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Reducing Disparities in the Adult Criminal Justice System: Creating a Model for Denver County

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REDUCING DISPARITIES IN THE ADULT CRIMINAL JUSTICE SYSTEM: CREATING A MODEL FOR

DENVER COUNTY

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CHAPTER 1

INTRODUCTION

In its recommendations to the United States in May, 2008, the Committee on the Elimination of Racial Discrimination noted several areas of concern in regards to discrimination that occurs in the American criminal justice system. Specifically, the report focuses related recommendations to the areas of policing, unequal treatment in the court system, and disparate treatment in sentencing; people of color are more likely to be given the death penalty or sentenced to prison. The Committee also expressed concern in regards to large segments of Americans of color who are barred from voting due to convictions for certain offenses, in some cases, even after completion of sentences served for these offenses (ICERD Report to the United States, 72nd session, Geneva, Switzerland, 2008).

A recent study by the National Council on Crime and Delinquency (NCCD) reported on disparities by race, and when possible, by ethnicity, at the major criminal justice system stages from federal and state sources including: arrest, court processing, new admissions to prison, incarceration in jails and prisons, those on probation and parole, those on death row, and recidivism. At every system stage, African Americans were overrepresented when compared with Whites and Latinos to their respective representation in population. Native Americans under system control were also significantly overrepresented in several states. Where data was disaggregated between Whites and Latinos, Latinos were overrepresented when compared with Whites (Hartney and Vuong, 2009)

Overrepresentation and disparity as it occurs in the criminal justice system has been researched and debated for decades and is not unique to the United States. Racial, ethnic and national minority overrepresentation in criminal justice systems may be visibly apparent, or presumed to occur, in other countries around the world; however, it is not well documented in most places. Many countries do not monitor demographics of their prison populations, let alone those that are processed through their criminal justice systems. In the countries that do monitor and track system involvement, who is involved in the criminal justice system differs by the social and political histories and climates of those particular countries.

A main challenge to quantifying and addressing overrepresentation in the American justice system is that analysis on overrepresentation and disparity has been conducted from a "silo" approach. Rather than assessing involvement of people of color across the criminal justice system, research has focused at significant decision points, including arrest, pretrial detention, sentencing, and incarceration. The concept of accumulated disadvantage, referenced later is this thesis, is that the farther a person goes into the system, disparities are compounded (The Sentencing Project, 2008 and Office of Juvenile Justice and Delinquency Prevention, 2009). Decisions made later in the system may be influenced by previous steps and result in harsher penalties for an individual. Additionally, addressing overrepresentation at the local can be challenging given political issues and determination of and access to the right kinds of data. Deciding on methods to address criminal justice system processing practices must be collaborative in approach and focused on problem solving.

While it has not yet been developed for the adult criminal justice system, a systematic and comprehensive approach to identifying, assessing and reducing overrepresentation has been documented for the juvenile justice system. This is largely in part due to efforts at the federal level within the Office of Juvenile Justice and Delinquency Prevention (OJJDP). OJJDP funding to states and local jurisdictions regarding juvenile justice issues is tied to the monitoring and reduction of disproportionate minority contact, as mandated by a congressional amendment enacted in 1988. Since then, extensive research at the practitioner level has been conducted and documented, resulting in a technical assistance manual published by the OJJDP. This manual outlines a data-driven approach to identifying and reducing overrepresentation and its methods are supported by case studies from jurisdictions that have employed these tools.

Methodology

A review of existing literature was conducted by searching articles using terms including racial and ethnic disparity, minority overrepresentation, disproportionate minority contact, racial profiling, and biased policing, linked with words including criminal justice, criminal justice data, statistics, arrests, incarceration and prison. Additionally, the United Nations' website for the U.N. Committee on the Elimination of Racial Discrimination provided insight into human rights issues where racial disparity in the criminal justice system is concerned, particularly in the United States. Articles published within the past 15 years were focused on. However, due to the longevity of studies concerning racial disparity in criminal justice and key concepts that are still relevant today, particularly concerning the collection and use criminal justice statistics, articles published as far back as the 1960s were also accessed.

When examining local information in Denver concerning criminal justice and racial disparity, extensive research into the processes surrounding criminal justice practices in Denver, conversations with criminal justice professionals, local websites, related meeting participation and review of minutes, department documentation and data were all referenced to compile a framework to look at Denver-specific issues as related to racial and ethnic disparity and the work that has been done and is currently in progress to address this issue. Finally, methods and research on disproportionate minority contact in the juvenile justice system were referenced.

Definitions

Commonly used terms in this area of study include disproportionate minority contact (DMC), minority overrepresentation (MOR), and racial and/or ethnic disparity. DMC and MOR refer to the overrepresentation of certain racial and ethnic groups in the criminal justice system as compared to their representation in the general population. Disparity results from the dissimilar treatment of people in the criminal justice system based on physical attributes such as race or ethnicity.

Other key concepts in this paper include the major decision points of criminal justice processing, which generally include: the decision to arrest, arraignment decisions, the decision to detain pre-trial, the decision to adjudicate, sentencing decisions, the decision to incarcerate, and decisions around community supervision. Departments or individuals that influence each of these decision points include the police, attorneys including prosecution and defense, judges, corrections, probation and parole. In this paper, "adult" refers to those in the criminal justice system who are 18 years of age or older; conversely, "juvenile" refers to those who are 17 years old or younger.

Discretion, which refers to the individual and subjective practices of decision-making by actors in the criminal justice system is another important concept to this area of research.

Finally, for the purpose of this paper, the terms race and ethnicity are treated with equal and separate importance. Race is the more commonly used term when referring to this area of study; however, the most glaring unintended and negative consequence of the use of this term is that many entities (including federal criminal justice agencies) still do not desegregate ethnic data where people of Anglo descent versus Hispanic descent are concerned. Similarly, ethnicity, which encompasses different social histories, language, cultural, religious and political orientations, helps shape perceptions of and responses to involvement in the criminal justice system. Those who are African American, or Black, may experience the criminal justice system, and particularly the American legal system, differently than those who are from Jamaica or have recently emigrated from the African continent. The same can be said about an individual who is from Spain, versus a person who is from Mexico. Likewise, it has been documented in studies on criminal justice system disparity in England that a person who is Pakistani or Bangladeshi may experience the criminal justice system differently from a person who is from India. The phrase "person/people of color" refers to those who are not of Anglo descent.

Thesis Outline

This thesis provides a brief overview of literature on the use of data to identify overrepresentation in the system, and existing methods and recommendations concerning its reduction. If the thesis has any practical application, it is to specifically examine the criminal

justice system in Denver from a process and data perspective, and to propose initial steps in developing a model for identification and assessment of disparity in Denver.

Chapter 2 presents a brief overview of the issue and the limitations of using "official" statistics (numbers generated by criminal justice agencies for recordkeeping and budgeting purposes) to analyze racial and ethnic disparities.

Chapter 3 gives an overview of criminal justice processing in Denver, available system data, and historical and current efforts to address racial and ethnic disparity locally.

Chapter 4 discusses the creation of a model to identify and measure overrepresentation based on the OJJDP's "Disproportionate Minority Contact Technical Assistance Manual" for reducing disparities in the juvenile justice system and case studies to support its use.

Chapter 5 outlines the first major steps in addressing system overrepresentation; identifying where and to what extent disparities exist across the criminal justice system. This chapter adapts the OJJDP manual for the adult system in Denver

Chapter 6 looks at the process of assessing possible causes of disparity and testing those mechanisms to determine what is causing overrepresentation at various decision points. The assessment step relies largely on data collection and analysis in order to prepare for the next step; that of designing interventions in an attempt to reduce overrepresentation.

Chapter 7 discusses subsequent steps as identified by the OJJDP manual in reducing disparity that not covered in depth in this thesis and reviews the current efforts in Denver to address system overrepresentation.

Chapter 8 concludes this thesis with recommendations for moving forward with addressing overrepresentation in the Denver criminal justice system.

CHAPTER 2

OVERVIEW OF THE ISSUE

In the United States, people of color including African-Americans, Latinos, and Native Americans are overrepresented in the criminal justice system. It has been demonstrated by various local jurisdictions across the country that disparity based on race, ethnicity, class, and gender exists at various decision points in criminal justice processing. Focal points of research on overrepresentation have centered on arrest, pretrial release, charging, plea bargains, conviction, sentencing and post-correctional release, and major racial categories for comparison have primarily been Blacks and Whites. Extensive research has also been conducted on race/ethnicity and the relationship between offending and victimization (Sampson and Lauritsen, 1997).

In reviewing the research on those involved in criminal justice systems across the world, the thread that connects criminal justice system-involved populations is their marginalized status in society. In Canada, studies find that Aboriginal Canadians and people of African and Afro-Caribbean (West Indies) ancestry are overrepresented in criminal justice system admissions (Roberts and Doob, 1997). In England and Wales, those people of African or Afro-Caribbean origin and South Asian origin are overrepresented in the prison population. Among South Asians, which included Indians, Pakistanis, and Bangladeshis, Pakistanis were slightly overrepresented in prisons (Smith, 1997). Sweden and Germany analyze their criminal justice system involvement largely through an immigration lens, noting that involvement in crime is significantly higher by those who are "foreign-born" as opposed to those who are native German

or Swedish. A recent study on racial profiling in Bulgaria blames over-policing of the Roma

population in this country on a crime-fighting strategy based on ethnic prejudice and a lack of

data concerning Roma involvement in crime. The impact of Bulgaria's criminal justice system

on the Roma population, particularly young Roma males between the ages of 15-30, is similar to

the impact of America's criminal justice system on young African American males. It is

estimated that at least half of all Roma males in this age group have passed through the criminal

justice system in Bulgaria (Gounev and Bezlov, 2006).

Involvement in the criminal justice system leads to increased marginalization for these groups

through the inability for an individual to secure employment, housing, educational opportunities,

and in the United States, engage in civic privileges such as voting.   While it has not been

explored and quantified to much extent, involvement in the criminal justice system has shown to

cause considerable community harm, including damaged social networks, distortion of social

norms and controls, and the destruction of community ties and social citizenship when it impacts

voting, working, and overall community health and representation within a municipal

framework. It goes without saying that at the individual level, repeated contact by law

enforcement and involvement in criminal justice system processing and incarceration can be

devastating to both the levels of trust and legitimacy that local government has with certain

individuals, and a person's self worth and feelings of importance and connection to the larger

community (Harris, 1999 and Roberts, 2003).

In the United States, causes of disparity in the criminal justice system have been attributed to

higher rates of crime among people of color, inequitable access to resources, and legislative

decisions, including the War on Drugs, Three-Strikes legislation, mandatory sentencing minimums, an over-reliance on incarceration as a deterrent or punishment for crime, and racial bias in system decisions and treatment of people of color (The Sentencing Project, 2008). The idea that people of color engage more frequently in criminal activity has been invalidated by several studies. One such study, presented by Robert Crutchfield, argues this concept. First raised by Alfred Blumstein in 1982, Crutchfield utilized arrest data from the FBI's Uniform Crime Reporting (UCR) database in conjunction with National Crime Victim Survey data (NCVS) on a study of violent crime incidents across 12 American cities to investigate the concept of "warranted" versus "unwarranted" disparity. Warranted disparity in the criminal justice system is proportional difference of African Americans in the criminal justice system attributed to their higher rates of involvement in crimes that carry heavier penalties where unwarranted disparity is the proportion of the difference that cannot be accounted for by their higher level of recorded involvement in crime. In his argument, Crutchfield maintains that unwarranted disparities tend to correlate with social, demographic and economic characteristics of jurisdictions and that local culture and practices have a significant impact on who is involved in the system. He warns that studies of causes and extent of disparities need to be examined locally and include several types of information in order to accurately assess the problem (Crutchfield, 2004).

Another argument against the claim that certain populations are more involved in crime than others is that criminal justice system statistics that have been used to determine rates of higher involvement are suspect because such data does not actually provide an accurate measurement of the amount of crime that takes place (Crutchfield, 1994 and 2004, Harris, 2003). Use of data

such as arrest statistics, which are also used as a primary indicator of performance in most police departments and as an indicator of increased or decreased public safety to determine rates of criminal involvement by ethnicity, are skewed by the primary purpose of such data. Additionally, as seen in the War on Drugs across the country, arrest data does not indicate who uses or distributes drugs but really tells us that people of different ethnic backgrounds or from different socioeconomic backgrounds conduct business in different ways, and some business styles are more susceptible to detection by law enforcement than others (King, 2008).

Using data to identify and investigate disparity in the criminal justice system, like the theories to explain disparity, has been debated for years. The use of "official," or system-generated statistics, to examine disparities, has been scrutinized in particular. Criminal justice system agencies generally collect data on their incoming population to catalog basic information on their clientele. This data is designed primarily to record who is in the system and to determine budgetary needs and resource allocation. Upon a person's entrance into the criminal justice system in Denver, common data points include an individual's sex, date of birth, race, physical descriptors including height, weight, hair color, eye color, skin tone, identifying physical marks such as tattoos, scars, or birthmarks, reported home address, and place of birth. Items may also include arresting officer information and associated identifiers (badge number), location of arrest, charge information, severity of offense and related statute numbers of laws violated, jail booking officer information, date, day, and time of arrest and booking. Data as it is normally collected by criminal justice agencies cannot be used to verify, support, or disprove social theories of criminal involvement regarding an individual's criminal patterns, and additional

factors and information must be considered and collected in order to look at this issue

productively.

Interestingly, the same criticisms and arguments concerning what criminal justice system data

can tell us are still relevant after almost 50 years! In an article published in 1963, John Kitsuse

and Aaron Cicourel wrote about the use of statistics to examine social and cultural differences,

deviance, and social control (Kitsuse and Cicourel, 1963). Interested in how social structures

produce or shape deviant behavior, the authors raised two primary questions to answer questions

about how deviant behavior is produced and to what extent it occurs: what is the definition of

deviant behavior (depending on the social or cultural context, deviance could be defined

differently), and how should deviant behavior be measured or tracked. To summarize the

authors' own review on the use of official statistics and deviance or within criminal justice, they

find that this data provides us with a tool to categorize certain types of criminal behavior which

then serves as a basis for choosing the laws which will receive our greatest attention, allowing us

to formulate our "official response" to criminal behavior. However, when studying criminal

behavior, patterns of offending, and who tends to be involved in criminal activity, official

statistics are not a reliable source.

One notable limitation of official statistics is that they really only tell us about the activities and

decisions of criminal justice system actors. For example, arrest data does not tell us whether a

person is actually guilty of a crime; therefore, it is not an accurate indicator when used alone to

determine who is committing crime, criminal behavior and offending patterns overall. To get at

more accurate information, studies have incorporated the use of victim data, self-reported data,

and observations recorded by researchers of actual offending taking place (driving violations) (Elliot, 1995, Crutchfield, 2004, Harris, 1999). Del Elliot argues that most criminal activity is never even caught, so combining offense statistics with self-reports of criminal activity provides a more accurate picture of offending behavior. Elliot finds that in regards to rates of offense patterns by gender, and by race/ethnicity including African Americans, Latinos and Caucasians, criminal justice involvement disparities are much more pronounced agency arrest statistics than in self-reported activity. He recommends a single framework of research first proposed by Kitsuse and Cicourel, which measures the intersection between criminal behavior and the response to that behavior, coining this as the "probability of arrest," given the offender's involvement in a particular criminal behavior (Elliot, 1995). Researchers also argue that since statistics such as those recording number of arrests are flawed because they are used primarily as performance indicators for departments. Arrest statistics often drive policy in police departments and more intensive supervision efforts are implemented in areas where crime is more visible and caught more often. Arrest statistics may also cause individual officers to target specific groups of people based on their perceptions of who is most often committing crime (Harris, 1999).

Another issue concerning the use of official statistics generated by the criminal justice system is that studies have shown that responses to criminal behavior, which influence who is arrested, charged and sentence for crime, will differ greatly on a regional and even local basis, in part due to local cultural beliefs and practices. This was revealed in a study of juvenile probation officers who used different language to describe their clients' backgrounds and family situations based on race and ethnicity, which had an impact on sentences (Bridges, G. & Stein, S., 1998, as cited by Crutchfield, 2004). Factors outside of race and ethnicity become very important when

looking at crime, such as an area's unemployment rates and poverty rates, as well as proportions of people of color to whites in the populations. In some cases, geographical distribution of the population even played a part; some people were more susceptible to detention simply based on their neighborhood's location to a jail (Crutchfield, 2004).

Official statistics cannot possibly take into account the significant amount of discretion that takes place at various criminal justice processing points. For example, they cannot take into account accommodations in the system, where deals have been employed between system actors and offender to reduce charges or sentences in exchange for testimonies or information regarding other crimes or offenders; or the fact that the system relies largely on the use of plea bargains to reduce the number of cases that will go to trial, which is a significant cost to taxpayers and the system (Kitsuse and Cicourel, 1963).

Lastly, another limitation that has impeded the use of official statistics is simply the significant bridge to cross between anecdotal stories around discriminatory practices that people of color are treated inequitably by law enforcement and other system actors and using official statistics in a meaningful way to dig more deeply into the issue. In his article, "The Stories, the Statistics, and the Law: Why 'Driving While Black' Matters," David Harris recognizes the significant gap between anecdotal stories that people of color, particularly African Americans, are targeted more often for traffic stops, and statistical data to support these stories (Harris, 1999). One of the main problems is that there is a lack of buy-in and efforts to problem solve by both policy makers and police agencies due to the sensitivity of the issue and that no one wants the system to be labeled as discriminatory or racist. This often prevents efforts to collect and analyze data in a

meaningful and constructive way. Efforts to pass federal legislation that requires collection of contact data between police and citizens have failed; unfortunately, this leaves the burden of data collection and analysis of justice system disparity to academic institutions and researchers, which hold limited credibility among many criminal justice system entities, particularly on such a controversial issue.

Although there is some movement of discussion into system and community practitioners' circles regarding the use of data to capture information about overrepresentation and its use to reduce it, more needs to occur to institutionalize work and buy-in on this topic. There is also a need to get away from a "silo" approach to collecting and reviewing data at singular decision points or within particular justice system agencies. Some of this approach is driven by community concerns, which tend to focus on policing as the entry point into the system, and therefore, the culprit behind overrepresentation. Finally, the focus of investigating disparity to expose a racist system or racist agencies or individuals needs to be replaced with genuine efforts to analyze and address what is occurring in a productive way in an environment that is focused on problem solving as opposed to pointing fingers. Taking the approach to overrepresentation that has been employed by the juvenile justice system where funding is tied to monitoring and addressing this issue could be a practical, non-threatening way to move these efforts forward at the adult level.

OVERVIEW: DATA INDICATORS AND HISTORICAL ACTIVITY IN DENVER CONCERNING

OVERREPRESENTATION

Despite the previous chapter's argument against the use of official statistics to look at disparity,

these numbers are all most local jurisdictions and states have to measure disparity in the

American criminal justice system. Such is the situation in Denver. During fiscal year 2008, 26%

of all Denver's arrests were of African Americans, 25% were Latino, and 47% were White

(Denver Police Department, 2008). Denver's population is approximately 11% African American,

32% Latino, and 65% White Non-Hispanic.[1] Incarceration percentages mirrored arrest statistics.

African American and Latinos respectively represented 24% and 28% of new district probation

clients in FY2008, and 17% and 28% of Denver County Probation's existing caseload in 2008.

Denver, as both a city and a county, differs from many jurisdictions in that its criminal justice

system processes both municipal-level crimes and state crimes. This system initially arraigns and

advises everyone in the same place, regardless of the severity of the crime, and branches off into

two parallel systems which often perform the exact same function; one at the county level and one

at the state level. There are two distinct court systems, one that processes crimes against the city

and county and one that processes crimes against the state, two levels of prosecution and defense

functions, two separate probation divisions to supervise those offenders and two different

detention facilities; one where everyone who is taken into custody in Denver is booked, and one

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[1] Estimated Denver County population, 2000 census. Additional representation includes 3% Asian, 1.3% Native American and 2.1% Other

that detains those that are awaiting trial and possible transfer to the Colorado Department of Corrections as well as those who are sentenced for a period of less than 2 years.

In Denver, each criminal justice agency maintains its own means and tools for data collection. The police department, the sheriff's department (responsible primarily for corrections in Denver), the county and state court systems, as well as the city attorney's and district attorney's offices all maintain separate methods of processing and maintaining client data, and, in all cases with the exception of the city attorney's office which performs no electronic data collection, maintain separate database software with no means to interface with or receive updates on clients as they move through Denver's criminal justice agencies and no unique identifier to provide for accurate manual tracking of a client through the Denver criminal justice system. Furthermore, no automated processes exist for tracking client criminal justice activity between Denver and the State of Colorado. Thus, even the collection of official statistics alone is difficult and time consuming to get at because of the bifurcated system.

Not unlike the federal government and many state and local jurisdictions, efforts in Denver to examine racial disparity and overrepresentation have focused on policing. In November 2000, a Biased Policing Task Force, comprising community members and police department representatives, convened to examine biased policing in the City and County of Denver. Four subcommittees studied specialized areas including policy, data collection, training, and youth issues. As a result of the task force's work, training was implemented for police officers and civilian employees, including cultural awareness, and further instruction was provided for street officers on Stop & Frisk and the Fourth Amendment, as well as how to develop reasonable

suspicion and probable cause. For those officers promoted to supervisory level positions, training also includes a section on biased policing. The report generated from the work on this task force does not mention any evaluative efforts around this additional training and instruction to see what type of impact it has on police officers and biased policing. Finally, contact cards were employed by police officers for all traffic and pedestrian stops for a period of two and a half years. Contact cards recorded information including the date, time and location of the stop, the perceived race of the individual by the police officer, reason for the stop, action taken, whether a search took place, and the duration of the stop. Possible choices for race/ethnicity were: White, Black, American Indian, Hispanic, Asian, and Middle Eastern. The contact cards did not capture any information about the police officer involved and therefore the study did not include any analysis on the behavior of individual officers, eliminating the possibility of analyzing effectiveness of specialized training or experience.

Overall, the study found that no definitive answers regarding police behavior and race relations could be provided. The fact that Denver's population shifts during certain times of day due to people commuting in and out for work was determined as detrimental in making any conclusive statements about overrepresentation of certain races due to the unreliability of comparing numbers contacted with population demographics (in the second year of analysis, results showed that half of those stopped for traffic reasons were Denver residents, and for pedestrian stops, just over 70% were Denver residents). Population demographics in Denver and surrounding counties are addressed later in this chapter. The analysis found racial differences in those searched during traffic stops, and rates of seizure of contraband resulting from searches, possibly likely due to the higher rates of searches of Black and Hispanics during traffic stops. The analysis reported even

rates of search for pedestrian stops among Hispanics, Blacks and Whites; the other racial

categories were too small to compare in many sections of the analysis. While these rates were

compared to the percentages of people of the same race who were initially stopped, the inability

to compare the number of total stops by race to the population available to be stopped makes it

difficult to determine the significance of disparity in stops and searches. Representation of those

stopped could only be compared to the total number of stops over that timeframe.[2]

In 2008, the City and County of Denver made a new commitment to look at disparity and

overrepresentation in the criminal justice system in partnership with law enforcement agencies,

court representatives, prosecution and defense agencies, and probation, as well as with Denver

residents and community organizations. This effort was driven primarily by community efforts

led by groups including Incite! Women of Color Against Violence, the Colorado Progressive

Coalition, the Colorado Black Roundtable's Criminal Justice Committee and Servicios De La

Raza (Black & Brown Coalition), which organized a movement called the "Fix Broken Policing

Campaign." This campaign focused its inquiries towards the Denver Police Department, the

Denver Office of the Independent Monitor,[3] the Citizen Oversight Board,[4] Denver City Council,

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[2] A description of the task force, its work and recommendations can be found at:
http://www.denvergov.org/Police/BiasedPolicingRacialProfiling/tabid/392249/Default.aspx, accessed:
April 4, 2009
[3] The Denver Office of the Independent Monitor reports directly to the Mayor of Denver. Its
responsibilities include monitoring and participating in investigations of sworn personnel in Denver
(Police and Sheriff) and making recommendations regarding administrative action (including discipline)
of these personnel.
[4] The Citizen Oversight Board (COB) is a group of seven mayorally-appointed citizens who assessment
the effectiveness of the Independent Monitor's Office, make recommendations regarding police and
sheriff policies around discipline, use of force, and community relations, and make recommendations on
Internal Affairs cases where findings are not sustained.

and the Denver Manager of Safety's Office.[5] The campaign originated when this coalition of

organizations raised recommendations to a district police commander concerning police and

community relations in a specific Denver precinct. In its initial meetings, the coalition alleged

that Denver Police in that district were engaged in racial profiling by harassing and bullying

community members of color, were discourteous, and used excessive force and threats to assert

their authority in the community. At the core of the coalition's agenda were concerns that Broken

Windows Policing, a theory of policing developed by George Keller and originally implemented

in New York City, targeted Denver's residents of color, increasing their involvement in the

criminal justice system and thereby the consequences of such involvement.

The initial results of the Fix Broken Policing Campaign in Denver can be summarized in a list of

demands to the City and County of Denver to reform its organizations, policies and practices

around monitoring the activities of the Denver Police Department, requiring specialized training

in the areas of cultural competency for personnel involved in policing and policing oversight and

a commitment to action to improve police/community relations, and acknowledging that there are

racial disparities in Denver's criminal justice system and committing to address those disparities

through collective action, specifically in the area of policing, or the first point of contact for

community members with the criminal justice system.[6] These discussions led to the issue being

brought to the Crime Prevention and Control Commission in Denver for further conversation,

research and analysis in a newly created committee: the Racial and Gender Disparity Committee.

Community members continue to meet separately with Denver Police Department representatives

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[5] In Denver, the Manager of Safety is a mayoral-appointed position with the authority of Director of
Corrections, Chief of Police and Chief of Fire. The Manager of Safety in turn appoints those authoritative
powers to individuals to head those specific departments.
[6] For a full list of demands, see: http://www.prisontalk.com/forums/showthread.php?t=404732, accessed
November 8, 2009, also found in Appendix.

on a monthly basis to discuss police recruitment practices and training for police officers in Denver.

Population and Demographics in Denver and Surrounding Counties

One of the challenges of identifying disparate treatment in the criminal justice system according to race and ethnicity in Denver is difficulty in assessing its population demographics. This challenge was addressed in the 2000 study by the Denver Police Department and its use of contact cards to track population data as it intersected with pedestrian and traffic stops by police officers. In the report, authors stated that half of the people stopped in traffic stops were Denver residents, and 70% of those contacted in pedestrian stops were Denver residents. The report also noted that residents were generally stopped in or near their own neighborhoods, and that non-residents were stopped in places with a similar racial or ethnic make-up to the officers' perceptions of their race or ethnicity. The study states that comparisons between those stopped and the racial and ethnic percentages of the population of Denver are problematic because a considerable proportion of those stopped resides in one of Denver's adjoining counties (Denver Police Department, Contact Card Analysis, 2004).

The counter argument to these statements is that Denver County has the largest representation of total people of color in the state of Colorado. Therefore, it can be assumed that when looking at the counties that adjoin Denver County; Adams, Arapahoe, Douglas and Jefferson, the majority of these populations are White. In the contact card analysis, when looking at traffic stops alone, Whites constituted 50% of these stops (35% of Whites in traffic stops reported being residents). Whites comprise approximately 60% of the Denver population, but over 70% of the total

population of Denver and its four adjoining counties are estimated to be White, Non-Hispanic.[7]

Therefore, Whites should make up a significant portion of all traffic stops. When making the

argument that a high proportion of people available to stop in Denver may be from outside of

Denver, Whites are underrepresented as the subjects of traffic stops by nearly 20% when

compared to the total population of Denver and its surrounding counties.

The other major challenge to working with population numbers in the following analysis is that

while Latinos are a growing population in the criminal justice system, it is difficult to disentangle

race and ethnicity. For example, the population numbers used in the following analysis are

based on estimations for an adult population 18 and over in Denver and are primarily segregated

by race. In the population estimate source site, the numbers of those estimated to be Latino were

classified as White/Hispanic, Black/Hispanic, Native American/Hispanic and Asian/Hispanic.

For the analysis, the number of Latinos is obtained by separating out those of Hispanic origin

from each of the race counts. For example, in Denver, the adult population estimate total for

Whites was 376,430; however, 122,631 were estimated to be White of Hispanic origin. So the

total estimated White/Non-Hispanic adults in Denver is 253,799, which is obtained by

subtracting 122,631 from 376,430. Overall, when Latino as an ethnic origin was separated from

all races, Latinos comprised 129,670 of the total adult population estimate in Denver. The major

challenge is that much of racial profiling and disparate treatment in the criminal justice system

can anecdotally be attributed to officer and system actor perceptions of race and ethnicity based

on appearance and/or name. Therefore, if given the option, a person may report Latino as their

"race" as it is captured in criminal justice data in Denver, but they may appear to be African

American, Native American or White and therefore may be wrongly classified as one of the

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[7] From http://www.ojjdp.ncjrs.gov/ojstatbb/ezapop/asp/profile_display.asp, accessed November 1, 2009.

latter races, which according to the preceding statement, may impact their involvement and/or experience in the criminal justice system.

CHAPTER 4

CREATING A MODEL TO REDUCE OVERREPRESENTATION IN DENVER'S ADULT CRIMINAL

JUSTICE SYSTEM

No comprehensive and systematic process exists for identifying and reducing racial and ethnic

disparity in the adult criminal justice system. Rather sections of the system are examined with the

bulk of research focusing on racial profiling by law enforcement, sentencing disparities, and

legislation which has disproportionately impacted specific groups of people.

Within the past decade, a manual has been published twice that tells criminal justice practitioners

how to assess and reduce disparity in their systems. The manual, published by the Sentencing

Project first in 2000, and then in 2008, outlines commonly identified causes of disparity in the

criminal justice system, discusses common manifestations of disparity at each major decision

point and then provides strategies for reducing disparity at those decision points with case studies

from various jurisdictions nationwide. The manual's overarching recommendations include

increasing cultural awareness and competency among criminal justice system actors, engaging the

community on various decision point approaches including policing and social services, ensuring

that risk assessments are racially neutral at decision points such as pretrial, probation, and parole

services, and recruiting and building staff and leadership from diverse backgrounds.

The manual provides a good overview for considering disparity in the criminal justice system,

Two areas that are under-developed in the manual are getting buy-in and developing a

collaboration of system stakeholders, and a comprehensive approach to using data to identify, assess and create interventions to reduce disparity.

The relationship between criminal justice and other local government services is so intertwined that ultimately, a city-wide approach to identifying and mitigating racial disparity would be the most ideal approach. Work like this can be seen in the city of Seattle, Washington, where Mayor Greg Nickels established the Race and Social Justice Initiative.[8] Overarching goals of this initiative include increasing workforce equity in Seattle government, ensuring equity in contracts with Minority Business Enterprises, increasing access to and improving quality of city services for people of all backgrounds and nationalities, and eliminating race-based disparities in Seattle's communities, including disparities in healthcare, criminal justice, education and economic opportunities. The city of Seattle government also publicly acknowledges the concept of "institutional racism" and states that it occurs when "organizational programs or policies work to the benefit of white people and to the detriment of people of color, usually unintentionally or inadvertently."[9]

There is much literature that addresses data-driven approaches to assess and evaluate efforts towards reducing disparity at single decision points. The Sentencing Project's manual briefly touches on an approach of looking at a "disparity ratio" within a particular race or ethnicity as individuals move from decision point to decision point. However, by using this method, there is

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[8] City of Seattle government website: The Race and Social Justice Initiative led by Mayor Greg Nickels, http://www.seattle.gov/mayor/issues/rsji/, last accessed November 8, 2009.
[9] For a description of the Race and Social Justice Initiative, see http://www.seattle.gov/mayor/issues/rsji/docs/090120rsjiSummary.pdf, last accessed November 8, 2009.

no way to look at representation of a specific race or ethnicity as compared to others in the system.

The recommendation of this thesis is to use the Office of Juvenile Justice and Delinquency Prevention's (OJJDP) Disproportionate Minority Contact Technical Assistance Manual, 4th Edition (Available online at: http://www.ncjrs.gov/html/ojjdp/dmc_ta_manual/) to design an approach to address overrepresentation in the adult system. This manual presents a comprehensive and systematic way to identify, assess and intervene to reduce disparity in the juvenile justice system and lessons learned by applying these methods.   The OJJDP Technical Assistance Manual came about as a result the lessons learned in the field by the OJJDP to provide jurisdictions with the most up-to-date guidance on reduce disproportionate minority contact in the juvenile justice system. In 1988, a congressional amendment in the Office of Juvenile Justice and Delinquency Prevention Act of 1974 was passed that required all states participating in the OJJDP's Formula Grants Program address disproportionate minority confinement in their state plans. Specifically, this amendment mandated that if any state's minority juvenile population that were detained or confined in secure facilities exceeded their representation in the general population, that state was required to develop and implement plans to reduce this overrepresentation. Later, this Act was amended again to include resolving disproportionate minority contact rather than just confinement, to develop multi-pronged interventions that would address the system-wide treatment of youth and not only delinquency, and determined mandated funding percentages to this effort. Since there are no congressional mandates governing total contact of adults with the system, and there are no requirements which mandate the monitoring of

DMC as a condition of federal funding, it is apparent that developing such a system for adult criminal justice has not been a priority.

Through the OJJDP's monitoring of this issue and the state's handling of disproportionate minority contact in the juvenile system, they learned that: Disproportionality can exist in several contact points of the juvenile justice system, not just in detention and corrections, many factors contribute to DMC at different system decision points; a multi-pronged intervention is necessary to reduce overrepresentation, intervention strategies must be data-based, DMC reduction requires support from top leadership and needs to occur at the local level, it requires strong partnerships and demands sustained efforts, and finally, evidence-based DMC reduction strategies are scarce.

The OJJDP's approach to reducing overrepresentation in the juvenile justice system is a result of three major initiatives over the past 20 years funded by the OJJDP, the Annie E. Casey Foundation, and the Burns Institute. These three major programs primarily focused on the confinement of juveniles, and several case studies are included in the OJJDP technical assistance manual in the Chapter 4, which addresses interventions.

The OJJDP focuses on three types of interventions to mitigate the mechanisms which create overrepresentation; direct services, technical assistance and training, and system change, which are discussed in further detail in Chapter 7 of this thesis. In each jurisdiction that received funding under these major initiatives, a steering committee of stakeholders was convened to address the issue. Criminal justice system procedures were reviewed and critical issues were identified concerning the overrepresentation of minority youth. In each jurisdiction, possible

mechanisms for creating overrepresentation were identified and juvenile justice decision points where significant amounts of overrepresentation of minority youth occurred were identified for further investigation. Strategies to reduce the chances of overrepresentation occurring were implemented under the three major categories of intervention. King County, Washington selected the mechanisms of differential offending, differential opportunities and differential handling to focus on at the decision points of arrest, detention, delinquent findings and probation. This county saw a significant impact on their use of detention for all youth by implementing system changes such as police booking protocols, developing a culturally neutral detention risk instrument, reducing the number of failure to appear warrants, and adding a staff member at the court level to help expedite the review of cases where youth are detained (OJJDP Manual, pp. 4:46-48).

Mesa County, Colorado, focused on differential opportunities, differential handling, legislative factors, and accumulated disadvantage to address at referral, diversion, detention and secure confinement. One of their main interventions was to implement an advocacy project for the families of system-involved youth. The main focuses of advocacy included helping families navigate the system, court appearances and requirements, as well as provide mentoring services for high-risk youth. Mesa County saw dramatic reductions in the use of detention and secure confinement in its county (OJJDP Manual, pp. 4:48-53).

Multnomah County, Oregon, also significantly reduced its detention of youth through the design and implementation of a culturally sensitive risk assessment, developing of alternatives to detention and training for system actors to increase awareness about overrepresentation issues.

Their mechanisms of focus were differential handling, specifically within the use of detention in the county (OJJDP Manual, pp. 4:54-58).

All counties who participated in these funded efforts overall saw decreases in numbers of involved youth at their targeted decision points, specifically detention, since this was the primary focus of early OJJDP efforts. In all cases, this included the decrease in representation of minority youth as well. In reviewing the case studies presented by the OJJDP, it is easy to see that implementing strategies to address overrepresentation of people of color can have a positive impact on the overall population of a county as well.

In summary, the OJJDP Manual outlines steps on preparing local stakeholders to investigate the issue of overrepresentation, identifying to what extent overrepresentation exists and at which major decision points, generating possible causes and collecting data to test these assumptions, and designing and implementing interventions to reduce overrepresentation and evaluating these efforts.

This section attempts to outline a plan for the identification and assessment of overrepresentation in Denver's adult criminal justice system, which is largely derived from the first two chapters of the OJJDP manual.

Chapter 5:

Identifying and quantifying disparity

The first stage of the process is to identify where overrepresentation exists in the system and to what extent. This stage is a critical stage in that it sets the data context regarding criminal justice system decision points and how people flow through the system. It is also meant to be an ongoing process, which occurs regularly among system agencies and stakeholders, to determine if interventions designed to reduce overrepresentation are effective.

One purpose of this stage is to describe the extent to which adults of color are overrepresented in the criminal justice system. In the research this has been presented as to what extent can disparity be explained by looking at the proportionality between arrest and imprisonment rates, suggested disproportionate involvement in crimes that would result in prison time,[10] disaggregating criminal justice data geographically and considering regional influences,[11] and comparing victim-reported data, and self-reported criminal activity with actual law enforcement statistics.[12]

Another purpose of the Identification and Monitoring stage is to look at data at each decision point to determine where exactly in the process that disparity exists, how much of it exists and how it may accumulate across the process and to what extent. Several sources for the adult system cite the cumulative nature of disparity across justice system decision points. When the

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[10] See Alfred Blumstein, "On the Racial Disproportionality of United States' Prison Populations," The Journal of Criminal Law and Criminology, Vol 73, No. 3, Northwestern University School of Law, 1982, and "Racial Disproportionality of U.S. Prison Population Revisited," University of Colorado Law Review, Vol 64, 1993.

[11] See Crutchfield, "Warranted Disparity? Questioning the Justificiation of Racial Disparity in Criminal Justice Processing," Columbia Human Rights Review, 2004-05.

[12] See Crutchfield (ibid) and Elliot, "Lies, Damn Lies and Arrest Statistics," 1995.

decision to arrest is made, further decisions as to whether a person is taken into custody, decisions as to whether the individual is considered a public safety risk will determine bail amounts and the potential for that person to remain incarcerated during the pretrial phase due to determined risk or resources to make bail, which has shown to negatively impact adjudication and sentencing outcomes, and resources to secure good defense, which also impacts adjudicatory decisions, will all certainly snowball as a person moves through the decision process. The involvement of several criminal justice agencies in decision making and the opportunity for those actors to employ individual discretion all make for a complex tangle of decision making which is hard to unravel even in a systematic way.

The final purpose of this phase is to establish a structure for ongoing measurement of overrepresentation of people of color and provide a basis for monitoring and reporting across the system. OJJDP recommends that this process is repeated annually in the juvenile justice system, or at a minimum of at least every 3 years. Given the nature of a local jurisdiction's changing political leadership, economic and legislative changes, and changes to individual criminal justice agency policies and practices or the introduction of new courts or programs, there would be no reason to not conduct this kind of monitoring in the adult system with the same regularity.

Using the Relative Rate Index Method

The first step in identification employs the Relative Rate Index method, or RRI. Relative rate tests are commonly used across many different disciplines including the medical field, natural sciences, finance and economics, and other disciplines where a test is conducted to determine the likeliness of something occurring by chance, or whether there are patterns to a specific occurrence

when compared with a baseline incident. In this case, calculating the RRI compares the relative volume, or rate, or activity at each major decision point in criminal justice system of people of color with the rate of that same activity of those who are White. To calculate this numerically, the RRI is the rate of activity experienced by people of color divided by the rate of activity experienced by Whites. Following this calculation, the RRI is tested to determine whether the results are statistically significant, or, how much the RRI differs from a neutral value of (1.00). This difference would indicate the likelihood that these differences could be attributed to chance or not.

Features of the RRI method that exist for the juvenile justice system are of similar benefit for the adult criminal justice system. First, this method looks at the volume of the rates of activity between people of color in relationship to the rates of activity of Whites, which can be calculated at each stage of the decision process, as the volume of activity moves from stage to stage. It also looks at the relative movement of activity in comparison to the relative population for each race or ethnicity that is available in the general population to be impacted by such activity, rather than at the individual level or the population within a contained decision point or system.

Secondly, the RRI method involves looking at a stage-by-stage calculation of these rates, or volume, again, in relationship to the activity of White adults. Calculating movement from stage to stage allows one to see the incremental increase of decrease of activity as people move through each decision point. By calculating the RRI at each of these stages, taking into account increases or decreases help pinpoint where practices or policies may impact different groups of people and to what extent when compared with previous points in the system.

A third and major feature of the RRI method, particularly for a jurisdiction like Denver, is that this method does not require a transactional data system that tracks individuals throughout the criminal justice system process or a single source of data. The criminal justice system in the City and County of Denver employs several data collection and management methods, not all of which are even electronic at this point. Additionally, due to its city/county status, there are data systems across levels of government, at the local and state level, which are used to collect information on the activity that occurs in the court systems at both the county and district levels. Data systems do not share information or "talk" to each other between jurisdictional agencies, let alone between the county and state levels of criminal justice processing. There are no common identifiers collected for individuals between agencies, so a method that requires that people can be tracked across data systems would be time and resource consuming, and most likely not happen in Denver if this type of study were to be done for a meaningful sample size of the population. The main considerations when using data from multiple sources, the OJJDP warns, are those of differing definitions of race and ethnicity across agencies, as well as how results are counted and classified across agencies.

A final feature of the RRI method is that due to the practice of calculating changes between each stage in system processing, it reduces the impact of inaccurate census information by race-ethnicity in that it primarily confined to the first stage of calculations. Previously, rates of activity at each stage were calculated by dividing the rate of activity at that stage with that population's representation in the general population according to census data. If certain groups were undercounted, i.e those of Latino ethnicity counted as White, this would skew the counts of

activity. Since this is only done at the first decision point, between the available population and the decision to arrest, such discrepancies have a limited impact on the RRI calculation at subsequent stages. The manual also recommends that a consistent method of classifying and reporting data is employed throughout the identification stage, across all races-ethnicities, and across time as these rates are calculated from year to year to ensure uniformity in how the RRI method is used and to allow for accurate comparisons and calculations in annual changes.

Creating a Flowchart of Major System Activities

The first step in identification involves developing a flowchart of major activity across the system, particularly decision points where data can be obtained, to understand the relativity of the data elements to one another. While there is extensive information available regarding the flow of activities through the justice system, it is important to develop such a flowchart that is reviewed and approved by local stakeholders, particularly those based in the community who might not be familiar with these activities. Previous experiences in analysis system processes in Denver has proven that if all agencies have not had a chance to review and approve the methodology of a particular effort, the results of that effort will not be considered seriously when addressing system change. The OJJDP emphasizes the advantage to having a flowchart that represents only the major points and encourages only necessary deviation as to provide for cross-jurisdictional comparison. The following table could be a possible format for representing the major decision points in Denver where data can be identified and analyzed:

Figure 1: Relationship of data elements in Denver's criminal justice system: major activities
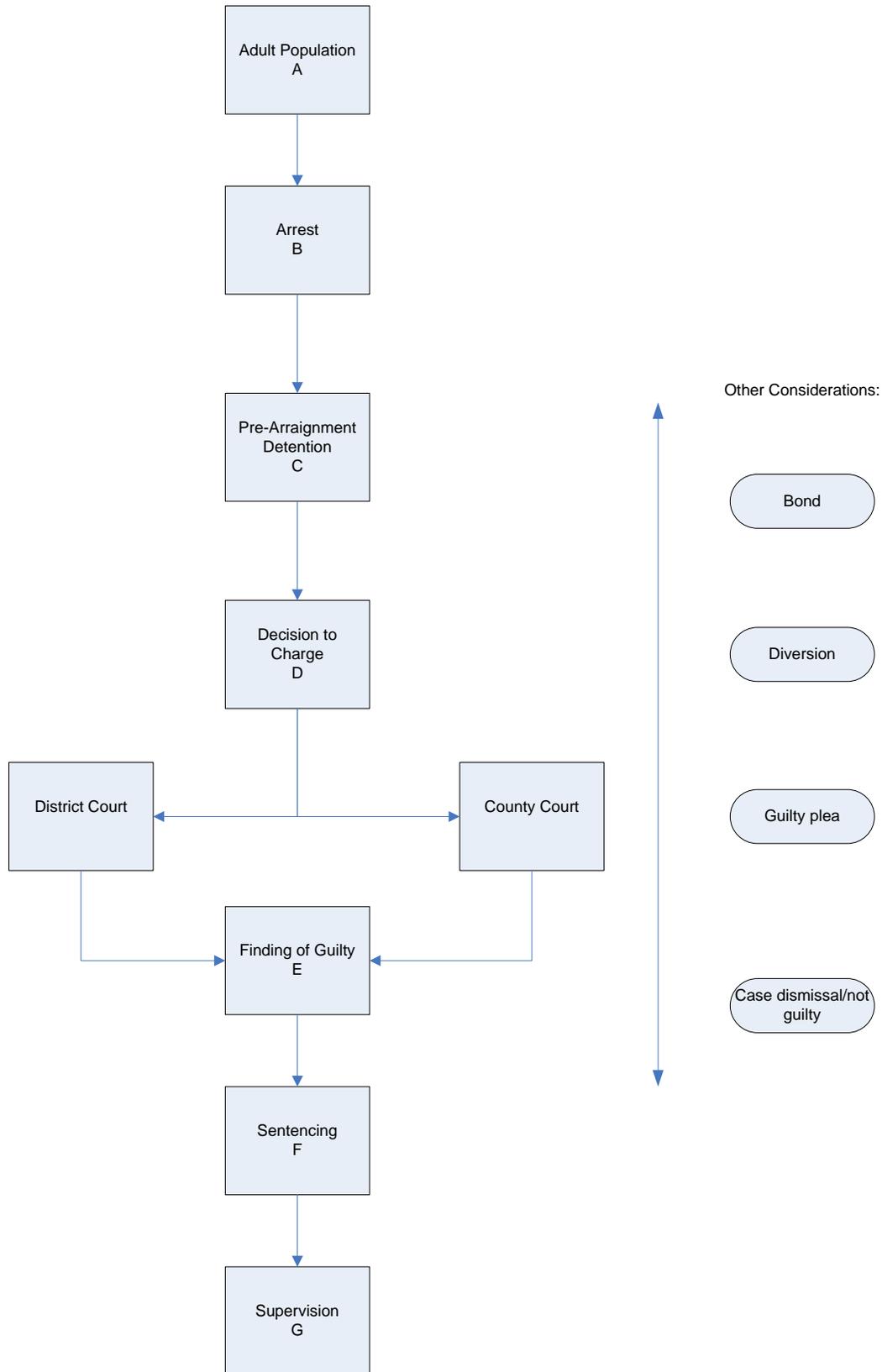
Establishing Standard Definitions for Each Major Activity

The next step for establishing a format to calculate RRI would be to agree to standard definitions of each decision point and the activity that occurs at that decision point, to include both legal definitions for each stage and operational definitions at each stage. Regarding the world of juvenile justice, OJJDP identifies two issues to be taken into consideration when defining stages and collecting data in the process: one is that of a congressional mandate to address total contact of youth with the juvenile justice system that may impact data elements at stages where juveniles are "held," the second issue addresses data elements as duplicated or unduplicated counts.

The OJJDP's recommendation on stages where defendants are held is to count the total number of cases at that particular stage in a year, as opposed to only new admissions to that stage during the year. Where this may apply in the adult system may be in stages like the decision to incarcerate, or the decision to refer to probation, where there are cases carried over from a previous timeframe. The most important aspect concerning this decision would be to determine how cases will be counted, and remain consistent with that counting methodology.

The issue concerning duplicated or unduplicated counts is always a point of discussion when analyzing criminal justice system data. In Denver, since approximately two-thirds of bookings involve defendants who have been booked before, there is the possibility that an individual is booked several times per year. While the potential exists to track individuals throughout the arrest, detention and incarceration process using a unique identifier assigned by the Denver Police Department, since we are considering the volume of activity and not individual rates of activity it makes sense to consider duplicated counts of the same person contacting the system multiple

times. This practice also aligns with the OJJDP's recommendation at the juvenile level to collect

duplicate counts, to reflect the total number of contacts and activity at any given point in the

system. The following table may be a recommended set of definitions for each stage in the

Denver adult system:

Table 1: Overview of Denver Criminal Justice System Stages and Descriptions

Stage	Description
Decision to Arrest	Defined as law enforcement contacting individuals and either taking them into custody or giving them a citation (ticket), for committing an offense against a person, property, or against the public order (including drug offenses)
Pre-arraignment Detention	This decision is dependent primarily on two things: severity and type of offense, and the defendant's economic resources. In Denver, a bond schedule exists for most types of crimes. If people have the resources, they can bond out immediately. In cases such as domestic violence offenses, a person cannot bond out until a judge makes that decision at arraignment, usually within 24 hours of booking. At arraignment, the judge may also decide to release a person on their own recognizance (PR bond). For minor quality-of-life crimes, a person may plead guilty at arraignment. In this case, a judge may impose a short sentence at the arraignment hearing.
Diversion	Some defendants may have the opportunity to be diverted to a different decision-making path in the system. This depends on certain criteria regarding their offense, criminal history, social and other related factors. Two such specific examples include Denver' Mental Health docket and Court to Community program for repeat offenders with co-occurring disorders including mental illness, or the Drug Court, which is for defendants charged with possession offenses who demonstrate addiction issues. Some criteria may exclude persons from Drug Court such as a history of violent offending, or more than two previous felony convictions. In both the mental health docket and the Drug Court, defendants must enter a plea of guilty to participate.
Prosecution/Decision to Charge	Due to its status as a city and a county, all custodial arrests (that don't bond immediately) are arraigned through the same courtroom. Depending on the severity of the crime; primarily whether it is is a misdemeanor or felony level offense, the case may be filed in the county court or the district court. For felony level offenses, prosecution has 72 hours to decide whether they have enough evidence to charge an individual. For misdemeanor level offenses, a plea may be entered at arraignment, depending on the type of offense, and no formal "charging decision" may be made by prosecution, but rather by the courts.
Preliminary Hearing	This hearing is for those who have been charged with a felony level offense. It follows the decision to prosecute and offers the opportunity for the defendant to enter a plea. If a plea of not guilty is entered, the defendant will move on to later stages in the process. If a plea bargain is reach between the defendant, prosecution, defense, and the judge, the defendant will then move to the sentencing phase. Colorado is one of the few states that offer the option of a preliminary hearing.
Trial	During a trial, a defendant's case is heard by court officials or a jury of the defendant's peers. Many activities occur during this phase; evidence is presented, testimony is heard by witnesses and victims and motions are made. The defendant may be in or out of custody; if in custody, bond adjustments may also be requested and granted during this time, which may allow the defendant to bond out during this stage.
Decision to Adjudicate/Disposition	The disposition is the court's decision as to whether a defendant has been found guilty or not guilty. If the defendant is found guilty, the case moves to the sentencing stage.
Sentencing	During the sentencing stage an individual's social history may be conducted, his or her criminal history will be considered, evaluations may be conducted, all in an effort to determine an appropriate sentence and supervision type.
Supervision: Probation, Jail, Other Types	Under probation, people are mandated to meet certain requirements for compliance, such as regular and clean UAs (urinanalysis), substance abuse or other behavioral treatment or counseling, attending scheduled meetings or phone appointments with probation officers or wearing GPS or other tracking devices. Probation is sometimes combined with a period of incarceration.
	Offenders who have been convicted of a misdemeanor level offense in Denver may be sentenced for up to two years in Denver County Jail. While incarcerated, inmates have the opportunity to qualify for programs including work release, sheriff's in-home detention or jail-based programming which addresses hard and soft skills training, substance abuse and anger management counseling, and cognitive behavioral change therapy.
	Offenders in Denver's criminal justice system, due to its city and county status, may also be sentenced to the Colorado Department of Corrections (DOC) or Community Corrections supervision, which commences in Denver County Jail and supervision is conducted locally by privately contracted companies.

Identifying Racial-Ethnic Categories and Collecting Data for Major Activities

The next step OJJDP recommends include determine racial-ethnic categories to be classified and studied and creating a framework for looking at those numbers. In Denver, the major categories of race and ethnicity collected by criminal justice data agencies should be determined across agencies and definitions for each categorization should be established. For example, the Denver Police and Sheriff's department track race and ethnicity across the following categories: White, Black, Hispanic, Indian, Asian, and Other. Concerning each stage, stakeholders should agree on a common language and definition to identify racial and ethnic categories in order to report accurately to the persons responsible for compiling this data. OJJDP recommends and utilizes a specific tool to collect and maintain this information, which allows participating jurisdictions to enter their data into a web-based application managed by the OJJDP.[13] This application does the calculations and maintains DMC data on jurisdictions. For the purposes of this paper, the following is a sample format for collecting and calculating this information:

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[13] Link: http://www.ojjdp.ncjrs.org/ojstatbb/ezapop/, last accessed November 8, 2009.

Table 2: Sample Denver County Data for Entry into Model

1 January - 31 December, 2008					
Data Element	Asian	Black	Latino	Native American	White
A. Population at Risk (ages 18+)*	16,109	41,558	129,670	3,432	253,799
B. Adult Arrests**	525	16,763	15,661	996	29,893
C. Pre-Arraignment Detention***	392	12,816	13,643	461	19,619
D. Total Charges Filed					
County Court					
District Court					
E. Cases Resulting in a Guilty Disposition					
F. Sentenced					
G. Supervision					
Probation: County					
Probation: District					
Incarceration: Denver County Jail					
Other Types					
*Population data source: Puzzanchera, C., Sladky, A. and Kang, W. (2008) "Easy Access to Juvenile Populations: 1990-2007," online at: http://www.ojjdp.ncjrs.org/ojstatbb/ezapop					
**Totals do not add up to total number of 2008 arrests (63,920), 82 were categorized as "Other" or "Unknown"					
***Totals do not add up to total number of 2008 bookings (46,989), 58 individuals were categorized as "Other"					
Approximately 30 juveniles booked into Denver jails during 2008 were included in this data					

The data for the available adult population in Denver County was found through the OJJDP's data
entry tool for calculating DMC. Data was sorted by state (Colorado), county (Denver), age (18-
20, 21-24 and 25 and over were selected), race (non-Hispanic) and by ethnicity (Hispanic).
Arrest data is maintained by the Denver Police Department and reported by the Data Analysis

Unit (DAU). Pre-arraignment detention numbers are maintained by the Denver Sheriff and reported by Technology Services Safety Department (TS).

Data in reference to charges filed would be maintained by the respective court; county or district, and the District Attorney's Office. In the case of city-level charges, the Denver City Attorney's Office does not currently maintain any electronic data on its cases, but relies on the county court to maintain pertinent case data. The respective courts would also theoretically maintain disposition and sentencing data. Some of this data is passed along in hard copy and updated electronically in the Denver Sheriff's data system. Again, before data is compiled for review, it will be important to ensure consistency in definitions of race-ethnicity and understand how each agency is classifying and counting their data.

For those stages in the process referenced in Figure 1 but not noted in the Table 2, for example, Bond and Diversion numbers: numbers for those routed to diversion courts or programs would be maintained in separate data systems operated by those managing the respective courts and programs. For instance, Denver's drug court maintains its client data in the state court system, the county court system, and a proprietary database that was built specifically to maintain data elements that were collected elsewhere, but inaccessible due to information sharing restrictions by the state of Colorado and data collection limitations at the county level. Data concerning these clients would have to be extracted from three different systems under two different agencies spanning two different levels of government. Numbers of those who bonded at any point in the process could be obtained from the Denver Sheriff Department data.

It is important to identify and note limitations or disclaimers concerning gathering race-ethnicity data. For example, in Denver, there are very definitive and limited categories of race-ethnicity. There are no choices for those who would consider themselves of mixed races or ethnicities. If individuals falling into this category self reported on race and ethnicity, they would have to select "other," or choose only one of the existing possibilities of their mixed heritage. In many cases, the individual may not be given the option to select the race or ethnicity they identify with and it may be determined and reported by an arresting or booking official, for example. It is apparent when reviewing Denver's arrest and incarceration data, the numbers categorized as "Other" are so small, that officials are not using this category to document mixed race-ethnicity, but rather to classify those they are unsure of, or who do not fall into one of the major categories that are tracked. In Denver, in the police and sheriff departments, there are no documented protocols that state that race and ethnicity must be reported by the defendant, and in the majority of cases, the race or ethnicity of an arrestee or defendant is determined by the respective agency official. This has the potential to provide inaccurate statistics where a person may be of mixed race or ethnicity and chooses to identify with either that may not be visible to the official, or a person's appearance might not obviously disclose the race or ethnicity he or she is.

Determining Numerical Bases for Rate Calculations

The OJJDP manual recommends determining numerical bases for rate calculations. For example, in the case of the number of those who were held in pre-arraignment detention, a base number to perform the rate calculation would be the number of arrests that took place. Using this example, in the case where an arrest is made (an arrest can be a citation, where a ticket is issued and the person is not taken into custody, or where a ticket is issued and the person is taken into custody-

whether a person is taken into custody is dependent on police discretion and the severity of the offense), the rate of pre-arraignment detentions given the readily available data in Denver for White adults is 66, or 100 x (19,619/29,893). So for every 100 White arrestees, 66 are taken into custody and booked into pre-arraignment detention. For Blacks, the rate of those arrestees taken into custody would be 76, or 100 x (12,816/16,763), meaning that for every 100 Black arrestees, 76 were booked into pre-arraignment detention in 2008. For Latinos, the rate would be 87 per 100, and so on. A similar methodology for calculating the number of arrests made per racial-ethnic population of available adults in Denver can also be calculated: 118 in 1,000 Whites in Denver were arrested in 2008, 403 in 1,000 Blacks were arrested, 121 in 1,000 Latinos were arrested, 290 in 1,000 Native Americans were arrested, and 33 of every 1,000 available Asian adults were arrested in 2008. The following table represents possible numerical bases for rate calculations at each stage for Denver:

Table 3: Possible Numerical Bases for Rate Calculations

Stage/Contact Point	Preferred Base Rate
Arrests	Rate per 1,000 population
Pre-Arraignment Detention	Rate per 100 arrests
Charges Filed	Rate per 100 arrests
County Court	Rate per 100 arrests
District Court	Rate per 100 arrests
Cases Resulting in a Guilty Disposition	Rate per 100 Charges Filed
Sentenced	Rate per 100 Guilty Dispositions
Supervision	Rate per 100 Sentenced
Probation: County	Rate per 100 Sentenced
Incarceration: Denver County Jail	Rate per 100 Sentenced
Probation: District	Rate per 100 Sentenced
Other Types	Rate per 100 Sentenced

Given the case that a base number is not available at any given stage, the OJJDP manual

recommends that the base number at the preceding stage to the unavailable stage data be used.

However, when examining the rates at each stage of the process, it must be considered that rates

indicating disparity would be applicable for all preceding stages where data was missing.

Without the ability to separate the data at each individual stage, the first stage with available data

may produce a high RRI value, which would indicate skewed sources of disparity.

Calculating the RRI

Once all of the data is collected across all races and ethnicities and for each stage of the criminal justice system decision-making process, it is possible to calculate the RRI. The following table takes the data available for Denver and calculates an RRI for people of color in Denver and Whites in Denver:

Table 4: RRI for Selected Persons of Color versus Whites in Denver for Early Decision Points

Data Items	White Rate of Occurrence	Persons of Color Rate of Occurrence	Relative Rate Index
Population at risk			
Arrests*	118.00	177.94	1.51
Pre-Arraignment Detention	66.00	80.46	1.22
Charges Filed			
County Court			
District Court			
Cases Resulting in a Guilty Disposition			
Sentenced			
Supervision			
Probation: County			
Incarceration: Denver County Jail			
Probation: District			
Other Types			
*Arrest rate is per 1,000 people, all other fields are per 100			

The next table disaggregates the RRI by selected race-ethnicity to Whites:

Table 5: RRI for Selected Races/Ethnicities to Whites

Data Items	Asian	Black	Latino	Native American
Population at risk				
Arrests	0.28	3.42	1.03	2.46
Pre-Arraignment Detention	1.14	1.16	1.33	0.71
Charges Filed				
County Court				
District Court				
Cases Resulting in a Guilty Disposition				
Sentenced				
Supervision				
Probation: County				
Incarceration: Denver County Jail				
Probation: District				
Other Types				

While the data above allows for only the first two stages proposed in the Denver model for identifying disparity, it provides some interesting findings. The closer the RRI falls to 1, which represents the White rate of occurrence, the more closely arrest and pre-arraignment detention line up with rates for Whites. In the case of the Table 4 where the RRI is calculated for selected Persons of Color in the Denver system versus Whites, the RRI for arrest and pre-arraignment detention is 1.51 and 1.22, respectively. This indicates that Persons of Color are arrested and booked into a Denver jail at higher rates when compared with Whites in Denver.

Table 5 shows the same information, although disaggregated by selected races and ethnicities whose numbers were substantial enough to calculate an RRI for. For those with RRIs below 1, this indicates that involvement in this particular stage occurred at a lesser rate than those of Whites. Asians are significantly under-represented in arrests when compared with Whites, but are booked into a Denver jail upon arrest at a slightly higher rate. The most noticeable discrepancies would be found in the arrest rate of Blacks and Native Americans when compared the with arrest rates of Whites in Denver, which are 3.42 and 2.46, respectively.

Since Denver is a city and a county, upon arraignment individuals will take one of two paths, rather than just follow a single path through the rest of the system, depending on the level of their offense. One recommendation would be to collect all total filings for both the county and district levels (county would include general sessions, or city level violations), as the tables above had accounted for, but also disaggregate the data at both the county and district levels, to allow for looking at disparity of filings and offense severity. Given the extensive literature on the War on Drugs and its impact on Black Americans, it may be useful to pay particular attention to this disaggregation of data to determine disparate practices in drug filings, dispositions, and sentencing.

In summary, the purpose of the Identification and Monitoring step is to determine to what extent Persons of Color are overrepresented in the criminal justice system, to examine the amount of disparity at each stage of processing and determine whether it is statistically significant, and to establish a structure for ongoing monitoring of disparity. The methodology used to identify the

extent of overrepresentation is the Relative Rate Index, or RRI, which is the proportional

relationship between the activities at each stage of persons of color to white people.

Considerations at the Identification step

There are several issues to consider when completing this step. First is to ensure that there is

agreement among key stakeholders on a standard process, or set of decisions through the system,

that can be defined and quantified at each point. Second, there is a need to understand definitions

and methods of classifying and counting data across agencies at each decision point. Third, it

should be agreed upon which racial-ethnic categories will be analyzed, what data is available for

each of those categories (do all agencies disaggregate Latino and White data?), and how that data

is collected (self-reported, classified by an agency official, etc.). Finally, agreement should be

reached on who will be responsible for collecting, calculating, presenting results on, and

maintaining the data on an ongoing basis.

Chapter 6

Assessment: Generating and testing possible causes of disparity

The OJJDP defines the next step of this process as assessment. This step is an in-depth

examination as to why overrepresentation is occurring, with the goal that once causes are

identified, appropriate interventions can be designed, or policies or practices may be altered, to

address the issue. The manual notes that this step must be based on the logic of the preceding

step, and without complete information and analysis in the Identification step, it will be difficult

to assess the occurrence of disparity and develop effective solutions. The Assessment step is

composed of four main aspects: to generate possible explanations for overrepresentation at the

respective decision points, identify data needed to determine patterns that would describe those

explanations, obtain the data, and analyze the data to identify the most likely causes or

mechanisms creating overrepresentation in the jurisdiction.

Possible Causes of Overrepresentation

The OJJDP identifies and summarizes several potential explanations for overrepresentation,

making it easier for a jurisdiction to start generating possible causes. For the purposes of this

paper, an overview will be provided, and based on its population and criminal justice system,

suggested causes for consideration in Denver will be identified throughout.

Differential involvement in offending.
Based on research literature, the OJJDP recommends the consideration of differential behavior, or

differing rates of involvement in particular offense categories by different groups of people.

While it is acknowledged that disproportionate contact for particular offenses is not acceptable, there may be prevention opportunities or interventions that can alleviate disparity, and also benefit the general population as a whole. A recent example of this sort of finding was discovered in Denver, when a community group requested that a forum be organized to address the issues concerning Native American women in the criminal justice system. Community members, advocacy groups, local college students, social service providers, criminal justice professionals and other government agency representatives came together to examine the issues and needs of Native Women in the justice system in Denver.

Several findings emerged from this forum. One was that although there are a small number of Native adult women in Denver County,[14] their numbers are overrepresented in terms of those sentenced to the Denver County Jail for misdemeanor level offenses; in 2007, approximately 44 per 1,000 Native women in Denver were likely to be booked into Denver County Jail, compared with 14 per 1,000 White women and 17 per 1,000 Latina women.[15] Upon further exploration, it was discovered that many Native women had been sentenced for the low-level city ordinance violations; often with charges of drinking in public.[16] When presented to the Native American leadership that was present at the forum, it was discovered that culturally, drinking alcohol is not traditionally an acceptable activity, particularly by women. If people wish to consume alcohol,

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[14] Approximately 1,800 according to population estimates obtained from: Puzzanchera, C., Sladky, A. and Kang, W. (2008). "Easy Access to Juvenile Populations: 1990-2007." Online. Available: http://www.ojjdp.ncjrs.gov/ojstatbb/ezapop/.

[15] From presentation "Native Women: Denver County Jail Overview," June, 2009. Data source: Technology Services Safety, Denver Sheriff Department. Jail data crossed with Denver women population estimates from September, 2004 article by Kate Reid, "What Do We Know About Women in Denver."

[16] Ibid, public consumption and trespassing represented 12% and 7% of charges against Native women. For women of all other ethnicities, most common charges included possession of drug paraphernalia and marijuana, and prostitution.

they will most likely do it secretly, and away from the home. Additionally, it was discovered

through this forum that there is a glaring gap in culturally competent services for Native

Americans in Denver County, particularly in the area of substance abuse treatment, given that

Native Americans do not approach substance abuse and treatment of it in the same way that

treatment providers who are more accustomed to treating Anglo clients do. There was also an

expressed need for services that take into account the Native American history in the United

States, the displacement of people, early attempts to make them conform to the White population

in terms of naming, religion, and lifestyle, and issues that plague contemporary Native

Americans, as a result, and women in particular, including disproportionate exposure to domestic

violence and alcohol abuse.

Numerous studies have attempted to get at differential involvement in crime as an explanation for

overrepresentation. It has been emphasized time and again, however, that any such study that

tries to get at this information should rely on several sources of data, rather than official criminal

justice statistics only, as these numbers primarily reflect the number of crimes in which people are

caught, and may result from a number of factors, for example, police presence in a particular area,

law enforcement initiatives that address a certain type of offense, or the public tolerance level of

that particular offense taking place and its vigilance in reporting such an offense.

Another possible example of where this applies in Denver is the analysis of involvement by

offense type and race-ethnicity in its problem-solving courts or programs, such as its mental

health docket and Court to Community program, or its Drug Court, to examine the racial-ethnic

makeup of populations who are charged with crimes that make them eligible for referral to these

programs, versus the number that are actually referred and accepted, and to identify whether appropriate, culturally competent treatment options and services that are available to help its clients succeed. Doing an analysis on differential involvement or apprehension rate in criminal activity could help better prepare Denver to address offending at its root causes. As a final note, the OJJDP manual also recommends looking across jurisdictional services to identify opportunities for collaboration and expansion of culturally competent services. Related agencies for adults may include mental health, substance abuse, and homeless services in Denver.

Population mobility effects.

The second area of investigation that OJJDP recommends is that of mobility effects on the criminal justice system. This includes things such as seasonal changes in crime impacted by population movement, for example, in summer time when kids are out of school, and areas that might draw people during these seasons, such as parks and malls, immigration- and migration-related activity and enforcement of this activity or legislation and practices that may inadvertently target these populations, as well as institutional effects, or circumstances where one jurisdiction provides a justice system service for a number of other jurisdictions. This area is certainly one of interest in Denver in terms of immigration and migration of populations, as well as tourism, due to the fact that Denver is the largest jurisdiction in the state of Colorado, with major interstates crossing it east-west that connect the Midwest with the Western United States, as well as north to south. Its size, location resources and economic opportunities make Denver susceptible to a population that ebbs and flows, often catching people from surrounding jurisdictions, as well as other states, in its criminal justice system.

Indirect effects and differential opportunities to prevention and treatment efforts.

Indirect effects, or risk factors that have been identified to intersect with race and ethnicity and are linked with criminal justice and related system involvement, are another potential cause to be considered. These include societal disparities in educational and economic opportunities, community resources, access to health services, housing opportunities and other factors that may generate risk for an individual. An individual's circumstances, or perceived risk of criminal involvement may also impact decision-making on the part of criminal justice system actors, for example, when considering probation supervision versus secure confinement, or for selection in a particular system diversion or alternative to incarceration.

Disproportionate impact of legislation, legal factors, policies and practices.

The most common ways in which legislation, policies and practices may have a disproportionate impact on certain groups are those which target certain types of offenses or offense characteristics, those that target location issues that place certain groups at a disadvantage, and those that mandate specific handling or processing and have eligibility criteria that are based on criminal histories.

In Denver, such policies and practices that target location issues could be neighborhoods that are targeted for a particular law enforcement intervention such as low or zero tolerance for quality of life crimes and Problem Solving Projects (PSPs), which are initiated by a collaboration between the Denver Police, neighborhood organizations and community members. PSPs are designed to target specific crimes that have been determined problematic by community residents by surveys and community meetings. Some in Denver have likened these projects to Broken Windows

policing which targets nuisance and disorder crimes through proactive policing (while tempering

increased opportunities for arrest based on increased police presence), as a long-term reduction

strategy of violent crime (Hinkle and Weisburd, 2008, Kelling and Wilson, 1982).

An example of unintended consequences resulting from changes in policing practices can be

derived from a recent study of Denver Police Department's Class 2 Officer-Initiated Actions

(police initiated stops and searches) which uncovered that a new proactive policing initiative

nearly tripled the number of these actions in one district within a 3-year time frame. A single

lieutenant in this district outperformed his peers in ensuring that officers on his detail initiate a

minimum of two Class 2 Actions per shift. This police district happened to be 70% Latino and

Black (Denver Safety Office of Policy Analysis, 2003-2008). This new policy had the potential to

dramatically increasing representation of Black and Latinos in Denver's justice system.

Assessment methods as outlined in the OJJDP manual could be utilized with existing practices as

well as used to test recommended changes in practice to determine possible impact on

overrepresentation.

An auxiliary tool for looking at legislative, policy or practice changes may be a racial impact

statement. Impact statements have been in use in other disciplines for some time, but have not

been used extensively in the area of criminal justice. Recently the states of Iowa, Wisconsin and

Connecticut mandated the use of racial impact statements for proposed legislation that affects

sentencing, probation, or parole policies. A racial impact statement is designed to identify the

unintended consequences for a population pertaining to a new initiative, policy, practice or law,

before it takes effect. A classic example of this is federal policy surrounding sentencing for

possession of crack and powder cocaine in the late 1980s. Since these sentencing mandates went into effect, more than 80% of the prosecutions for crack offenses have been of Black Americans, disproportionate to their use of the drug, which carry less tolerant possession amounts, and far more severe minimum penalties (Mauer, 2009).

Differential processing and inappropriate decision-making criteria.

This refers to system processing of defendants where involve programs or diversion options that have eligibility or threshold criteria based are involved. For example, criteria for these options may exclude those defendants with certain types of criminal histories that are more typical of certain groups due to system decision-making that may not be consistent or fair. Fundamental considerations include: what are the criteria upon which diversion decisions are made, are these criteria applied consistently across all groups, and are the criteria structured in a way that places some groups at a disadvantage. Using Denver's Drug Court as an example, criteria for exclusion from the Drug Court include a defendant with more than two prior felonies, a weapons charge, a criminal history involving a violent offense or sex offenses. These exclusionary criteria could have disproportionate impact on certain groups, for example excluding those with more than two prior felonies. Given the disproportionate impact of the drug war on young African American males, consideration should be given as to their potential exclusion from programs such Drug Court. In the juvenile system, the OJJDP finds that such exclusionary criteria for diversion and alternatives to detention often screen out youth with criminal histories that are described as "gang-related" or limited definitions of "family" as it relates to who is responsible for a youth when they come from single-parent homes.

Justice by geography.

This concept refers to the differential treatment of people based on race or ethnicity across jurisdictions in a state. The OJJDP has found that youth of color can be processed differently based on the racial-ethnic make-up of the jurisdiction in which they live, and whether they are processed in an urban, suburban or rural setting. It would make sense that the same could be assumed for adults. Academic research, including the work of Robert Crutchfield and his studies that allege that inequality in punishment can occur as a result of social and demographic conditions as well as the practices and values of local criminal justice culture, has shown that this is the case.

Accumulated Disadvantage.

Accumulated disadvantage refers to the notion that disparities in the criminal justice system only compound the further a person goes into the system. One way in which this occurs is that decisions made earlier in the process, such as the decision to detain, may impact decisions further down in the system, including the severity of penalties or sentencing. The other example of accumulate disadvantage is that while disparities that may occur at specific stages of processing may appear to be small, but when considered across the system, differences in treatment across the various racial and ethnic groups can be quite glaring.

Identifying Supporting Data and Expected Results

The next step of the Assessment stage is to identify potential mechanisms that are creating overrepresentation for further exploration, and then identify supporting data that is needed and expected results that this information would provide to set up a structure to determine whether

the identified mechanisms are indeed contributing to overrepresentation. Because this stage

involves a multi-tiered look across potential mechanisms that generate overrepresentation, three

general types of data are recommended for collection. Not all potential mechanisms identified

will require all three types of data. These types include the RRI-level data, or the ability to

create sets of data for each potential mechanism or cause for calculation of volume of activities

for people of color in relationship to white people; case-level data, which is data that examines

specific attributes of a particular aspect of a mechanism, such as program data which includes the

number of referrals to the program, retention, and successful completion rates, or a piece of

legislation, which requires information about the issue it is designed to impact and demographic

information about who it actually impacts and who is not impacted, and finally, transactional

data, which means the ability of a data system or process that can track individuals through all of

the justice system decision points and attach attributes to that population.

For the purposes of illustrating the different stages within this step, we will identify two potential

mechanisms to explore that may be creating overrepresentation in the Denver criminal justice

system; indirect effects, and legislation, policies and legal factors. The following tables are taken

directly from the OJJDP Technical Assistance Manual and give an example of the identified

mechanisms, data needed and data patterns expected.

Tables 6 and 7: Data Types and Expected Patterns Resulting from Mechanisms that Create

Overrepresentation

DMC Mechanism: Indirect Effects	Data Type and Analysis	Data Pattern Expected
• Specific risk factors • Access and eligibility for programming • Decision-making factors	Transactional data with information on characteristics thought to result in the indirect effects (i.e. economic status, family structure, detention status).	• High correlation of the variables believed to carry the indirect effects with race/ethnicity

		When multivariate analysis is conducted, the correlation of race/ethnicity with system contact stages is significantly reduced, or
		When subsets of cases with similar characteristics are tested, the RRI value is reduced

DMC Mechanism: Legislation, Policies, Legal Factors	Data Type and Analysis	Data Pattern Expected
• Policies about offense types or characteristics • Policies about location issues • Policies that mandate specific handling	Case-level data showing who is affected by the policies and who is not.	• Impact rates (cases that the policies affect) are greatly different by race/ethnicity.

Obtaining and Analyzing the Data

The OJJDP identifies several strategies for obtaining this data, such as sampling, and developing

quantitative and qualitative research designs to adequately address potential causes of

overrepresentation. Such collection will require the commitment of staff and financial resources.

The other option for jurisdictions is to move as far as they can through the assessment phase with

the available data and supplement those findings with other sources of data. To help prioritize

this work, stakeholders should identify specific decision points for examination. To make the

most of resources, it would make the most sense to look at the decision points in the system

where the greatest amount of disparity exists according to the RRI levels, and within this context,

the groups that are impacted most heavily.

Based on the findings at the Identification step earlier in this paper, stakeholders may choose to

select the decision to arrest as one of their decision points for analysis. They also note that the

RRI for Blacks and Native Americans in Denver is high (3.42 and 2.46, respectively), keeping in

mind that 1.0, represents the arrest rate of Whites, which is the baseline and has been verified as statistically significant. From here, they would identify variables that may influence the decision to arrest. The following table is adapted from the OJJDP manual for adults and gives examples of such variables.

Table 8: Possible Variables that May Influence the Decision to Arrest

Characteristics of Adults	Officer Characteristics	Community Characteristics
• Race • Age • Gender • Demeanor	• Race • Age • Gender • Education • Length of service • Knowledge of the suspect	• Economic situation • Racial/ethnic composition • Extent of racial segregation • Status of race relations • Presence of a PSP in the community
Characteristics of Contact	Victim Characteristics	Police Agency Characteristics
• Type of crime • Reason adult was contacted, taken into custody, or arrested • Involvement of a weapon • Place of contact • Presence of bystanders or witnesses	• Age • Race • Gender • Victim's wish to press charges • Relationship between the suspect and the victim	• Police expenditures • Deployment patterns • Presence of a PSP or targeted law enforcement efforts in a particular community • Organization ideology

Limitations for considering these variables includes the fact that reports detailing the characteristics of a person contacted by the police are only available when a citation is given or a defendant is taken into custody, not for all contacts. We cannot measure if Blacks and Native Americans are contacted by the police more frequently than other races/ethnicities.

From this point, stakeholders work with designated researchers to collect data based on the mechanisms and decision points they have chosen to analyze. Considerations for choosing a researcher or research team are covered later in this section. A research design must be created in order to bring the necessary information together. The design of the research is dependent on resources (financial and staff), the availability of data (and obtaining data that does not currently exist), and the priorities of the stakeholders. Quantitative and qualitative methods may be

employed for obtaining data that does not yet exist, including surveys, focus groups, and in-depth interviews. Qualitative methods may best be utilized after quantitative research has identified specific issues or problem areas within the system and can be used to further explore individual and community perspectives on why overrepresentation is occurring.

Finally, once data is collected it will need to be analyzed to determine the most likely causes of overrepresentation. Statistical methods may be used to determine the influence of certain variables on others at specific decision points, and other influencing factors can be controlled for. Data patterns expected that would make potential mechanisms actual mechanisms for causing overrepresentation can be confirmed by referring back to Tables 6 and 7. Based on the earlier decision to look at the possible mechanisms of indirect effects and legislation, policies and legal factors, specific vehicles within these categories (identified risk factors, access and eligibility for programming and decision-making factors, and identified policies about offense types, location, or mandated specific handling) would be variables whose relationship to race and ethnicity would be studied and confirmed as to having the hypothesized effect or not to contributing to overrepresentation of a particular group at the identified decision point (in this case, arrest).

A complementary study may be conducted on a specific target area in Denver to consider mechanisms, system data, and social and economic indicators and other variables. Since we can obtain case-level and transactional data based on zip code of reported home address in Denver's criminal justice system data, a particular zip code may be identified. Recently, a grant proposal was submitted to assist in the identification and assessment of racial disparity in Denver's criminal justice system, and Denver's zip code 80219 was identified for a pilot for further analysis. This zip code contains approximately 10% of Denver's neighborhoods and comprises 13% of Denver's total population. This area is approximately 70% Latino, and also has a high

number of Asians and Native Americans. The average annual household income in this area is $14,000 lower than Denver overall, the unemployment rate is 1% higher than the rest of Denver, and 20% of its residents do not speak English. This area has a high birth rate to teen mothers, and 50% of persons 25 years and older have less than a 12th grade education.[17] Almost 10% of individuals booked into a Denver jail in 2008 who reported a home zip code reported 80219 as the zip code they lived in.

The benefit of identifying neighborhoods or zip codes for further analysis allows the employment of other methods and tools to explore characteristics of a neighborhood that might not be readily available through criminal justice statistics. Geographic Information System (GIS) technology could be used to conduct justice mapping to determine the extent of criminal justice involvement of residents who live a particular area, mapping to determine community resources including education programs and opportunities for youth, economic opportunities for adults and health care, treatment and other service providers. Existing neighborhood data, including school failures, foreclosure rates, housing owner-occupied and rental data, TANF support, health indicators, gang involvement, poverty rates, and levels of income and education of residents could also be collected, mapped and incorporated with overrepresentation analysis.

Considerations at the Assessment Step
The success of this step relies largely on the information collected during the Identification step. Collecting accurate and appropriate information at the Identification step will allow for a more refined and focus on what areas need to be investigated and how work should be prioritized during Assessment. As with the Identification step, there must be clear definitions around the

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[17] Data from Council District 3 Neighborhood Comparison, Piton Foundation and 2000 U.S. Census Data, 2000-2007.

data concerning race and ethnicity and decision point/activity outcomes. Other data-related considerations include identifying independent variables for assessment, or those factors that may impact decision-making at various stages of criminal justice processing. These variables may differ depending on the decision point that is being studied.

Considerations for the collaboration and planning process are also important for the Assessment step. Assessment requires collaboration, trust and objectivity among system and community stakeholders in order to be productive. Generating potential causes of overrepresentation will reach across several decision points and system agencies, and stakeholders must be open to considering their potential involvement in contributing to disparities in the system. Some necessary data for this step may not be readily available. It will be critical to prioritize decision points and groups for further assessment as to maximize resources that may be needed to conduct further research to obtain qualitative and quantitative data. Finally, consideration should be taken concerning the person(s) who will be conducting the research; clear lines of communication should be established as to what the committee expects and is looking for, the researcher(s) should possess a thorough understanding of the justice system, examine previous assessments in order to work with the committee to effectively design and plan the research, and an agreement should be reached between the researcher(s) and the committee as to research timeframe, deliverables, and who ultimately "owns" the data and findings and what can be done with the research following the assessment process.

In its manual, the OJJDP provides a thorough and systematic process, accompanying instructions, potential challenges, and examples at every stage of the process, for identifying and reducing overrepresentation in the juvenile justice system. The subsequent phases not covered in detail in this paper are: preparation at the local level for this work, designing interventions to reduce overrepresentation and evaluating those designs to ensure they are achieving intended outcomes.

Preparation at the Local Level: Locating Funding, Building Collaborations, Prioritizing Work

Denver is in the process of the stage identified as "preparation at the local level." Before any work can begin on Identification and Assessment, it will be key to establish this working committee due to the political nature of the issue, the consensus and collaboration needed to address it, and the cooperation to allocate resources to obtaining corresponding data. The activities involved at this level are: identifying financial support, establishing a steering committee, identifying leadership, reaching consensus, conveying a sense of urgency, setting priorities and organizing the work. Supporting work to these activities involves developing and articulating a message around local over-representation issues, goals and objectives for addressing these issues, mediating conflicts that may come up between stakeholders as to potential decision points where disparity exists and its causes, ensuring that over-representation and the impact of certain practices and polices are kept at the forefront of all justice system

activities and changes, and making sure that once decision points and populations are identified and assessed, that the committee does not get bogged down in over analysis and moves ahead with creating and implementing intervention strategies.

In August of 2009, the Crime Prevention and Control Commission (CPCC), the decision-making body which will oversee the committee and activities that address overrepresentation, unanimously approved a Resolution (see Resolution, Appendix) which "condemns racial and gender disparity in the adult and juvenile criminal justice system in Denver, Colorado," and "resolves to actively assess and counteract the impact of policies and procedures that contribute to disparity at all decision points within the system and will consider racial/gender impact as part of any decision to back any funding, initiative, new program, etc." Previously, the CPCC had altered and approved its bylaws with the addition of the Racial and Gender Disparity (RGD) committee, one of five committees that sit under the CPCC (see Bylaws, Appendix). Comprising agency leadership including the Director of Corrections, Chief of Police, the Manager of Safety, District Attorney, City Attorney, Community Corrections and Pretrial Services, Chiefs of County and District Probation, the Colorado Director of the Division of Adult Parole, Community Corrections and Youth Offender Services, the Chief of Juvenile Probation, the Colorado Public Defender and Presiding Judges of the County and District Courts, Denver Public Schools, the Mayor's Office, as well as executive leadership from community-based service providers and various community members (see CPCC membership, goals and directives, Appendix), the Resolution was the next step in recognizing the importance of the issue and gaining universal agreement on the nature of the issue and commitment to addressing it system-wide. Co-chairs from a recently disbanded committee were installed. These chairs are

system representatives from the Denver Sheriff Department and the Colorado Division of Adult Parole, Community Corrections and Youth Offender Services.

The initial RGD committee is composed of chairs from each of the CPCC's existing committees which are Mental Health, Youth, Community Reentry and System Performance, the CPCC Chair, former Director at the Colorado Public Defender's Office, the Mayor's Office, a representative from the Police Department and CPCC staff. To date, this committee has developed the committee bylaws, completed final revisions for, and submitted the Resolution[18] to the CPCC for approval, developed a committee recruitment process and criteria and guidelines for membership and involvement, and created a press release to announce the creation of the committee and its goals and objectives to be released to Denver media outlets for publication.

CPCC staff have also written three funding proposals, one submitted to the State of Colorado for Justice Assistance Grant funds, which was denied, one to the Federal Government's Bureau of Justice Assistance for innovative research and programming, which is pending, and a final proposal will be submitted to the CPCC by the RGD committee in an upcoming CPCC meeting. The funding proposal covers initial work including a staff member to work with the RGD committee and to develop and guide research activities, as well as some funds for staff equipment, research design approval, part-time funds for graduate-level research assistants, participant incentives, and transcription costs for interviews and focus groups. Requests for funding come at a difficult time economically for the City and County of Denver, where severe budget cuts across the City are impacting departments, including hiring freezes, unfilled vacant

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[18] The original idea of a Resolution was that of Denver private defense attorney, Phil Cherner, who created the first draft, and was revised by Lieutenant Rob Rock of the Denver Police Department assigned to Division Chief of Traffic Operations, before it came before the RGD committee for final revisions and submittal to the CPCC.

positions, and the halting of activities that are not considered to be part of agency core functions, which can impact innovative activities and new initiatives.

The impetus for the RGD committee is covered in more detail in a previous section of this paper. In brief, the committee's creation stems largely from two separate activities: during the 2009 annual planning retreat for the CPCC, commission leadership decided that the CPCC needed to incorporate the investigation of disparities in the Denver criminal justice system into its work and consider how its existing and future initiatives may contribute or alleviate to disparities. Existing disparity was evidenced by the disproportionate number of arrests and incarceration of people of color in Denver's criminal justice system; representation of people of color did not match their representation in Denver's general population, as well as anecdotal stories of commissioners and community members that disparate treatment of people of color by law enforcement authorities existed in Denver. The other major contributing factor to the need for such a committee, was as previously mentioned, activities of community organizations including INCITE! Women of Color Against Violence, the Colorado Progressive Coalition, the Colorado Black Roundtable, and Servicios De La Raza (the Black and Brown Coalition), which together organized a campaign referred to as "Fix Broken Policing" which was the community's request to engage with the Denver Police Department, the Denver Office of the Independent Monitor, and the Citizen's Oversight Board regarding the occurrence of biased policing in Denver, which was thought to have been exacerbated by Denver Police Department's special policing projects reportedly modeled after Broken Windows policing. City and community members involved in these discussions eventually agreed to move the conversation under the purview of the CPCC, which would enable discussions to include the entire criminal justice system and its representatives. While the police department is usually a person's first contact with the criminal

justice system, research shows that disparity is cumulative and increases as a person moves throughout the system.

The RGD committee is moving forward with recruitment to fill the remaining positions on the committee. While membership has been discussed at length, the committee's concerns to keep the group manageable in size to enable effective and efficient action has led the committee to decide that a core membership of approximately 20 people, including CPCC chairs, the Mayor's Office, and other key criminal justice system agencies as well as community members which represent impacted populations will be the ongoing decision-makers. As the committee decides to address specific decision points and populations, experts from relevant agencies or groups will be asked to participate. Primary recruitment efforts will take place through the City's existing commissions as well as general recruitment from city organizations that represent impacted populations. It is expected that the committee will be fully seated by early 2010. Based on the OJJDP's guidelines for reducing over-representation in the juvenile justice system, recommended next steps for this committee will include hiring staff to lead the research portion of the work, confirming leadership, reaching consensus on the overall goals and objectives of the committee, and beginning the stage of Identification in order to set priorities and organize the work of the committee, and next, starting Assessment work to begin generating potential causes and targeting data collection and research efforts.

Designing Appropriate Interventions and Measuring Effectiveness

The final stages of this process involve developing and implementing viable and appropriate interventions and evaluating those efforts to see if they have the intended impact of reducing overrepresentation. Interventions should be prioritized by their ability to have the greatest impact on the decision points and populations where over-representation is occurring, should be

evidence-based, or have shown intended results in other jurisdictions. They should also be

strategies that the system and community is ready and willing to implement, they should be

comprehensive and multimodal, and all interventions should be accompanied by a

comprehensive plan to evaluate their outcomes.

According to the OJJDP, interventions can be broken into three major categories; direct services,

training and technical assistance, and system change. Direct services can be focused on

prevention or intervention, and are intended to build skills, change behaviors, improve social

functioning and improve relationships within an individual's support system; direct services may

also be embodied as diversion programs, alternatives to incarceration and advocacy. Training

and technical assistance focus more on system and community actors who work with at-risk

populations and may include things like cultural competency training, implementing culturally

appropriate treatment and services, and ensuring that staff members are prepared to work with

diverse populations, including language needs.

System change includes strategies that are intended to alter policies, procedures and practices of

the criminal justice system that contribute to over-representation. Addressing legislation that

exacerbates disparity, such as differential sentencing practices and zero tolerance policies, can

alleviate disparate treatment across the system. Laws that have been passed in Washington State

that require monitoring of how juveniles are processed in the criminal justice system, focusing

on prosecution and the use of detention, have decreased overrepresentation of youth of color.[19]

Other major areas of change in practice to reduce overrepresentation include the use of

"structured decision-making," or statistical risk classification, which allows system personnel to

classify a person's risk based on standardized questions that look at a person's criminal history

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[19] OJJDP Manual, Chapter 4, Intervention, p. 23

and current situation including items such as employment, substance use, and social networks. This prevents subjective or anecdotal knowledge of the practitioner from interfering with appropriate supervision recommendations or referrals. To the extent that such risk assessments have been tested for racial bias is not explored within the scope of this paper, however case studies in Washington State and Multnomah County, Oregon show success with using standardized risk assessments and reducing overrepresentation in the juvenile justice system.

Finally, a comprehensive plan for evaluating interventions and ensuring that they reduce overrepresentation in the system is critical and can be used for garnering system- and community-wide support and creating real change within a jurisdiction. The OJJDP recommends establishing performance measures for interventions as they are implemented and utilizing logic models as a planning tool to identify resources (inputs), activities, outputs and outcomes for interventions. An evaluation framework should be designed at the time of design and implementation of the intervention and should incorporate both the process of the intervention; how it was implemented and how it operates, as well as the outcomes of the intervention to identify the results of the intervention and what type of impact the intervention had: Did it achieve the desired impact? Do the problems that the intervention was designed to address still exist? Output measures should be identified and a procedure for collecting the data around these measures – how frequently the information will be collected, where the information can be obtained and who will be responsible for collecting it – should be established. Lastly, a plan should be developed for data analysis and regular reporting to ensure that interventions continue to have their desired impact, can be re-evaluated for continuation, or altered to improve effectiveness.

Overrepresentation in the criminal justice system of people who are marginalized by society has

been researched for decades. Major challenges as they relate to overrepresentation of people of

color in the system include a silo approach to research which leans towards analyzing system

decision points in a vacuum, the misuse of official statistics to determine who is involved in

crime, and the difficulty in translating solutions to the problem into practice. Disparate treatment

of people of color in the American criminal justice system has also been reported by the United

Nation's International Committee on the Elimination of Racial Discrimination as a significant

human rights issue.

This thesis makes recommendations in three areas for local work on this issue: to ensure the

buy-in and commitment of local government leadership to addressing the problem, ideally in a

community-wide effort that includes entities and practices outside of the criminal justice system,

to employ the methods as outlined in the OJJDP's Disproportionate Minority Contact Technical

Assistance Manual for identifying and reducing the overrepresentation of people of color in the

local criminal justice system, and to tie funding when possible to involvement by local agencies

in reducing disparities in the Denver criminal justice system.

A community-wide effort would garner support across all agencies that may have contact with

clients of the criminal justice system, as well as ensure equity and diversity in hiring practices,

business interactions and services delivered throughout the City, capacity building, leadership

development and the development of cultural competency. Tying such efforts to performance

measures of city leadership would institutionalize equitable practices around race, ethnicity and gender across the city.

The OJJDP's technical assistance manual comes closest to any literature that develops a systematic process for identifying, assessing, intervening, evaluating and monitoring overrepresentation in the system, as well as preparing local stakeholders for this effort. With modifications, its methods can easily be transposed to the adult system at both the state and local levels. Several projects across the country provide case studies to demonstrate the manual's methods in action and have had significant positive results of not only reducing disparities, but also increasing efficiency and effectively reducing the need for detention and confinement in the juvenile justice system for all populations. The manual does not cover the in-depth use of statistical tools to analyze collected data; staff would need to be competent in the areas of research and evaluation design and statistical methods in order to successfully complete the work. This thesis covers the first two stages outlined by this manual in depth. Denver is already engaged in a subsequent stage in the process; it is developing a committee of stakeholders to carry out this work.

A final recommendation is to tie participation by local agencies in the identification and reduction of overrepresentation to funding opportunities, similar to the OJJDP's policies for juvenile justice agencies and federal funding. Even at the local level, this may provide incentive to agencies to prioritize the issue of overrepresentation when implementing new policies, practices or initiatives they launch as well as raise awareness around the issue. Many factors outside of race and ethnicity most likely contribute to people's involvement in the system that

criminal justice agencies cannot control; however, implementing more effective and thoughtful

responses in internal policies and practices may mitigate issues of disparity once a person has

been contacted by the system.

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APPENDIX

Resolution
Unanimously Accepted by the Crime Prevention and Control Commission on August 19, 2009

The Crime Prevention and Control Commission (CPCC) condemns racial and gender disparity in the adult and juvenile criminal justice system in Denver, Colorado.

Racial and gender disparity is a result of many factors which may include those outside of the criminal justice system itself and is defined as the unequal treatment of people by the criminal justice system based on race and/or gender.

The CPCC resolves to actively assess and counteract the impact of policies and procedures that contribute to disparity at all decision points within the system and will consider racial/gender impact as part of any decision to back any funding, initiative, new program, etc. Agencies are urged to do the same.

The Executive Director is urged to push for similar policies by The Colorado Criminal and Juvenile Justice Commission.

Denver legislators are urged to do the same; and to seek legislation requiring racial/gender impact assessments.

CPCC Bylaws Revision – Racial and Gender Disparity Committee
Approved by the Crime Prevention and Control Commission, June 17, 2009

The Racial and Gender Disparity Committee:
I. Examines and makes policy and/or practice recommendations regarding:
    a. Adult and juvenile criminal justice and related systems decision points as they intersect with race, ethnicity, gender, and relevant social data including employment, education, housing and other individual and community factors
    b. The social impact of crime on communities that experience disproportionate justice system involvement
    c. Gender disparities as they occur in treatment, services and custody
II. Works with stakeholders to address community and criminal justice system relationships
III. Facilitates integration of system-wide data collection processes and methods of analysis to address racial, ethnic and gender disparities

The Racial and Gender Disparity Committee consists of representatives from the adult and juvenile justice system, and public and private organizations that contribute to, or are impacted by, actions that result in arrest, detention or sanction, or influence case processing and management of Denver residents. As needed, representatives from other constituencies may be called upon. Suggested committee members may include: representatives from prosecution, defense, law enforcement, corrections, courts, human services, city council, the Mayor's Office, and service providers

The Committee makes recommendations to the Commission and provides oversight of Crime Prevention and Control Fund expenditures for evidence-based system change.

Crime Prevention and Control Commission Membership from the Bylaws, Article IV, Sections 1-3

The 32 member Commission is an advisory and policy level board consisting of Denver's elected officials, other principal justice system decision makers and citizens.

There are eleven (11) voting members, referred to "officers" in Ordinance No.152/2005, hereinafter referred to as "members" who are Commission members due to the position they hold. These twelve members serve on the Commission as long as they occupy the position:
- The Mayor's Office
- The Manager of Safety
- The Chief of Police
- The Undersheriff
- The City Attorney
- The Denver Director of Community Corrections
- The Director of the Office of Drug Strategy
- Director of the Division of Adult Parole and Community Correction for the State Department of Corrections.
- Chief Probation Officer, Denver Adult Probation Department
- Probation Services Administrator for Denver County Court Probation.
- Representative of the Officer of the Colorado State Public Defender

There are three (3) voting members of the City Council, to be appointed by the President of the City Council.

There are three (3) ex-officio non-voting members:
- The Chief Judge of the Second Judicial District Court.
- The Presiding Judge of the County Court
- The District Attorney of the Second Judicial District.

As appropriate, the Crime Prevention and Control Commission will work with judicial officers in an advisory capacity.

There are fifteen (15) voting Citizen Members of the Commission. Citizen Membership is intended to reflect the diversity of Denver, including the ethnic, racial, and geographic constitution of the population as well as diverse professional backgrounds, experiences, and expertise related to criminal justice issues.

- An attorney in private practice from the defense bar.
- A provider of services for offenders with demonstrated expertise in evidence-based criminal justice policy and practices.
- A representative of Denver Public Schools
- A liaison to the state Juvenile Services and Planning Committee
- A representative of the juvenile justice system at the city/council level.
- An academic knowledgeable in evidence-based criminal justice policy and practices.
- A representative of the mental health service system.

- A representative of the homeless service providers.
- Three victim advocates or victim representatives from geographically diverse areas of Denver.
- A member of the Denver state legislative delegation.
- Three general representatives of the Denver community.

Crime Prevention and Control Commission Mission, Directives, Sanctioning Philosophy and Goals from Bylaws, from Article II, Sections 2-3 and Article VI, Section 1

The mission of the Denver Crime Prevention and Control Commission is to create and execute an evidence-based, accountable, and efficient public safety strategy to reduce crime and delinquency in Denver.

The Commission's directives are: 1) to reduce crime, partly by reducing criminal recidivism, 2) to facilitate coordination among justice system agencies, 3) to support the development of a data-driven criminal justice system to that offers a range of evidence-based interventions, sanctions and programs, 4) to facilitate the development of information technology and data necessary for effective criminal justice policy development, jail population management, and evaluation of sanctions and programs to hold offenders accountable, 5) to facilitate use of jail space by encouraging alternatives, where appropriate, 6) to analyze and make recommendations for policy on effective crime prevention strategies, community education about the justice system and other community related justice system issue and 7) to recommend expenditures for the Crime Prevention and Control Fund.

In 2006, the following sanctioning philosophies and goals were adopted:
1) Recidivism Reduction
2) Community Satisfaction

Goals:
1) Better management of jail beds
2) Reduce the need for jail beds
3) Recidivism Reduction
4) Crime Prevention

This comes from our allies at *INCITE!* Women Of Color Against Violence
FIX BROKEN POLICING CAMPAIGN

INCITE! Women of Color Against Violence

Colorado Progressive Coalition

Colorado Black Roundtable's Criminal Justice Committee

Servicios De La Raza (Black & Brown Coalition)

COMMUNITY SPEAK OUT AND TAKE ACTION AGAINST POLICE BRUTALITY, DPD'S CODE OF SILENCE AND A TOOTHLESS CITIZEN OVERSIGHT BOARD
What: To present community demands to Manager of Safety Al LaCabe,
special assistant to the Mayor Dave Edinger and other public officials.
When: March 21 11:30-2pm
Where: 3030 Downing St.Denver, Matthews Center
Contact: Denver INCITE! Women of Color Against Violence at info4incitedenver@gmail.com
Art Way at the Colorado Progressive Coalition (CPC) at 720 579-1265.

On August 21, 2008 members of the Fix Broken Policing (FBP) campaign presented to Commander Rhonda Jones *Recommendations to Improve Community Relations Between Concerned Community Members & District Five Patrol Officers.* A series of meetings then transpired involving FBP organizers, Denver Police Department officials and Denver city representatives. While some of these meetings have been productive, our overall experience is that very little visible and meaningful changes on the street have resulted from these talks. People of color continue to be racially profiled, and police officers continue to abuse their discretion, bully and intimidate community members of color, act with hostility and discourtesy, use excessive force, and threaten to arrest those who assert their rights.

The Denver Police Department and Denver officials have refused to acknowledge that the over-criminalization of people of color is at epidemic proportions, and that aggressive policing policies such as "broken windows" policing contributes to growing racial disparities in the criminal justice system. Further, even though we have been presenting concerns to the Office of the Independent Monitor (OIM), DPD and Denver City Council since the inception of broken windows policing since 2005, all of these entities have been slow to respond to our concerns as indicated in the recently released 2008 OIM annual report that "the OIM has [just] *become aware* (italics added) of community concerns that "Broken Windows" policing is adversely impacting communities of color" but that "DPD has one of the best anti-racial profiling training programs in the country." Even if we were to acknowledge that broken windows policing is an effective law enforcement tool in reducing crime, which we do not, DPD has refused to implement changes to deal with the unintended consequences that results from people of color being disproportionately targeted and surveillanced. As summed up by Daniel Marcus, Acting Associate Attorney General at a 2000 FBI training academy:

"*Tensions between police and minority residents affect all aspects of the criminal justice system. When citizens do not trust their local police officer, they are less willing to report crime and less willing to be witnesses in criminal cases. Jurors are less willing to accept as truthful the testimony of officers. And recruitment of police officers from minority communities becomes that much harder. When police and the community are alienated,*

police officers can't even get credit for what they are doing right" (**Building Trust and Confidence in the Criminal Justice System: Procedural Fairness and Treating People with Respect and Dignity).**

Further, efforts initiated by the FBP campaign have been co-opted by the City taking credit for addressing these issues (see March 5th letter from City Attorney David Fine and OIM 2008 annual report). Every accomplishment listed in the letter was a direct result of community activists pressing for changes, and not as a result of internally generated leadership or initiative on the part of city officials, OIM or DPD. Finally, with the recent acquittal of gang unit officer Charles Porter in the brutal beating of a Denver teenager, it is now crystal clear that the "Code of Silence" is an inextricable part of DPD culture, preventing any real and lasting changes for police accountability. Those in charge of accountability enforcement, including the Citizen Oversight Board, have displayed a disturbing pattern of indifference, inaction, and incompetence on the issue of racial profiling. Notably, almost all of these accountability gatekeepers or technocrats with authority are white men, one of whom, Steven Foster, physically grabbed a female organizer of color by the collar in anger in a COB public meeting that was supposed to address police accountability. However, despite calls for his resignation, he has been allowed to keep his position on the Citizen Oversight Board. Therefore, we have resolved that since we cannot get police accountability on the issue of racial profiling through city officials, the OIM or COB, we will get it through community movement building, and **have turned our recommendations into demands**:

Reform the Citizen Oversight Board (COB)

- Obtain the resignation of Steven Foster.
- Require all COB members to reapply, and recruit new applicants from the community.
- Reserve two seats for community members involved with police accountability initiatives
- Issue written responses to those who appear before the COB regarding actions taken
- Eliminate the appearance of pro-police bias (see recent Denver Post editorial on OIM website)
- Make the COB accountable to the collective chair-persons of the commissions representing marginalized communities under the Office of Human Rights and Community Relations
- Create COB transparency and accessibility by holding public meetings in the evening, televised on Ch 8, rather than at 10am in a government conference room that isn't accessible to the public.
- Overhaul the entire COB structure comparative to the Public Safety Review Commission.

Demonstrate Leadership from the Office of the Independent Monitor (OIM)

- Stop over-emphasizing mediation between individuals, and start addressing systemic issues regarding racial profiling
- Stop colluding with DPD to promote mediation as one of its main goals in its strategic plan
- Stop putting the responsibility onto the shoulders of the complainant to change officer behavior

- Require the Monitor to take a leadership role in addressing issues of racial profiling
- Create a pro-active position to monitor racial profiling complaints, make recommendations, and improve community relations
- Conduct a random follow-up survey of people stopped and/or ticketed by the police.
- Approach the public from a customer service orientation, rather than as techno-bureaucratic
- Clarify the relationship and increase transparency between the OIM and the COB
- Require cultural responsiveness training for monitor Richard Rosenthal
- Require the Monitor to provide evidence in a community forum that "DPD has one of the best anti-racial profiling programs in the country"

Change the Culture and "Code of Silence" of the Denver Police Department

- Issue a public statement barring the practice of racial profiling by officers and affirming DPD's commitment to **treating all people with respect, dignity and procedural fairness**
- Replace "broken windows" with true "community policing" & alternatives to criminalization
- Collect and periodically report information about traffic stops, including race & neighborhood
- Send a directive to police officers that they are required to give their business cards on every stop, whether or not they issue citations, and to not threaten people with arrest who request them
- Increase the numbers of culturally responsive officers of color and women on patrol
- Require ongoing cultural relevancy training, particularly for white officers
- Have supervisors regularly review the stops, tickets and arrests of officers where "broken windows" is being implemented, and identify those officers who may need retraining
- Have more officers get out of their cars and be interactive with community people
- Reduce the number of patrol cars that respond to low-risk patrol stops
- Stop the humiliating incidents of forcing youth of color to sit hand-cuffed in public view
- Reduce the number of tickets given for minor infractions that are the basis for pretextual stops
- Require officers to follow the laws of the road

Responsiveness from the Denver Mayor, City Council, and City Attorney

- Acknowledge that racial disparities in the criminal justice system exits & commit to addressing it
- Acknowledge that unintended consequences have resulted from a policy that you supported
- Require the City Attorney to conduct reviews of tickets resulting from broken windows policing
- Authorize Racial Impact Statements on "broken windows" and any new policies that have the potential to over-criminalize people of color. Such assessments are now widely viewed as responsible mechanisms of government. (Source: Changing Policies to Address Disparities, 2009)
- Hold DPD accountable for changing their culture, including their "Code of Silence"