who identify as lesbian, gay, bisexual, or transgender (LGBT).” Emily Morgan, Nina Salomon, Martha Plotkin, and Rebecca Cohen, “The School Discipline Consensus Report: Strategies from the Field to Keep Students

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Engaged in School and Out of the Juvenile Justice System” (New York: The Council of State Governments Justice Center, 2014: ix, xi, 6-7, 11), <http://bit.ly/2tKwR3X>; Melinda D. Anderson, “When Schooling Meets Policing,” *The Atlantic*, Sept. 21, 2015, <http://theatlantic.com/2GoPIEy>; Youth of color, LGBTQ students, and students with disabilities are punished more often and more harshly than their peers for the same behavior, with Hispanic or African-American students accounting for over 70% of the students involved in school-related arrests or referred to law enforcement. Advancement Project, “School-to-Prison Pipeline” Infographic, accessed Jan. 10, 2018, <http://bit.ly/1vFEX91>.

<sup>14</sup> “Broken Windows” policing has led to higher concentrations of police officers in low-income urban neighborhoods and because of stereotypes linked to race and class, police proceed with criminal charges against children in low-income communities more frequently than those in affluent ones. Tamar R. Birkhead, “Delinquent By Reason of Poverty,” *Washington University Journal of Law and Policy* 38 (January 2012): 79-80, <http://bit.ly/2FFVAYT>; Increased police resources lead to increased arrests for low-level and nonviolent offenses that disproportionately affects communities of color and low-income communities. Justice Policy Institute, “A Capitol Concern: The Disproportionate Impact of the Justice System on Low-Income Communities in DC” (July 2010): 4, <http://bit.ly/2FQtP2R>; Study found a larger percentage of students at schools with a school resource officer (SRO) had economically disadvantaged students compared to schools without an SRO and also had a larger percentage of ethnic minority students. Matthew T. Theriot, “School Resource Officers and the Criminalization of Student Behavior,” *Journal of Criminal Justice* 37 (2009): 284, <http://bit.ly/1EKEOpn>.

<sup>15</sup> Spending on the police vastly outpaces spending on community resources and services in many jurisdictions – including spending on youth programs, mental health services, and education. Violence Prevention Coalition, LA for Youth, and Youth Justice Coalition, “Building a Positive Future for LA’s Youth” (June 2012): 8, <http://bit.ly/2ngW4PH>.