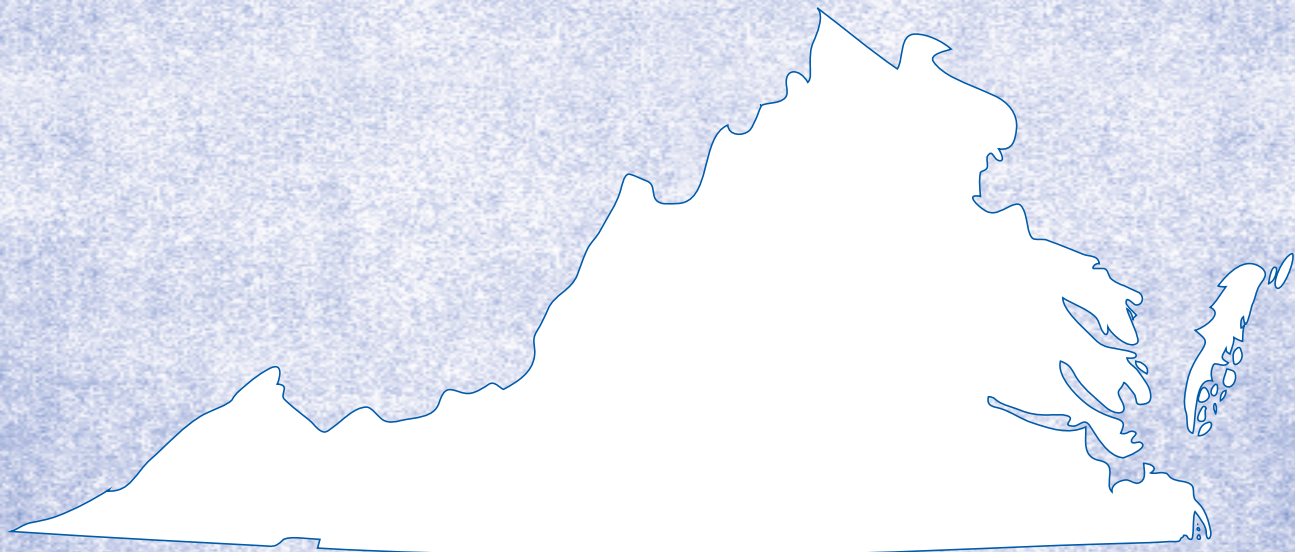


Blueprints for Change: Criminal Justice Policy Issues in Virginia

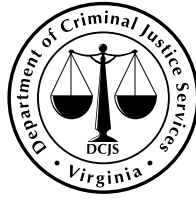


ADDRESSING DISPROPORTIONATE MINORITY CONTACT (DMC) ACROSS SYSTEMS



Virginia Department of Criminal Justice Services
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The Department of Criminal Justice Services (DCJS) is the state criminal justice planning agency in Virginia and is responsible for administering state and federal funds dedicated to improving state and local criminal justice practices, preventing crime and delinquency, and ensuring services to crime victims.

In its role as a planning agency, the Department convened three policy sessions over a two day period in December, 2008. The facilitated sessions explored different leading edge criminal justice issues, chosen by the Department. Each three-hour session brought together a multidisciplinary group of executive-level participants who were selected because of their knowledge of the issue and their ability to advance the discussion of public policy related to the issue.

The discussions in these sessions, and the recommendations that emerged, are recorded in these policy papers.

In publishing these papers, DCJS hopes that they will stimulate further discussions by state and local decision makers and will provide useful guidance for making substantive statutory change where necessary, as well as for decisions on funding, and policy and program development.

The 2008 Blueprints for Change: Criminal Justice Policy Issues in Virginia documents are:

Sanctions and Penalties for Underage Drinking

Addressing Disproportionate Minority Contact (DMC) Across Systems

Law Enforcement Accreditation in Virginia

**For additional information on these documents, please visit the
Department of Criminal Justice Services website at: www.dcjs.virginia.gov**

Addressing Disproportionate Minority Contact (DMC) Across Systems



ISSUE

Children of color are disproportionately represented in systems of care, including the juvenile justice and child welfare systems and alternative education programs. The juvenile justice system often becomes the end result for children who fail in other systems. The children who appear before the courts on delinquency or CHINS matters have often appeared before the courts on dependency matters, failed in the educational system, or suffer from mental health disabilities.

Minority children who are placed in the foster care system are less likely to be returned to their families or adopted by other families, causing them to remain in foster care for a longer period of time; they become more susceptible to behavioral problems that can then increase their risk of being involved with the juvenile justice system. The educational system often struggles with issues such as truancy and underlying behavioral problems that lead to criminalization of school related behaviors. Both the foster care and educational systems are impacted by the lack of mental health resources and as a result the juvenile court has become the mental health service provider for poor children in Virginia.

Overrepresentation of children of color in the child welfare and juvenile justice systems is a national issue that has been looked at on both state and local levels. The Center for Juvenile Justice Reform at Georgetown University held a symposium co-sponsored by Chapin Hall Center for Children at the University of Chicago entitled The Overrepresentation of Children of Color in America's Juvenile Justice and Child Welfare Systems to look at the correlation of both systems as it relates to minorities. It indicates that children of some racial and ethnic groups are overrepresented in America's Child Welfare and Juvenile Justice Systems relative to their presence in the general population. According to the 2007 census, African American youth in Virginia accounted for 23.2% of the youth population aged 10-17, but they accounted for 44.6% of the juvenile justice intake population, 55% of the juvenile detention population and 66.1% of statewide commitments to juvenile correctional facilities.



QUESTIONS FOR DISCUSSION

1. What are some of the societal issues that impact the number of children of color who come into the juvenile justice and child welfare systems, or who drop out or are suspended or expelled from school?
2. Are there decision points in these systems that result in the disparate treatment of children of color and their disproportionate representation? If so, what are they?
3. Are there policies or practices in any of these systems, while not intended to be discriminatory that lead to disparate treatment and disproportionality? What are they and how can they be addressed?
4. Is it possible to reduce the overrepresentation of children of color by addressing these policies and practices and decision points, without also addressing the underlying societal issues that contribute to the disproportionality?

5. Recognizing that the same children are often known by the different child-serving agencies – child welfare, special and alternative education, mental health, substance abuse and juvenile justice – how can we better collaborate to address the needs of minority youth? Who are the key stakeholders that need to be involved in such a multi-system approach?
6. In a recent paper jointly commissioned by Georgetown University’s Center for Juvenile Justice Reform and the Chapin Hall Center for Children at the University of Chicago, five approaches were identified that could serve as the underpinnings of a multi-system attack on the disparate treatment of children of color and the disproportionate representation that results. They are:
 - the need for data and increased transparency in how these systems operate;
 - the re-engineering of structures and procedures that shape an agency’s decision-making environment;
 - changing organizational culture by influencing the attitudes and values of agency staff;
 - mobilizing political leadership around this issue; and
 - partnering in developing community and family resources.

Do you agree that these five approaches could serve as a framework for a multi-system effort to reduce disproportionality?

7. How would these multi-system efforts best be targeted, e.g. based on population size, levels of disproportionality, or the need for targeted programs across systems of care?
8. What role can and should colleges and universities play in addressing disproportionality across systems?



SOCIETAL ISSUES THAT IMPACT CHILDREN OF COLOR

The overrepresentation of minorities in systems of care can be a result of various factors. Some of those factors may include societal issues that cannot be controlled by implementing policies, practices or programs. Families of poverty and low income face challenges that other families may not experience. Resources to prevent or intervene with social or problem behaviors may not be readily available. In the United States the majority of children who fall into these categories are minorities who come from single parent homes.

Poverty is also a factor in the educational and child welfare systems. Children who are born into poverty are less likely to experience success in school. They may have learning disabilities as a result of poor prenatal care or they may be acting out as a result of inadequate family care. These same children often are at risk of being removed from the home and placed in long-term foster care. During the policy discussion it was noted that when a child of color is placed in foster care the chances of that child being returned to the family or adopted are low.

Child maltreatment is also a causal factor for involvement with the juvenile justice system. Studies have shown that children who experience maltreatment in the years of adolescent development are more likely to be involved in the juvenile justice system. These youth are less likely to be involved in school and are more likely to display social and behavioral problems that lead to suspension or expulsion.

Another societal issue that impacts minority youth is inherent racism. Inherent racism describes biased beliefs and opinions formed by American history. These biases can form the opinion of law enforcement, educators and policy makers which may also affect policies and procedures causing them to favor one group over another. For example, inherent racism can support the opinion that families affected by poverty are in that situation due to their own failure to succeed.

The discussion among the participants during the session concluded that while societal factors cannot always be controlled, they can be addressed. Cultural competence training can be made available to bring awareness to professionals who work with children and programs may be implemented in communities to support minority families who are in need. With an increase in available resources, communities may begin addressing societal factors that decrease the chance of a youth becoming negatively involved in child serving systems.



DECISION POINTS THAT RESULT IN DISPARATE TREATMENT

The Office of Juvenile Justice and Delinquency Prevention has identified 9 major decision points in the juvenile justice system. Identifying these decision points allows interested parties to determine at what point in the juvenile justice system disproportionality exists. There may be decision points in other systems as well that show disparate treatment of minorities causing a disproportionate representation. Identifying these points will allow systems to place a focus on necessary areas. To address all of these points stakeholders must collaborate to identify key decision areas across all systems.

When looking at decision points stakeholders must consider barriers that are faced by families that prevent them from obtaining the necessary resources to help their children outside of the formal child welfare and juvenile justice systems. Arrest is a major contact point in the juvenile justice system. It is a decision point where a juvenile can either be released to a parent or brought into detention. If a parent or guardian is unavailable to take the juvenile home, the child is more likely to be detained. Providing other alternatives for law enforcement and intake officers for juveniles whose parents are temporarily unavailable is likely to reduce the number of children who are detained.

In the child welfare system the decision to place a child in congregate care is a key factor in driving the disparate rates. Minority children are placed in congregate care at disproportionate numbers compared to white children. Congregate care may be viewed as a safe placement by social workers but it is not necessarily a safe place for youth. Congregate care should be a last resort and should be seen as a placement, not a service. The Departments of Juvenile Justice and Social Services should work together to establish guidelines that require proper services for youth when using congregate care.

In the educational system minority youth are visibly disproportionately represented in alternative education settings and special education classes. There have been concerns that schools are failing to appropriately distinguish between social or behavioral problems and criminal actions and are criminalizing behavior previously handled in the schools. In return more juveniles are coming before the court on school related issues such as truancy.

A better effort to collaborate among all systems is needed. Stakeholders must learn to share information as it relates to key decision points. There is a need to identify the decision point where disproportionality exists and the reason for that disproportionality to determine what alternatives can be put in place.



POLICIES AND PRACTICES THAT LEAD TO DISPARATE TREATMENT

Often policies and practices are designed with the intent to address specific issues. These policies and practices typically are not intended to be discriminatory in nature but sometimes lead to disparate treatment and disproportionately in the various systems of care.

To prevent tragic incidents such as school shootings, the educational system has designed zero tolerance policies that result in school expulsions and suspensions. These policies are often applied inconsistently

from one school to another and frequently result in a high number of expulsions and suspensions for children of color. Further, the No Child Left Behind Act requires schools to demonstrate certain levels of academic achievement or risk losing accreditation and funding. As a result low achieving students, often children of color, often create a concern for school administrators. Some school systems seek to get these children out of the classroom, placing them in alternative educational settings or special education classes where they become more at risk of getting involved with the juvenile justice system as a result of a school related behavior.

Other laws such as increased penalties for drug free school zones result in disparate treatment of minority youth. Most urban schools lie within short distances of low income housing units, placing residents and visitors, often minority children, at a higher risk of receiving increased penalties. Low income families are also less likely to have access to diversion programs due to the lack of availability in the community and a lack of transportation to and from the services outside of the community.

Police are also susceptible to biases that inadvertently impair their use of discretion. A lack of cultural competence and sensitivity can create a situation that escalates, resulting in a child's placement in detention. There are also other issues such as single parent households where a parent may not be readily available to respond to a call from law enforcement or juvenile intake. Tools such as the Detention Alternative Instrument (DAI) were designed as a method of consistently identifying whether a juvenile is a risk to public safety and should be detained, but concerns continue to exist over the use of the ability to override the system. During the discussion it was noted the DAI should be used as it is intended to prevent unintentional discriminatory effects. If there are individual circumstances that should be addressed, it should be left to the judge's discretion.

In Virginia an effort to reduce the number of children who remain in congregate care is currently underway. Since the inception of Virginia's Council on Reform, the number of children in congregate care has decreased, resulting in the need for increased numbers of family and permanency placements. Policies have prevented family members who have prior criminal histories from adopting or providing temporary care for children who are removed from their parents. These practices lead to the disproportionate placement of children of color in foster care and residential group home settings. Children of color are more likely to be placed in long term foster care or residential group homes after being removed from the family and are less likely to be returned to a family member. Often the children placed in residential placements are low risk, Low risk, high need children who are placed in settings with high risk, high needs children are more likely to be negatively influenced by their peers and become involved in the juvenile justice system.



CAN OVERREPRESENTATION BE ADDRESSED WITHOUT ADDRESSING SOCIETAL ISSUES

There is a relationship between low socioeconomic status and the overrepresentation of children of color in the child welfare and juvenile justice systems. There is also some suggestion that a relationship exists between low socioeconomic status and children of color who are truant, expelled or placed in alternative educational settings as a result of policies such as zero tolerance. As discussed before, children of low income families are also more likely to be placed in foster care and less likely to be returned to family placements. Although the issue of poverty and low income cannot be fixed, it can be addressed. There are cultural differences inherent in low income families that more likely cause children of color to be disproportionately affected by certain policies or practices at various decision points. There is a need to recognize the underlying societal issues that contribute to disproportionality before we can begin to make a difference in the policies and practices that affect the decisions made at major contact points in all systems.



ADDRESSING THE NEED FOR COLLABORATION

The child welfare, special and alternative education, mental health, substance abuse and juvenile justice systems often serve the same children. This suggests a need to look at the decision points in all systems and determine what drives them and to what extent a lack of resources plays a role. Cross-disciplinary stakeholder groups should be convened to start conversations that will provide a better understanding of the individual roles. Through this collaboration we can begin to identify and bridge the gaps between services and funding.

Cross-disciplinary stakeholder groups will likely support the need for information sharing to improve cross-systems work. However, the barriers between state administered policies and locally operated services must be overcome. To successfully do cross-systems work there is a need to establish some consensus. State agencies such as the Departments of Social Services, Juvenile Justice and Education have minimal control over local service agencies. A multi-system approach would break down those barriers and encourage collaboration at the executive and local levels. Key stakeholders would include representatives from Child Welfare, Education, Juvenile Justice, the Courts, court-appointed counsel for children, and Law Enforcement.

A participant shared an example of a successful collaboration for Fairfax County, which has established an Evening Reporting Center through the use of grant funds, where systems collaborate to bring services to one location for youth. Other collaborations include Communities in Schools, where collaboration takes place between the Court and the school system. In many localities, local level stakeholder groups have already been formed to begin addressing these issues.



THE FRAMEWORK FOR A MULTI-SYSTEM EFFORT

A recent paper jointly commissioned by Georgetown University's Center for Juvenile Justice Reform and the University of Chicago's Chapin Hall Center for Children identified five approaches that would potentially serve as a framework for a multi-system approach in addressing the disparate treatment of children of color that leads to disproportionate representation. They are identified as:

- the need for data and increased transparency in how these systems operate;
- the re-engineering of structures and procedures that shape an agency's decision-making environment;
- changing organizational culture by influencing the attitudes and values of agency staff;
- mobilizing political leadership around this issue; and
- partnering in developing community and family resources.

The group was asked if the five approaches were on target to serve as a framework and how these multi-system efforts could best be targeted. There was a consensus that the identified approaches would work well in a collaborative environment. DMC is measured through the use of data. To address DMC, localities must first determine if it exists and at which contact points it exists; decisions must be made according to the data; race equity and cultural competency trainings must take place; model policies and legislation must be used to encourage consistency across disciplines; and models that have empirical support must be implemented to include family and community based programs.

These multi-system efforts would best be targeted across systems of care. The problem may not lie within the juvenile justice system but across other "feeder" systems such as child welfare and education. Localities with small population sizes that experience issues of disparate treatment for minorities should be encouraged to partner with other surrounding localities. Resources would then be used in the most effective way to provide services to a larger audience.



COLLEGES AND UNIVERSITIES

Colleges and Universities are an excellent resource for addressing disproportionality in many ways. One of the five approaches identified in the framework for a multi system approach is the need for data. Colleges and Universities are great resources for collecting data. Federal funding encourages the use of evidenced based programs that are data driven. Institutions of higher learning can provide assessments to determine a need for programs and evaluations for localities.

There are also opportunities for internships for students who are working to become professionals in the field. Most Colleges and Universities are located within the community. Many of the Historically Black Colleges and Universities (HBCU) are located within low income communities. This presents an opportunity for localities to develop partnerships with these schools to encourage community service programs that would target minority youth.



RECOMMENDATIONS

Participants agree that disproportionality exists at various stages of all child serving systems. To address disproportionality stakeholders should look at decision points across systems to identify where problems exist. Decisions should be data driven and designed to treat all children fairly regardless of race or ethnicity. Recommendations that come from the session include:

- Form stakeholder groups at the local level that include all child serving agencies.
- Form executive level stakeholder groups to review decision points, policies and practices that lead to disparate treatment of children of color.
- Develop and implement model policies to guide work around DMC in Virginia.
- Conduct a statewide assessment to examine minority overrepresentation in Virginia's juvenile justice system.
- Partner with Universities and Colleges to capitalize on their services.
- Adopt the National Council on Juvenile and Family Court Judges Delinquency Prevention Guidelines.
- Identify and encourage cultural diversity and race equity training for all professionals who work with juveniles.
- Identify and encourage localities to implement appropriate strategies designed to reduce the overrepresentation of minorities in the various systems, including alternatives to detention and system change projects. Include a family component to provide services to siblings and other relatives as it is available.
- Decriminalize school related behaviors such as misconduct and truancy.
- Use available assessment tools such as the Detention Assessment Instrument (DAI) as they are recommended. Limit the use of overrides.



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