

**ASSESSING DISPROPORTIONATE MINORITY CONFINEMENT IN THE
NEBRASKA JUVENILE JUSTICE SYSTEM**

EXECUTIVE SUMMARY

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**REPORT ON THE DISPROPORTIONATE CONFINEMENT
OF MINORITY YOUTH IN THE NEBRASKA
JUVENILE JUSTICE SYSTEM**

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Summary of Findings

As mandated by the 1988 Disproportionate Minority Confinement Initiative of the Juvenile Justice Delinquency and Prevention Act, this report examines disproportionate minority confinement in Nebraska's juvenile justice system. To ascertain the extent of minority over representation in the juvenile justice system and to understand the causes for such disparities, data were collected from Douglas, Hall, Lancaster, and Sarpy Counties. Findings from this study included:

- In all four counties, minority offenders were over represented at all stages of the juvenile justice process. The amount of over representation, however, varied across counties.
- In all four counties, offender age, offense seriousness, and prior offending affected processing outcomes more than race.
- In all four counties, data were missing for over half of the juvenile cases examined.
- In all four counties, juvenile offenders were rarely placed into secure, non-secure, or mental health facilities.
- Race impacted decision-making for certain offenders at particular stages of the system (i.e., pre-detention, petition, and secure confinement); however, the extent to which race affected these decisions varied across counties.
- Survey and interview data collected from decision-makers in each county revealed at least five factors that explained race disparities in processing. These factors included: racial bias, legal factors, and extra-legal variables, including demeanor/attitude, socio-economic status, and family status.

Recommendations were suggested based on comprehensive examinations of these findings.

PURPOSE OF THE DMC STUDY

Since its passage in 1974, the Juvenile Justice and Delinquency Prevention Act has been instrumental in reforming juvenile justice systems nationwide. Originally, the Act required states to de-institutionalize status offenders, remove juvenile offenders from adult jails, and afford juvenile offenders due process protections (Juvenile Justice and Delinquency Prevention Act of 1974). In 1988, Congress added the Disproportionate Minority Confinement Initiative to the JJDPA to address a growing concern that minority juvenile offenders were unjustifiably over represented in secure facilities (Feyerherm, 1995). This initiative required states to determine if minorities are over represented in secure facilities, ascertain the reasons for over representation, and develop system responses that will prevent over representation in the future (Juvenile Justice and Delinquency Prevention Act of 1974, as amended [Public Law 93-415], Section 223 [a][23]).

Step 1 in the DMC Initiative

The first requirement of the DMC Initiative is to determine the extent of over representation in secure juvenile facilities. Over representation, in DMC terms, occurs when the proportion of minority offenders placed in a secure facility exceeds their proportion in the population. For instance, African-American youth are over represented if they represent 5 percent of the population but represent 10 percent of the offender population in secure confinement. Conversely, white youth are under represented if they represent 90 percent of the population but only 75 percent of the offenders placed in secure confinement. Although over representation indicates that minority youth receive different treatment in the juvenile justice system compared to white youth, such disparities may be warranted. For example, the racial distribution in secure facilities may

result from different offending patterns and offense histories across race. If all offenders are placed in a secure facility and African-American offenders are over represented in these categories, then racial disparities are justified. If, on the other hand, the distribution cannot be explained by such legal factors, the disparity is unwarranted and requires explanation.

In 1993, the Nebraska Commission on Law Enforcement and Criminal Justice, the University of Nebraska-Lincoln Center on Children Family and the Law, and Voices for Children in Nebraska assessed the extent of minority over representation in the Nebraska juvenile justice system (Lovell et al., 1993). Analyses of 1990-1991 juvenile arrest and confinement rates revealed that minorities were arrested at a rate double their representation in the general population and were confined at a rate that was four to five times their representation in the general population. Overall, this report concluded that minority over representation existed at many stages of the juvenile justice process and that this disparity could not be explained entirely by offense seriousness (Lovell et al., 1993, pp. 12-14).

Step 2 in the DMC Initiative:

Having assessed the amount of over representation in Nebraska's juvenile justice system, Nebraska state officials were compelled to explain the disparate treatment across groups of offenders. This is typically the most challenging part of the initiative, because the sources of over representation are often ambiguous. To investigate the sources of over representation, a research grant was awarded to University of Nebraska at Omaha researchers who collected and analyzed 1990-1994 data from four sites: Douglas County, Hall County, Lancaster County, and Sarpy County.¹

Step 3 in the DMC Initiative:

The Disproportionate Minority Confinement Committee (subcommittee of the Crime Commission's Juvenile Justice Coalition) has been responsible primarily for the final requirement of the DMC initiative, which is to provide system recommendations aimed at preventing unwarranted over representation in the future. The DMC Committee's mission is the following:

to promote awareness of problems that are affecting minority youth/adolescents involved with or at risk of involvement with the juvenile justice system in Nebraska and to aggressively support resolutions designed to address the problems affecting these populations.

The purpose of this report is to summarize the results of the DMC study in addition to the committee's initial recommendations for future policy development in the Nebraska juvenile justice system. It was the intention of this study to uncover factors that may be causing these disparities in an effort to reduce them. The results contained in this report should be viewed in their entirety since minority over overrepresentation cannot adequately be addressed without taking a comprehensive approach to resolving the shortcomings of juvenile justice.

UNDERSTANDING THE JUVENILE JUSTICE SYSTEM

Figure 1 illustrates the juvenile justice process as described in the Section 43-247 to Section 43-262 of the Nebraska code.² Police, parents, schools, or social service agencies can refer juveniles to the court; however, the police refer the majority of juveniles. Once an arrest has been made, the police officer must decide whether to detain a juvenile offender or not. If the police officer decides to detain an offender, the officer

must contact an intake/probation officer who reviews the case and determines whether to detain the youth and where he/she should be placed. If an offender is pre-detained, he/she will receive a detention hearing within 24 hours. At which time, the judge will continue to detain the offender, place the offender in a non-secure facility, or release the offender to his/her parents.

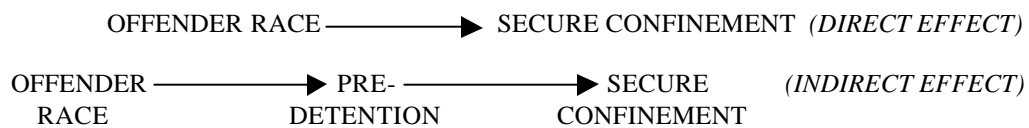
Following the detention decision, the County Attorney reviews all juvenile referral cases and decides whether the case will be petitioned to court. If a case is petitioned to court, the offender must appear at an arraignment hearing. Following arraignment, the offender is scheduled for an adjudication hearing. If the offender is found delinquent or admits to the charges, the offender is scheduled for a disposition hearing. At the disposition hearing, the judge may decide to (1) take no further action on the case, (2) give the offender probation or community service, (3) place the offender in a non-secure placement, or (4) place the offender in a secure confinement facility.

To understand why minorities are over-represented in secure confinement facilities, it is necessary to examine the disposition decision as well as the pre-detention and petition decisions. It is necessary to examine these three decision-making points because prior research in this area has indicated that race may directly impact decisions but they may also impact decisions in other, more subtle ways (Feyerherm, 1995; Zatz, 1987). For instance, indirect effects, cumulative effects and geographical effects may explain how minorities are ultimately over-represented in the last stage of the juvenile justice process.

Race may **indirectly** affect the decision to place an offender in secure confinement. This type of effect occurs when race is related to a factor which, in turn, is

related to harsher outcomes. For instance, analyses may reveal that a minority offender is more likely than a white offender to be pre-detained and that offenders who are pre-detained are more likely to be placed in secure confinement. In this case, an offender's race would indirectly affect the secure confinement decision, because minority offenders have a greater likelihood of being pre-detained, and being pre-detained increases the likelihood of receiving a secure confinement decision (Figure 2).

Figure 2: The Operation of Indirect Effects vs. Direct Effects



It is important to note that indirect effects may operate through legal factors as well as extra-legal factors such as gang membership, family status, and school status.

The **cumulative (or sum) effect** of race may also play a role in explaining unwarranted disparity. If, for example, being a member of a minority group increases an offender's probability of being pre-detained, petitioned, and being placed in a secure facility, the sum of those effects is greater than the effect at each stage. When considered as a whole, the total affect of race across stages becomes concerning.

Geography (i.e., where the offender is processed) also may be related to unwarranted disparity. The influence of geography should not be underestimated. The representation of minorities in a particular area, the viewpoints of the decision-makers, and the philosophical orientation of the area may bias decisions in ways that impact minority offenders or impact white offenders. Additionally, the number of resources often varies across locations and is instrumental in determining what options are available to juvenile offenders and their families.

DATA

To examine the impact of race on juvenile justice processing decisions, samples were randomly selected from all juvenile referrals in Douglas, Hall, Lancaster, and Sarpy Counties between January 1, 1990 and December 31, 1994. Cases were selected from all juvenile referrals within this time frame, resulting in samples of 1,000 to 1,500 cases in each county. In Douglas and Hall Counties, status offenders were excluded from selection, but they were included in the Lancaster and Sarpy samples.³ Cases with white offenders were under sampled compared to cases with minority offenders in each county. This procedure was necessary due to the low number of cases involving minority offenders and the high number of cases involving white offenders. Prior to all analyses, these samples were weighted according to the representation of race categories in the population of referrals, yielding estimates for the entire population of referrals in each county (Table 1).

Table 1: Distribution of Referral Samples across Counties

	Total Number of Referrals Sampled From (1990-1994)	Total Number of Referrals Randomly Sampled	Weighted Sample Totals (Number Used in Analyses)
Douglas County	15,859	1,386	15,728
Hall County	1,750	1,031	1,704
Lancaster County	9,733	1,203	6,847
Sarpy County	4,848	1,056	4,715

Note: (1) Weighted Sample does not match total number of referrals because transfer cases and missing files were excluded from the randomly selected sample. (2) Lancaster County had a large number of files that could not be found or were found to be dependency/neglect charges after selection in the sample. For instance, this county's sample originally totaled 1,203; however, the resulting sample was 1,060 due to the aforementioned reasons.

To collect information on selected referrals, researchers read each case file (when available) and coded offender characteristics and the processing decisions associated with each case. This process differed somewhat across counties, but the probation office in each county was the primary access point for these data. Both legal and social

information was collected from all case files. Legal information refers to all system decisions that were made about the referral, such as pre-detention, diversion, petition, arraignment, adjudication, and disposition. Legal data also included information such as the offense for which the referral was made and the number of offenses an offender had prior to the current one. Social information refers to any information on the offender him/herself (i.e., drug use, mental health history, school experience, family background, family relationships). In all counties, legal information was more available than social information because many files did not contain any social information. The variables used in this study were chosen based on their relevance to decision-making in previous research and their availability across counties. The variables used for these analyses are noted below in Figure 3.

Figure 3: Factors Used To Predict Juvenile Justice Processing Decisions

Stage 1: Factors Used To Predict Pre-Detention	Stage 2: Factors Used To Predict Petition Decision	Stage 3: Factors Used To Predict Secure Confinement Decision
<i>Offender Sex</i>	<i>Offender Sex</i>	<i>Offender Sex</i>
<i>Offender Race</i>	<i>Offender Race</i>	<i>Offender Race</i>
<i>Offender Age</i>	<i>Offender Age</i>	<i>Offender Age</i>
<i>Offense Seriousness</i>	<i>Offense Seriousness</i>	<i>Offense Seriousness</i>
<i>Number of Prior Offenses</i>	<i>Number of Prior Offenses</i>	<i>Number of Prior Offenses</i>
	<i>Pre-Detention Status</i>	<i>Pre-Detention Status</i>

In addition to case processing data, information was also gathered from surveys and interviews with juvenile justice personnel. First, decision-makers in each county were asked to complete a survey, which measured their attitudes on a variety of issues. These issues included the goals and operation of the juvenile justice system, the causes of delinquency, and whether they felt that minority youth were treated differently in the juvenile justice system and why. Following the completion of the survey, decision-makers were also asked to participate in an interview. Responses from these interviews provided a third source of data to reinforce and/or explain the findings from the statistical analysis and the survey responses.

ANALYSIS

Case processing data were analyzed in two ways. First, the percentage of minority offenders and white offenders were calculated at each stage. By comparing the representation of each group in the data to their representation in the general population and juvenile referral population, the degree to which a group of offenders is over represented or under represented can be determined. For this reason, descriptive information is essential to understanding the status of over representation in the juvenile justice system. Descriptive analyses, however, are unable to account for the factors that may be causing over representation to occur, because these analyses only describe race distribution at each stage. These analyses cannot isolate the effect of offender race on over representation.

In order to explain why over representation exists, multivariate analyses were performed. Multivariate analyses allow researchers to examine the effect of race on over representation while simultaneously accounting for other relevant factors that might help

to explain the decisions that contribute to over representation. By using multivariate analyses, we can determine whether offender race predicts particular outcomes, because these analyses hold all variables equal except race. In other words, a white offender who was charged with offense “x” and who had “y” prior offenses is compared to a minority offender who was charged with offense “x” and who had “y” prior offenses. If the minority status of an offender is related to a harsher outcome, then race predicts outcome decisions. If, on the other hand, the minority status of an offender is not related to a harsher outcome, then the processing decision is explained by factors other than race.⁴

FINDINGS

Philosophies, resources, and procedures often vary across juvenile justice systems. Since this study included four counties that were arguably representative of different areas, analyses were performed on each county separately. As expected, the findings from both descriptive and multivariate analyses revealed both similarities and differences in decision-making across each county. Consequently, general findings are presented followed, by a discussion of the findings for each county separately.

General Findings

1. In all four counties, minority offenders were over-represented in juvenile referrals, in pre-detention decisions, in petition decisions, and in secure confinement decisions. The degree to which offenders were over-represented, however, varied across counties and across race categories (Table 2).

Table 2: Minority Over Representation across Counties

Offender Race	% Juvenile Representation				
	Popu- lation	Referrals	Pre- Detention	Petition	Secure Confinement
Douglas County:		N=15,728	N=3,548	N=5,922	N=812
White	80%	54%	34%	44%	28%
African-American	5%	36%	55%	46%	55%
Latino	4%	5%	5%	5%	9%
Native American	1%	5%	6%	5%	7%
Hall County		N=1,704	N/A	N=1,339	N=100
White	91%	77%	---	77%	65%
Latino	6%	17%	---	18%	26%
Other	3%	6%	---	5%	9%
Lancaster County		N=6,847	N=401	N=2,666	N=126
White	93%	78%	81%	83%	68%
African-American	3%	15%	10%	10%	18%
Latino	2%	3%	4%	3%	9%
Native American	1%	4%	5%	4%	6%
Sarpy County		N=4,715	N=343	N=1,771	N=72
White	91%	89%	85%	87%	86%
African-American	6%	8%	11%	9%	10%
Latino	4%	3%	4%	4%	4%

*Percentages may not sum to 100 due to rounding error.

- Offender age, offense seriousness, and prior offending were the best predictors of harsher outcomes at each stage. Although the actual impact of these variables varied somewhat from county to county, it was clear that these characteristics impacted decision-making more than race in every county.

3. The statistical impact of social, extra-legal factors remains tenuous, because these factors were often missing in juvenile court records. For instance, family status, socio-economic status, and school status were missing in over half of the cases in each county (Table 3).

Table 3: Percentage of Missing Data for Selected Social Factors Related to Decision-Making

	Percent of Missing Data for:		
	School Status	Family Status	Welfare Status
Douglas County	85%	69%	85%
Hall County	90%	90%	91%
Lancaster County	68%	68%	75%
Sarpy County	55%	54%	66%

4. Non-secure and secure placements were rarely used in any of the four counties. Non-secure placements ranged from less than 1 percent in Hall County to 5 percent in Lancaster County. Secure confinements ranged from 4 percent in Sarpy County to 14 percent in Douglas County (Table 4).

Table 4: Distribution of Outcomes by County

	No Action	Diversion	Probation	Non-Secure Placement	Mental Health Placement	Secure Placement
Douglas County						
All Referrals	67%	15%	13%	1%	N/A	5%
Petitioned Only	51%	N/A	34%	2%	N/A	14%
Hall County						
All Referrals	48%	1%	45%	<1%	N/A	6%
Petitioned Only	35%	N/A	37%	<1%	N/A	8%
Lancaster County						
All Referrals	65%	N/A	31%	2%	1%	2%
Petitioned Only	10%	N/A	78%	5%	2%	5%
Sarpy County						
All Referrals	42%	38%	18%	1%	N/A	2%
Petitioned Only	46%	N/A	48%	2%	N/A	4%

Douglas County Findings

Direct Race Effects: Table 5 contains the percent likelihood that a white offender, African-American offender, a Latino offender, and a Native American offender would receive pre-detention, petition, or secure confinement in Douglas County. These probabilities were calculated based on an average offender in Douglas County. This average offender was a 14-year-old male misdemeanor offender with 1 prior. Thus, based on the results contained in Table 5, 13 out of 100 white, “average” offenders were pre-detained compared to 23 African-American, “average” offenders, 17 Latino, “average” offenders, and 21 Native American “average” offenders. If race did not matter

at a particular decision point, the probabilities across race should be equal. If race does matter, however, the probabilities would be unequal.

Table 5: Percent Likelihood of Receiving Particular Outcomes across Race

	Probability Effect at Each Stage Across Offender Race		
	Pre-Detention	Petition	Secure Confinement
White	13%	42%	12%
African-American	23% (+10%)	44% (+2%)	17% (+5%)
Latino	17% (+4%)	44% (+2%)	14% (+2%)
Native American	2% ¹ (+8%)	32% (-10%)	10% (-2%)

Based on the results contained in Table 5, it appears that offender race did matter in particular situations. African-Americans were 10% more likely than white offenders to be pre-detained, Latino offenders were 4% more likely than white offenders to be pre-detained, and Native American offenders were 8% more likely than white offenders to be pre-detained. Race appeared to have less of an effect at the petition stage except in the case of Native Americans. Native American offenders were 10% less likely than white offenders to be petitioned. Race also played a limited role at the secure confinement stage. African-American offenders were 5% more likely than white offenders to receive secure confinement, while Latino offenders were only 2% more likely and Native American offenders were 2% less likely than white offender to receive this outcome. Thus, race did directly affect decision-making, but it had the greatest effect on the pre-detention decision.

Indirect Race Effects: Indirect effects exist when race significantly predicts pre-detention and pre-detention significantly predicts the secure confinement decision. Although statistical analyses revealed that pre-detention decisions were related to secure

confinement decisions, this effect was not statistically significant. Therefore, indirect effects did not appear to operate in Douglas County.

Cumulative Race Effects: Cumulative effects refer to the sum of direct effects at each stage of the process. The cumulative effect of race for African-American, Latino, and Native American offenders are calculated in Table 6.

Table 6: Cumulative Effects of Race for Douglas County

Offender Race	Race Effects at Each Stage (% taken from Table 5)	Cumulative Effect of Race
African-American	10% (pre-detention) + 2% (petition) + 5% (secure)	17%
Latino	4% (pre-detention) + 2% (petition) + 2% (secure)	8%
Native American	8% (pre-detention) – 10% (petition) – 1% (secure)	-3%

Thus, African-American offenders were 17% more likely than white offenders to be processed through the entire juvenile justice system; Latino offenders were 8% more likely than white offenders to be processed through all stages of the juvenile justice system; and Native American offenders were 3% less likely than white offenders to be processed through all stages of the juvenile justice system.

Hall County Findings

Direct Race Effects: Table 7 contains the percent likelihood that a white offender, a Latino offender, and an “Other” offender would receive pre-detention, petition, or secure confinement in Hall County.⁵ These probabilities were calculated based on an average offender in Hall County. This average offender was a 15-year-old male misdemeanor offender with two priors.

Based on the results contained in Table 7, 79 out of 100 white, “average” offenders were petitioned compared to 83 Latino, “average” offenders and 70 Other offenders. Thus, Latino offenders were 4% more likely than white offenders and Other offenders were 9% less likely than white offenders to be petitioned to court. Latino offenders were 4% more likely than white offenders to be placed in secure confinement, while Other offenders were 9% more likely than their white counterparts to receive this disposition.

Table 7: Percent Likelihood of Receiving Particular Outcomes across Race

	Probability Effect at Each Stage Across Offender Race		
	Pre-Detention	Petition	Secure Confinement
White	N/A	79%	6%
Latino	N/A	83% (+4%)	10% (+4%)
Other	N/A	70% (-9%)	15% (+9%)

Indirect Race Effects: Hall County rarely pre-detained any offenders. Consequently, pre-detention was excluded from these analyses; therefore, indirect effects (through pre-detention) do not operate in Hall County.

Cumulative Race Effects: The cumulative race effects for Latino and Other offenders are calculated in Table 8.

Table 8: Cumulative Effects of Race for Hall County

Offender Race	Race Effects at Each Stage (% taken from Table 7)	Cumulative Effect of Race
Latino	4% (pre -detention) + 4% (secure)	8%
Native American	-9% (pre -detention) + 9% (secure)	0%

Thus, Latino offenders were 8% more likely than white offenders to be processed through all stages of the juvenile justice system, and Other offenders were no more likely than white offenders to be processed through all stages of the juvenile justice system.

Lancaster County Findings

Direct Effects: Table 7 contains the percent likelihood that a white offender, an African-American offender, a Latino offender, and a Native American offender would receive pre-detention, petition, or secure confinement in Lancaster County. These probabilities were calculated based on an average offender in Lancaster County. This average offender was a 14-year-old male misdemeanor offender with no priors.

Based on the results contained in Table 9, minority offenders were not more likely than white offenders to be pre-detained or petitioned; however, minority offenders were slightly more likely than white offenders to receive a secure confinement decision. For example, African-American offenders were 4%, Latino offenders were 7%, and Native American offenders were 4% more likely than white offenders to be placed in secure confinement. Thus, in Lancaster County, minorities seemed to be equally likely or less likely to be processed, but when they were processed, they appeared to receive a harsher outcome at disposition than white offenders.

Table 9: Percent Likelihood of Receiving Particular Outcomes across Race

	Probability Effect at Each Stage Across Offender Race		
	Pre-Detention	Petition	Secure Confinement
White	3%	34%	3%
African-American	2% (-1%)	26% (-8%)	7% (+4%)
Latino	3% (0%)	19% (-15%)	10% (+7%)
Native American	3% (0%)	31% (-3%)	7% (+4%)

Indirect Effects: Since race did not impact the pre-detention decision, race could not indirectly affect the decision to place an offender in secure confinement.

Cumulative Effects: The cumulative race effects for Latino and Other offenders are calculated in Table 10.

Table 10: Cumulative Effects of Race for Lancaster County

Offender Race	Race Effects at Each Stage (% difference at each stage taken from Table 9)	Cumulative Effect of Race
African-American	-1% (pre -detention) - 8% (petition) + 4% (secure)	5%
Latino	0% (pre -detention) - 15% (petition) + 7% (secure)	8%
Native American	0% (pre -detention - 3% (petition) + 4% (secure)	1%

Thus, African-American offenders were 5% less likely than white offenders to be processed through the entire juvenile justice system; Latino offenders were 8% less likely than white offenders to be processed through all stages of the juvenile justice system; and, Native American offenders were 1% more likely than white offenders to be processed through all stages of the juvenile justice system.

Sarpy County Findings

Direct Effects: Table 11 contains the percent likelihood that a white offender, an African-American offender, a Latino offender, and a Native American offender would receive pre-detention, petition, or secure confinement in Sarpy County. These probabilities were calculated based on an average offender in Sarpy County. This average offender was a 15-year-old male misdemeanor offender with no priors.

In Sarpy County, race did not appear to affect decision-making at any stage. Minority offenders were only slightly more likely to be pre-detained (1% and 2%), they were slightly less likely to be petitioned (5% and 2%), and there was virtually no difference in the probabilities for the secure confinement decision.

Table 11: Percent Likelihood of Receiving Particular Outcomes across Race

	Probability Effect at Each Stage Across Offender Race		
	Pre-Detention	Petition	Secure Confinement
White	6%	54%	4%
African-American	8% (+2%)	49% (-5%)	3% (-1%)
Latino	7% (+1%)	52% (-2%)	6% (+2%)

Indirect Effects: Like Lancaster County, the indirect effect of race through the pre-detention decision did not operate in Sarpy County.

Cumulative Effects: Finally, since there were no substantial direct effects at any stage, cumulative effects did not reveal any hidden race effects. As indicated in Table 12, minority offenders were either slightly less likely or slightly more likely to be processed through all stages of the juvenile justice system.

Table 12: Cumulative Effects of Race for Sarpy County

Offender Race	Race Effects at Each Stage (% difference at each stage taken from Table 11)	Cumulative Effect of Race
African-American	2% (pre -detention) - 5% (petition) - 1% (secure)	-4%
Latino	1% (pre -detention) - 2% (petition) + 2% (secure)	1%

Thus, African-American offenders were 4% less likely than white offenders to be processed through the entire juvenile justice system, and Latino offenders were 1% more likely than white offenders to be processed through all stages of the juvenile justice system.

The Hypothetical Offender

Up to this point, the probabilities presented reflect the likelihood that an offender will receive a particular outcome based on his/her minority status while all other factors (such as offense seriousness and prior offenses) are held at their mean. In other words, we have compared the effect of race on outcome decisions for the average offender in each county. This raises two important issues. First, the average offender differs across counties, and secondly, the average offender in any county would typically not be considered for secure confinement.

Consequently, it is important to compare offenders who would be subject to placement in a secure confinement. To accomplish this, a reasonable hypothetical offender was created, and the probabilities for secure confinement were calculated across each county. The hypothetical offender is a male offender with two prior offenses who is currently charged with a felony property offense. As shown in Table 13, the results were very different from those based on the average offender in each county.

Table 13: Percent Likelihood of Receiving Secure Confinement for Hypothetical Offender

Offender Race	Receive Secure Confinement Decision	
	Was Not Pre-Detained	Was Pre-Detained
Douglas County		
White	8%	18%
African-American	8% (+0%)	19% (+1%)
Latino	12% (+4%)	27% (+9%)
Native American	10% (+2%)	21% (+3%)
Hall County		
White	14%	N/A
Latino	23% (+9%)	N/A
Lancaster County		
White	11%	47%
African-American	21% (+10%)	67% (+20%)
Latino	27% (+16%)	71% (+24%)
Native American	20% (+9%)	65% (+18%)
Sarpy County		
White	16%	23%
African-American	13% (-3%)	19% (-4%)
Latino	22% (+6%)	30% (+7%)

These probabilities indicate that race operates a bit differently across counties when a more serious offender is considered. When these probabilities are considered in the context of the earlier findings, two significant patterns appear. First, the race effects that appeared to operate in Douglas County are reduced. Secondly, race effects for more serious offenders either appear (e.g., Sarpy County) or become far more drastic in counties that had little or no race effect for less serious (i.e., average) offenders.

Regardless of county, however, it appears that race has the most impact on decisions when the offender in question is more serious.

DECISION-MAKER DATA

Responses to the surveys and interviews provided a wealth of information on the potential causes for minority over representation. Tables 14 and 15 provide an overview of the response rates from each county and respondent demographics.

Table 14: Survey Response Rates by County

	Overall Response Rate	Number of Respondents in Each Position Category				
		Judges	Prosecutor	Public Defender	Probation	Other
Douglas	53%	2	4	0	11	0
Hall	68%	1	7	4	7	0
Lancaster	74%	1	3	1	8	1
Sarpy	80%	2	2	1	6	1

Table 15: Race Distribution of Survey Respondents

	Number of Survey Respondents
Douglas County	17 Total Respondents
White	13 (76%)
African-American	1 (6%)
Latino	1 (6%)
Unknown	2 (12%)
Hall County	19 Total Respondents
White	19 (100%)
Lancaster County	14 Total Respondents
White	11 (79%)
African-American	2 (14%)
Other	1 (7%)
Sarpy County	12 Total Respondents
White	12 (100%)

Three themes emerged from decision-maker data in each county: racial bias, legal factors, and extra-legal factors. A summary of these findings is presented below.

Racial Bias

Based on survey responses, decision-makers did not believe that juvenile justice decisions were based on offender race. In interviews, however, many decision-makers expressed that offender race did effect certain decisions. For instance, decision-makers believed that law enforcement officers often based their decisions to arrest on race and that some racial bias existed in the courtroom (Hall County only). More generally, they explained in interviews that if racial bias affected decision-making it was because bias operated at a societal level.

Table 16: Survey Responses Regarding the Impact of Offender Race on Decision-Making

	Yes	Sometimes	No	Don't Know/ Missing
<i>Minority youth are treated differently in the juvenile justice system.</i>				
Douglas County	0%	---	100%	0%
Hall County	16%	---	79%	5%
Lancaster County	21%	36%	14%	28%
Sarpy County	0%	42%	33%	25%
<i>Minorities are more likely than white youth to be referred to the system by police for similar charges.</i>				
Douglas County	29%	---	47%	24%
Hall County	26%	---	68%	5%
Lancaster County	36%	21%	0%	43%
Sarpy County	17%	25%	17%	50%
<i>Minority youth are more likely to be pre-detained to court than white youth for similar charges.</i>				
Douglas County	12%	---	76%	12%
Hall County	16%	---	74%	10%
Lancaster County	36%	29%	14%	21%
Sarpy County	29%	36%	14%	21%
<i>Minority youth are more likely to be petitioned to court than white youth for similar charges.</i>				
Douglas County	6%	---	82%	12%
Hall County	16%	---	68%	16%
Lancaster County	21%	36%	21%	21%
Sarpy County	0%	17%	50%	33%

Legal Factors

Based on survey responses, the majority of decision-makers agreed that offense seriousness and prior offending play significant roles in processing decisions (Table 17). This finding is consistent with prior research and those found in this study, which indicate that prior offenses and offense seriousness contribute significantly to outcome decisions.

Table 17: Survey Responses Regarding the Impact of Prior Offenses and Offense Seriousness on Decision-Making

	Yes	No	Don't Know/ Missing
<i>Processing differences can be explained by offense seriousness and prior record.</i>			
Douglas County	65%	35%	0%
Hall County	79%	21%	0%
Lancaster County	7%	43%	50%
Sarpy County	25%	33%	42%

Extra-Legal Factors

Several extra-legal factors also appeared to be important in the decision-making process. Specifically, decision-makers identified demeanor/attitude, socio-economic status, and family situation as factors that impacted decisions and potentially varied across race. For instance, although the majority of survey responses indicated that demeanor and attitude did not differ across offenders by race, over half of decision-makers in each county perceived minority families as more distrustful of the juvenile justice system than white families. In interviews, this distrust was attributed to the history of minorities and the criminal justice system and the predominance of white decision-makers in the juvenile justice system. This finding is relevant because the family plays an important role in the juvenile justice process. The perception of family compliance may, in turn, affect the severity of decisions made in each case.

Table 18: Survey Responses Regarding the Impact of Demeanor/Attitude on Decision-Making

	Yes	No	Don't Know/ Missing
<i>Minority youth have poorer attitudes than white youth.</i>			
Douglas County	18%	59%	18%
Hall County	26%	59%	16%
Lancaster County	7%	57%	14%
Sarpy County	0%	83%	25%
<i>Minority families are more distrustful of the system than white families.</i>			
Douglas County	65%	18%	18%
Hall County	53%	31%	16%
Lancaster County	79%	7%	14%
Sarpy County	67%	8%	25%
<i>Parent attitude is considered in juvenile justice processing.</i>			
Douglas County	88%	12%	0%
Hall County	95%	5%	0%
Lancaster County	71%	21%	7%
Sarpy County	100%	0%	0%

As shown in Table 19, socio-economic status (SES) was also identified as an extra-legal factor that impacts decision-making. SES can place an offender at a disadvantage because SES is related to a variety of factors that impact decision-making such as representation, private treatment services, and the family's general ability to provide basic services necessary to comply with court requirements and standards (i.e., telephone, transportation, and time to participate in family counseling).

Table 19: Survey Responses Regarding the Impact of Socio-Economic Status on Decision-Making

	Yes	No	Don't Know/ Missing
<i>Is SES considered in decision-making?</i>			
Douglas County	65%	35%	0%
Hall County	79%	21%	0%
Lancaster County	7%	43%	50%
Sarpy County	25%	33%	42%

In addition to SES, family status also appears to be important in decision-making. Although this finding varied across counties in survey responses (Table 20), decision-makers overwhelmingly reported in their interviews that offenders from single parent families were at a disadvantage in the juvenile justice system. For instance, decision-makers in at least one county expressed that single parent families were often viewed as needing more supervision and intervention than two-parent families. If minority offenders are from single-parent families more often than white offenders, family structure may have a differential impact on decision-making across offenders.

Table 20: Survey Responses Regarding the Impact of Living Arrangements on Decision-Making

	Yes	No	Don't Know/ Missing
<i>Is the juvenile's living situation considered in decision-making?</i>			
Douglas County	35%	65%	0%
Hall County	53%	47%	0%
Lancaster County	79%	21%	0%
Sarpy County	92%	8%	0%

In interviews, decision-makers in Lancaster and Sarpy Counties were asked also about the role of gang membership and system resources on juvenile justice processing. In both counties, decision-makers indicated that gang membership was an important factor in the decision-making process because gang members were often viewed as more serious and “harder to reach” offenders who required harsher treatment than non-gang members. The role of gang membership may help to explain DMC in the juvenile justice system because decision-makers also indicated that minority offenders appeared to be gang members more often than white offenders.

Table 21: Survey Responses Regarding the Impact of Gang Membership on Decision-Making

	Yes	No	Don't Know/ Missing
<i>Is gang membership considered in decision-making?</i>			
Lancaster County	86%	7%	7%
Sarpy County	100%	0%	0%
<i>Are treatment/rehabilitation services adequate for handling caseloads?</i>			
Lancaster County	7%	93%	0%
Sarpy County	8%	83%	9%
<i>Are system resources considered in decision-making?</i>			
Lancaster County	64%	29%	7%
Sarpy County	92%	0%	8%

Decision-makers overwhelmingly agreed that the juvenile justice system was badly in need of diversion programs, drug treatment programs, and mental health programs. Many decision-makers also indicated that bilingual services, in particular, were needed. A lack of services may also help to explain DMC because without

appropriate mid-range services, the court may be pressured to give a juvenile a harsher outcome in order to provide the services or supervision needed but not provided at home.

In sum, understanding the impact of extra-legal factors on juvenile justice processing is vital to understanding DMC because race disparities may not be the result of race itself, but rather the result of other factors impacted by race. Thus, race may indirectly affect decision-making through other social factors.

POLICY RECOMMENDATIONS

While each county must address its unique situation, several patterns across all four counties appeared. The following policy recommendations are suggested in accordance with this pattern of findings.

General Recommendations to Address DMC in the Nebraska Juvenile Justice System

1. Establish a statewide database and require all juvenile courts to regularly submit social and legal information in a consistent format.
2. Conduct additional research on (1) police interactions with juveniles and (2) the juvenile offender experience in the juvenile justice system.
3. Implement a juvenile assessment center and/or a juvenile process, which includes a standardized risk assessment.
4. Encourage minority representation among juvenile justice decision-makers in each county.
5. Ensure that juvenile justice decision-makers in each county are culturally sensitive.
6. Expand current alternatives and/or establish alternatives to detention programs.
7. Ensure equal legal representation and system resources to economically disadvantaged youth.
8. Provide culturally specific programs for juvenile justice decision-makers and the families of juvenile referrals (e.g., Rites of Passage and family).

9. Design and disseminate culturally sensitive information packets explaining youth rights and the juvenile justice process to offenders and their families in English and Spanish.
10. Utilize existing committees created by the Supreme Court and Nebraska Bar Association to address disparity in juvenile justice processing.
11. Address funding for Disproportionate Minority Confinement in two ways (1) access to additional federal and state funds and (2) appropriate use of current funds.

Multi-Phased Approach to Addressing DMC in Nebraska

Phase I: Dissemination of Executive Summary Report to the press, public officials, juvenile justice personnel, and the community.

Phase II: Given that the data used to explore DMC in Nebraska's Juvenile Justice System reflects juvenile justice processing between 1990 and 1994, it is recommended that the DMC committee review new resources and developments in each of the four counties since 1994. For example, at least one county included in this study has instituted a diversion program since this time.

Phase III: Organize a meeting with juvenile justice system personnel, service providers, parents and children from the community, and community leaders in each county.

This would be the beginning of a "Back to the Community" approach to discussing the report. Specifically, the following goals will structure this meeting:

- A. Presentation of report results
- B. Respond to questions and concerns regarding the report.
- C. Foster a dialogue between the community and juvenile justice personnel based on life experiences. The intention of this dialogue is to make juvenile justice personnel more sensitive to minority community issues and make the minority community more

informed and sensitive to the intentions, services, and policies of the juvenile justice system.

D. Produce a summary of issues and possible solutions to be used in Phase V.

Phase IV: Conduct interviews and focus groups with juveniles being held in secure confinement in an effort to understand their experiences and the issues confronted by them and their families within the juvenile justice system.

Phase V: A county DMC committee will work closely with juvenile justice systems and LB1184 Teams in each county on the key issues identified in the Town Hall meeting. It is anticipated that these issues will fall into at least three categories:

- A. Training issues
- B. Processing procedures and regulations
- C. Accountability

Phase VI: Evaluate the implementation of initiatives in Phase II.

Phase VII: Reconvene meeting participants to discuss initiatives and the impact they have had on juvenile justice processing and the community's understanding of the juvenile justice system. Provide feedback that will be used to assess the effect of imposed strategies on DMC and the operation of the juvenile justice system in Nebraska.

¹ The Office of Juvenile Justice Delinquency and Prevention requires states to choose "at least three MSA's where minorities represent at least 1 percent of the population." Further, "it is important to select research sites that reflect or are representative of the state as a whole in terms of minority makeup and case processing outcomes" (Leiber, 1996, p. 8). Thus, these counties were selected in an effort to fulfill OJJDP requirements and to represent juvenile justice processing in urban, suburban, and rural counties. Hall County was chosen over Scottsbluff County due to time and money constraints placed on the study.

² It is important to note that this brief description of the juvenile justice process does not highlight any procedural differences that operate between counties.

³ Data were collected from these four sites in two phases. During the first phase, data collection was completed in Douglas and Hall Counties in 1995 under the direction of Molly Brown. Second phase data collection was then completed in Lancaster and Sarpy Counties in 1997 under the direction of Denise C. Herz, Ph.D. The data collection methods used in Phase 1 were replicated in Phase 2 with the exception of including status offenders.

⁴ Logistic and Multinomial Logit models were estimated to calculate the effects of independent variables on outcome decisions at each stage. Probabilities were calculated using the mean value for all variables except race and model coefficients.

⁵ Other offenders in Hall County refer to African-American and Asian offenders. The total number of these offenders was too small to individualize them. Any effects associated with them should be interpreted carefully because of their low numbers in the sample and hence, at each stage.

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